





# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2020/0998
<b>Address</b>	149 Darling Street BALMAIN NSW 2041
<b>Proposal</b>	Alterations and additions including rear dormer and deck.
<b>Date of Lodgement</b>	19 November 2020
<b>Applicant</b>	Nick Bell Architects - Caleb Burke
<b>Owner</b>	Nathan G Smith Helen R Rosen
<b>Number of Submissions</b>	Initial: 1
<b>Value of works</b>	\$317,500.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10% Heritage Item
<b>Main Issues</b>	FSR variation
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards



### LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions including rear dormer and deck. at 149 Darling Street, Balmain. The application was notified to surrounding properties and one submission was received in response to the initial notification.

The main issue that has arisen from the assessment of the application is the proposed variation to the FSR Development Standard. The variation is acceptable given that the additional FSR is wholly located within the existing building envelope, does not cause any adverse impacts to the adjoining properties and the development is assessed to satisfy the objectives of the zone and development standard. Therefore, the application is recommended for approval.

## 2. Proposal

The proposed development seeks consent for alterations and additions to the existing building. Specifically the proposal consists of the following:

- Demolition of awning within rear yard;
- Reconfiguration of the basement, ground and first floor to accommodate new stairs, bathrooms and laundry;
- Extension to the existing ground floor balcony and reconfigured stair access to the rear courtyard;
- Construction of a new dormer window at the rear elevation of the existing attic;
- Lowering of the existing attic FFL;
- Construction of a new bay window to the first floor rear bedroom;
- New landscaping within rear yard.

## 3. Site Description

The subject site is located on the northern side of Darling Street, between Cooper Street to the east and St Andrews Street to the west. The site consists of a single allotment and is generally L-Shaped with a total area of 190.3sqm. The site has a frontage to Darling Street of 5.7m with rear access via St Andrews Street via a right of carriageway. The carriageway accessible via St Andrews Street varies in width between 2.8m and 2.4m.

The site supports a semi-detached dwelling that forms part of a pair of dwellings. The dwelling comprises three storeys, with two storeys being presented to the Darling Street elevation due to the fall of the subject site. The adjoining properties support two and three storey dwellings, with the Balmain Bowling Club located opposite the subject site along Darling Street.

The subject site is listed as a heritage item on the Leichhardt LEP 2013, being 'terrace house, including interiors'. It is also a contributory item to the 'Waterview Estate Heritage Conservation Area' (C5).



Land Zoning Map extract (subject site highlighted in red)

#### 4. Background

##### 4(a) Site history

The following application outlines the relevant development history of the any relevant applications on surrounding properties, there are no relevant applications for the subject site.

##### Surrounding properties – 147 Darling Street, Balmain

Application	Proposal	Decision & Date
BC/2003/56	Unauthorised work carried out without consent (enclosing of the second floor timber verandah)	Refused, 7/02/2007
BC/2002/51	No description available	Refused, 10/10/2002
D/2018/672	Removal of one tree at rear of site.	Approved, 5/03/2019
BC/2018/73	Internal Works undertaken without approval to convert previous commercial premises to residential purposes.	Approved, 27/03/2019
D/2014/553	Removal of Eucalyptus nicholii (Willow peppermint Gum) tree from property	Approved, 18/11/2014

## Surrounding properties – 151 Darling Street, Balmain

Application	Proposal	Decision & Date
D/2006/395	Alterations and additions to existing dwelling.	Deferred Commencement, 20/12/2006
D/2015/529	Alterations and additions to existing dwelling including first floor and attic additions. This application relies on an exception to the Floor Space Ratio development standard.	Approved, 8/12/2015

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

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

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) *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 4.4A - Exception to maximum floor space ratio for active street frontages
- 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 6.4 - Stormwater management
- (i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned Low Density Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as alterations and additions to an existing dwelling house, a dwelling house is defined as:

*“Dwelling house means a building containing only one dwelling”*

The development is permitted with consent within the zone. The development is consistent with the objectives of the Low Density Residential Zone.

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

Standard	Proposal	non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.9:1 (171.3sqm)	1:1 (211.9sqm)	40.9sqm (23.7%)	No
<b>Landscape Area</b> Minimum permissible: 15% (28.5sqm)	34sqm (17.9%)	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% (114.2sqm)	79.6sqm (41.8%)	N/A	Yes

#### Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt LEP by 23.7% (40.9sqm).

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

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

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

- *The proposal is considered to be compatible with the desired future character of the surrounding area in relation to building bulk, form, and scale*
- *The proposed works seek to provide an improved standard of amenity and usable sizes of living spaces for the building, without compromising the appearance and character of the building from the public domain or impacting the adjacent neighbouring dwellings.*
- *The building’s FSR are largely contained within the existing building envelope and the result of the partial-lowering of the attic floor structure to achieve a habitable attic space compliant to NCC head height requirements to floor area currently excluded due to non-*

*compliance. This is achieved whilst maintaining the existing roof form. In addition a new stair provides NCC compliant access to the attic room*

- *Alterations to the building are limited to the interior and rear of the property, where they do not impact the building's character or distinguishable scale*

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 LR1, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013, which are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *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 is considered to be consistent with the zone objectives for the following reasons:

- The proposed development is compliant with the site coverage and landscaped area development standards ensuring that there is a suitable balance between the built form and open areas on the subject site;
- The additional FSR is wholly located within the existing building envelope of the attic. The additional FSR is attributed to the lowering of the attic FFL to achieve NCC compliant head heights.
- No changes are proposed to the existing roof form for accommodate the additional FSR.

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 applicable local environmental plan for the following reasons:

*To ensure that residential accommodation:*

- *Is compatible with the desired future character of the area in relation to building bulk, form and scale, and*  
Comment: The proposed development will be compatible with the desired future character of the area in relation to building bulk, form and scale. The additional FSR will be wholly contained within the existing roof form and will not result in additional adverse bulk. A new dormer window is proposed at the rear to ensure the attic will receive natural light and ventilation.
- *(ii) provides a suitable balance between landscaped areas and the built form, and*  
Comment: The proposal development is a suitably designed to accommodate a dwelling house whilst maintaining reasonable internal amenity, POS area and landscaped area. The proposal is consistent with this clause.
- *(iii) minimises the impact of the bulk and scale of buildings,*  
Comment: The additional FSR is wholly located within the existing building envelope of the attic. The additional FSR is attributed to the lowering of the attic FFL to achieve NCC compliant head heights

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

#### Clause 5.10 Heritage

The subject site is listed as a heritage item on the Leichhardt LEP 2013, being 'terrace house, including interiors'. It is also a contributory item to the 'Waterview Estate Heritage Conservation Area' (C5). The proposal was referred to Council's Heritage officer for comment, to ensure that the proposed works do not detract from the HCA and remain consistent with the character of development Darling Street.

No objection as raised to the proposed development, the new bay window proposed utilises materials and finishes sympathetic to the existing dwelling and will not detract from the heritage significance of the St Andrews Street streetscape or the item itself.

A condition requiring an archival recording of all building and landscape elements to be altered or removed is recommended to be imposed, given that the site is listed as a heritage item.

#### 5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

#### 5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. The subject site will remain as a heritage item under Schedule 5 of the Draft IWLEP. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

#### 5(d) Development Control Plans

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

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part B: Connections</b>	N/A
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.12 Landscaping	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.1 Darling Street Distinctive Neighbourhood	Yes

<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.11 Visual Privacy	Yes
<b>Part D: Energy</b>	
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
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.3 On-Site Detention of Stormwater	N/A

5(e) The Likely Impacts

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

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

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

5(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. One submission was received in response to the initial notification. The submission raised the following concern which is discussed under the respective heading below:

Issue: The removal of the paved area within the rear courtyard in lieu of soft permeable landscaping will hinder the use of the right of carriageway, namely access to 147 Darling Street.

Comment: The proposal does not seek to erect structures across the right of carriage. The inclusion of soft permeable landscaping will not obstruct the right of carriage way to 147 Darling Street.



### 5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Heritage

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$3,175 would be required for the development under Leichhardt Section 94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

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

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

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0998 for Alterations and additions including rear dormer and deck. at 149 Darling Street BALMAIN NSW 2041 subject to the conditions listed in Attachment A below

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DARL2-DA-100, Rev A	Site and Roof Plan	13/11/2020	Nick Bell Architects
DARL2-DA-101, Rev A	Basement and Ground Floor Plan	13/11/2020	Nick Bell Architects
DARL2-DA-102, Rev A	First Floor and Attic Floor	13/11/2020	Nick Bell Architects
DARL2-DA-200, Rev A	South and North Elevations Plan	13/11/2020	Nick Bell Architects
DARL2-DA-201, Rev A	West Elevation Plan	13/11/2020	Nick Bell Architects
DARL2-DA-202, Rev A	East Elevation Plan	13/11/2020	Nick Bell Architects
DARL2-DA-203, Rev A	Section A plan	13/11/2020	Nick Bell Architects
DARL2-DA-900, Rev A	Schedule of Materials and Finishes	13/11/2020	Nick Bell Architects
DARL2-DA-901, Rev A	Schedule of Materials and Finishes	13/11/2020	Nick Bell Architects

As amended by the conditions of consent.

#### FEES

##### 2. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

##### Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

##### Payment amount\*:

\$3,175.00

##### \*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

**3. Long Service Levy**

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

**4. Security Deposit - Standard**

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

<b>Security Deposit:</b>	\$2,209.00
<b>Inspection Fee:</b>	\$236.70

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

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

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

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

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

#### **GENERAL CONDITIONS**

##### **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. Standard Street Tree Protection**

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

##### **8. Works Outside the Property Boundary**

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

#### **PRIOR TO ANY DEMOLITION**

##### **9. Recording of Significant or Contributory Buildings**

Prior to any demolition on the site or the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that Council has received a full archival record of the building and landscape elements to be altered.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment & Heritage (Heritage Branch) or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with the guidelines 'Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch and available online at:

<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf>

The photographic archival recording is to be submitted in digital format only. It is to include the following:

- a. Development Application number.
- b. Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- c. Floorplans of the internal layout and directional details of photographs taken.
- d. Coloured photographs of:

- i. Each elevation;
- ii. Each structure and landscape feature;
- iii. Internal images of each room and significant architectural detailing; and
- iv. Views to the subject property from each street and laneway or public space.

The report must include written confirmation, issued with the authority of both the applicant and the photographer that the Inner West Council is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images. The report must be submitted on a USB in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each: title, image subject/description and date photograph taken.

#### **10. 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 **property/ies** 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.

#### **11. 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.

#### **12. 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**

#### **13. 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.

#### **14. 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.

#### **15. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

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

### **DURING DEMOLITION AND CONSTRUCTION**

#### **16. 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.

#### **17. 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.

#### **18. 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.

### **ADVISORY NOTES**

#### **Prescribed Conditions**

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

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and

- ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

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

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

**National Construction Code (Building Code of Australia)**

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

**Noise**

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



**Amenity Impacts General**

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

**Lead-based Paint**

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

**Dial before you dig**

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

**Useful Contacts**

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

WorkCover Authority of NSW

13 10 50

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos  
removal and disposal.

Attachment B – Plans of proposed development



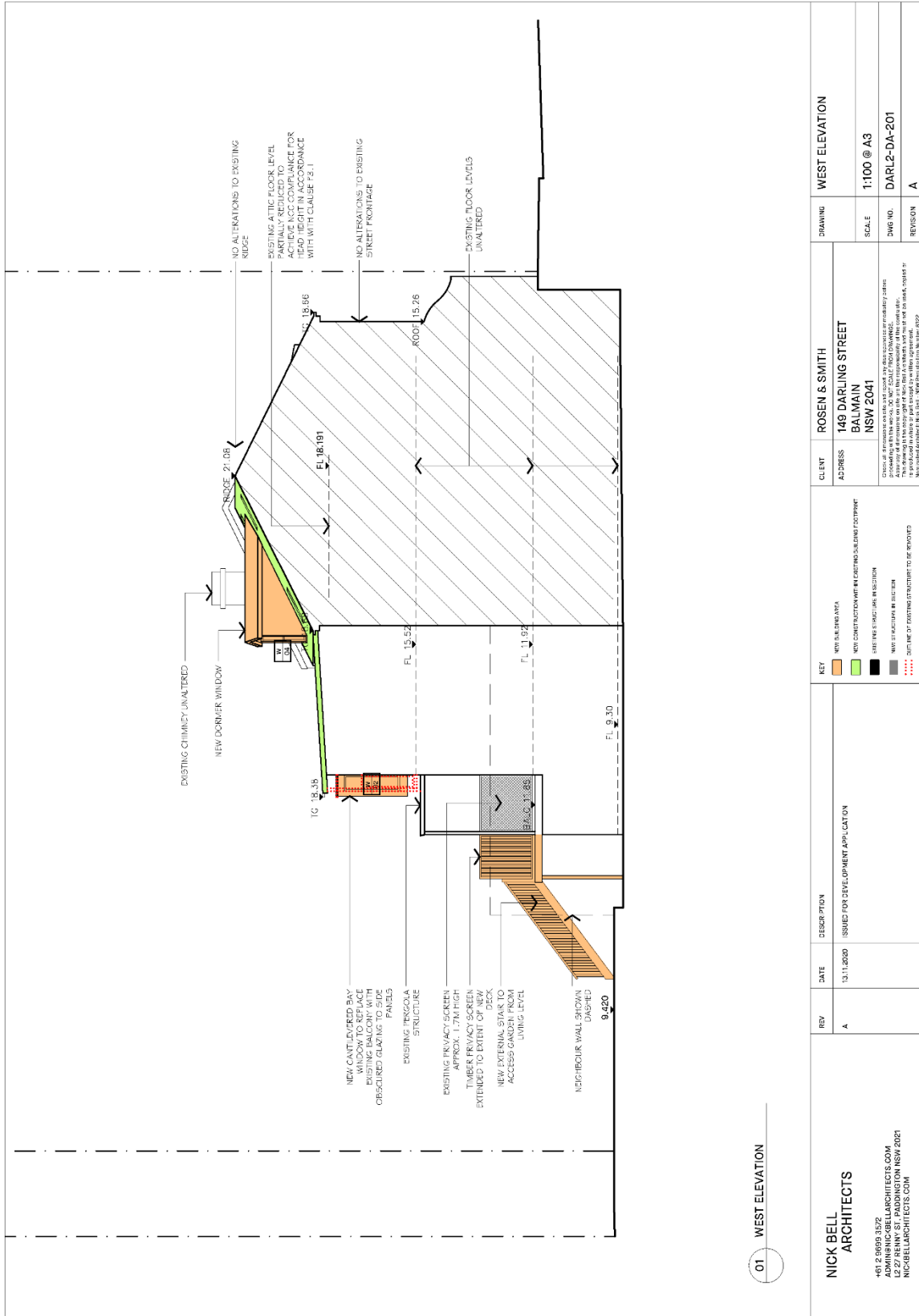
CLIENT	ROSEN & SMITH	DRAWING	SITE + ROOF PLAN
ADDRESS	149 DARLING STREET BALMAIN NSW 2041	SCALE	1:100 @ A3
PROJECT NO.	NSW 2041	DWG NO.	DARL2-DA-100
DATE	13/11/2025	REV/SIN	A



<p><b>NICK BELL ARCHITECTS</b></p> <p>48/2 968/9 35/2 ADMIN@NICHELLARCHITECTS.COM 1311 2620 NICKELLARCHITECTS.COM</p>	<p>REV A</p>	<p>DATE 13.11.2020</p>	<p>DESCRIPTION ISSUED FOR DEVELOPMENT APPLICATION</p>	<p>KEY</p> <ul style="list-style-type: none"> <li>NEW BALCONY AREA</li> <li>NEW CONSTRUCTION WITH IN EXISTING BUILDING FOOTPRINT</li> <li>EXISTING STRUCTURE EXTENSION</li> <li>NEW STRUCTURE EXTENSION</li> <li>CUT OUT OF EXISTING STRUCTURES TO BE REWORKED</li> </ul>	<p>CLIENT <b>ROSEN &amp; SMITH</b></p> <p>ADDRESS <b>149 DARLING STREET BALMAIN NSW 2041</b></p>	<p>DRAWING <b>BASEMENT FLOOR PLAN + GROUND FLOOR PLAN</b></p>
	<p>SCALE <b>1:100 @ A3</b></p>	<p>DWG NO. <b>DAR12-DA-101</b></p>	<p>REVISION <b>A</b></p>			

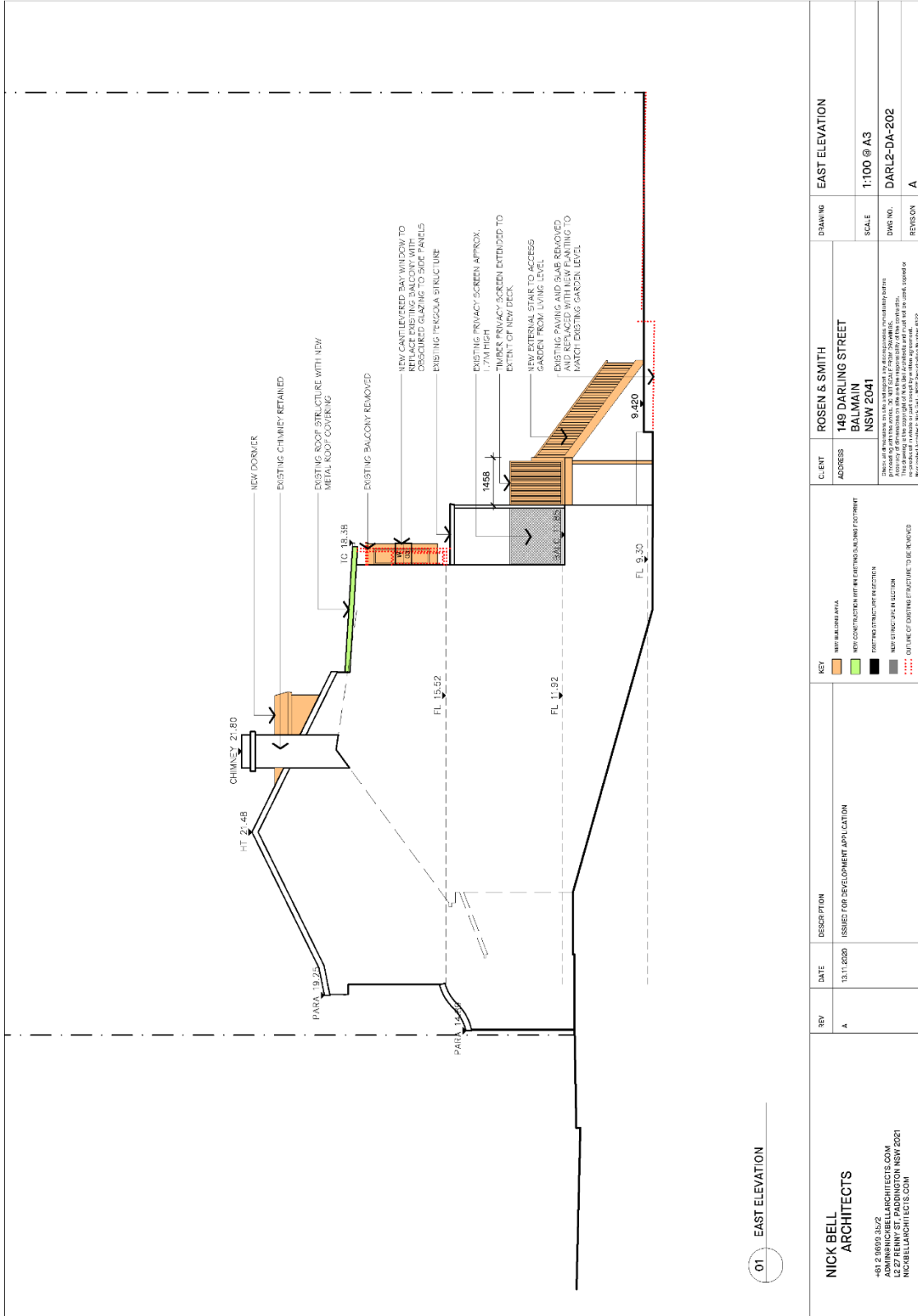






01 WEST ELEVATION

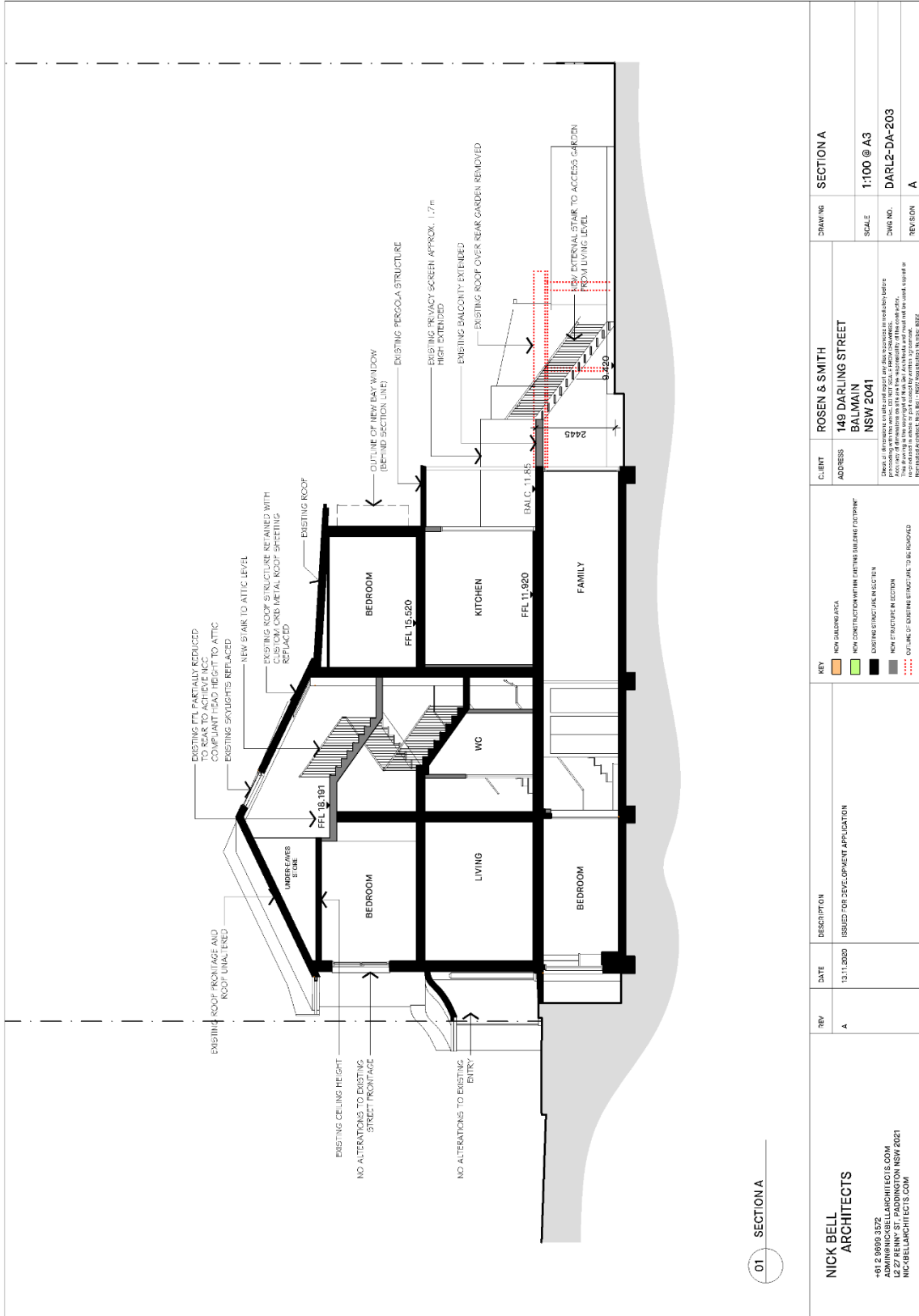
NICK BELL ARCHITECTS 461 2 9898 3522 ADMIN@NICKBELLARCHITECTS.COM WWW.NICKBELLARCHITECTS.COM	REV A	DATE 13.11.2020	DESCRIPTION ISSUED FOR DEVELOPMENT APPLICATION	KEY WITH BALCONY DATA NEW CONSTRUCTION WITH EXISTING SUBLENT FOOTPRINT EXISTING FLOOR LEVEL IN SECTION NEW STRUCTURE IN SECTION EXISTING STRUCTURE TO BE REMOVED	CLIENT ROSEN & SMITH ADDRESS 148 DARLING STREET BALMAIN NSW 2041	DRAWING WEST ELEVATION
	DRAWING SCALE 1:100 @ A3			DWG NO. DARL2-DA-201		REVISION A



01 EAST ELEVATION

<b>NICK BELL ARCHITECTS</b> 481 2 98693 361/2 ADMIN@NICKBELLARCHITECTS.COM 12 29 RENNIE ST. PASADENA NSW 2021 NICKBELLARCHITECTS.COM	REV	DATE	DESCRIPTION	KEY	CLIENT	DRAWING
	A	13.11.2020	ISSUED FOR DEVELOPMENT APPLICATION	NEW BALCONY AREA NEW CONSTRUCTION WITH EXISTING BUILDING FOOTPRINT EXISTING STRUCTURE NEW STAIR CASE INFILTRATION DETAILS OF EXISTING STRUCTURE TO BE REMOVED	ROSEN & SMITH 149 DARLING STREET BALMAIN NSW 2041	EAST ELEVATION
					SCALE	1:100 @ A3
					DWG NO.	DARL2-DA-202
					REVISION	A





REV	DATE	DESCRIPTION	KEY	C. BENT ADDRESS	SECTION A
A	13.11.2020	ISSUED FOR DEVELOPMENT APPLICATION	<ul style="list-style-type: none"> <li>NON CONSTRUCTION WITHIN EXISTING BUILDING FOOTPRINT</li> <li>NON CONSTRUCTION WITHIN EXISTING BUILDING FOOTPRINT</li> <li>EXISTING STRUCTURE IN SITU</li> <li>NON STRUCTURE IN SECTION</li> <li>OUTLINE OF EXISTING STRUCTURE TO BE DEMOLISHED</li> </ul>	ROSEN & SMITH 149 DARLING STREET BALMAIN NSW 2041	DRAWING SCALE 1:100 @ A3 DRAWING NO. DARL2-DA-203 REVISION A

01 SOUTH ELEVATION (DARLING ST)

02 NORTH (REAR) ELEVATION

**LEGEND**

KEY	MATERIAL	FINISH	COLOUR
F 01	ALUMI. FRAMED WINDOWS & DOORS	POWDERCOAT	SATIN CHARCOAL GREY
F 02	FG SHEET	PAINT	RESENE BALTIC SEA
F 03	TIMBER FRAMED WINDOWS & DOORS	PAINT	RESENE RICE CAKE
F 04	STEEL BALLUSTRADE & DETAILING	PAINT	RESENE BALTIC SEA
F 05	STEEL	PAINT	RESENE BALTIC SEA
F 06	SOLID TIMBER	PAINT	RESENE BALTIC SEA
F 07	RENDERED BRICKWORK	PAINT	DULUX BLEACHES QUARTER
F 08	STEEL ROOF	COLORBOND	DULUX WALLABY
F 09	STEEL FRONT FENCE	PAINT	RESENE BALTIC SEA
F 10	GUTTER	COLORBOND	DULUX WALLABY
F 11	SOLID TIMBER	NATURAL FINISH	BLACK/BUTT OR SIMILAR
F 12	FG SHEET	PAINT	DULUX BLEACHES QUARTER

F 01

F 02

F 03

F 04

F 05

F 06

F 07

F 08

F 09

F 10

F 11

F 12

**CLIENT** ROSEN & SMITH  
149 DARLING STREET  
BALMAIN  
NSW 2041

**CLIENT ADDRESS**  
149 DARLING STREET, BALMAIN, NSW 2041

**DATE** 13.11.2020

**DESCRIPTION** ISSUED FOR DEVELOPMENT APPLICATION

**REV** A

**REVISION**

**SCALE** 1:100 @ A3

**DWG NO.** DARL2-DA-900

**REVISION** A

**SCHEDULE OF MATERIALS AND FINISHES**

**CLIENT** ROSEN & SMITH  
149 DARLING STREET  
BALMAIN  
NSW 2041

**DATE** 13.11.2020

**DESCRIPTION** ISSUED FOR DEVELOPMENT APPLICATION

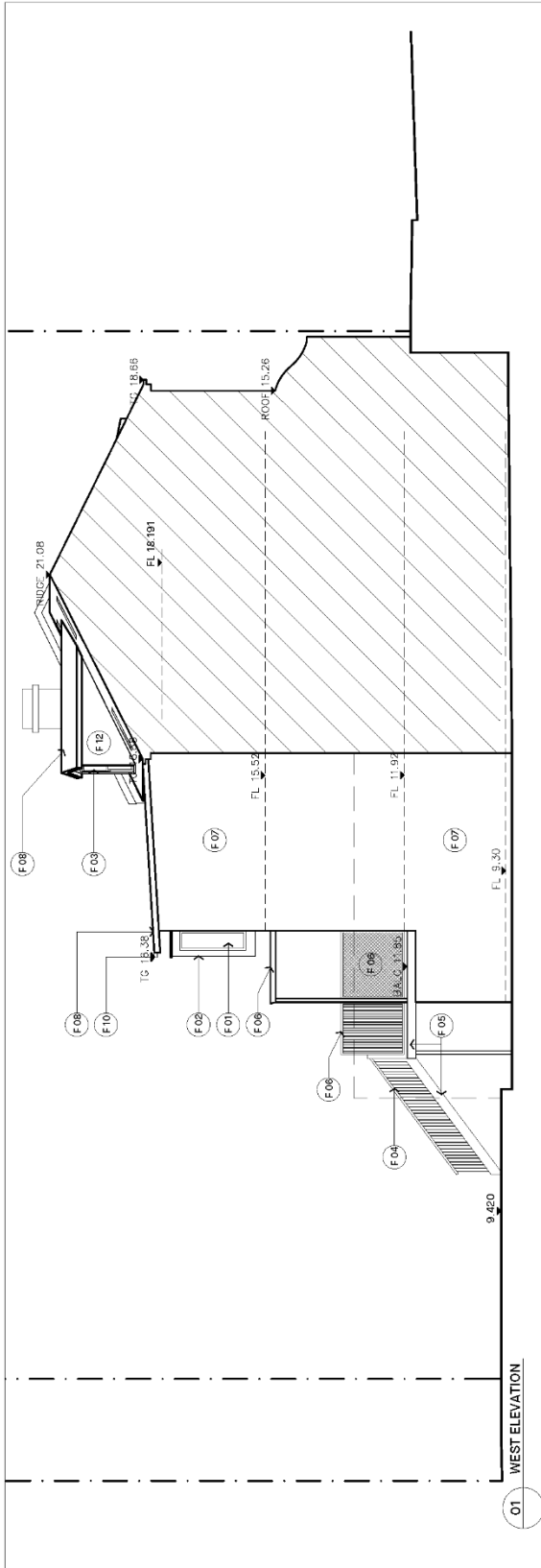
**REV** A

**REVISION**

**SCALE** 1:100 @ A3

**DWG NO.** DARL2-DA-900

**REVISION** A



**LEGEND**

KEY	MATERIAL	FINISH	COLOR
F 01	ALUM. FRAMED WINDOWS & DOORS	POWDERCOAT	SATIN CHARCOAL GREY
F 02	FC SHEET	PAINT	RESENE BAL TIC SEA
F 03	TIMBER FRAMED WINDOWS & DOORS	PAINT	RESENE RICE CAKE
F 04	STEEL BALLUSTRADE & DETAILING	PAINT	RESENE BAL TIC SEA
F 05	STEEL	PAINT	RESENE BAL TIC SEA
F 06	SOLID TIMBER	PAINT	RESENE BAL TIC SEA
F 07	RENDERED BRICKWORK	PAINT	DULUX BLEACHES QUARTER
F 08	STEEL ROOF	COLORBOND	DULUX WALLABY
F 09	STEEL FRONT FENCE	PAINT	RESENE BAL TIC SEA
F 10	GUTTER	COLORBOND	DULUX WALLABY
F 11	SOLID TIMBER	NATURAL FINISH	BLACKBUTT OR SIMILAR
F 12	FC SHEET	PAINT	DULUX BLEACHES QUARTER

KEY	DESCRIPTION
F 01	[Image of window frame]
F 02	[Image of dark grey paint swatch]
F 03	[Image of light grey paint swatch]
F 04	[Image of dark grey paint swatch]
F 05	[Image of dark grey paint swatch]
F 06	[Image of dark grey paint swatch]
F 07	[Image of light grey paint swatch]
F 08	[Image of dark grey paint swatch]
F 09	[Image of dark grey paint swatch]
F 10	[Image of dark grey paint swatch]
F 11	[Image of wood grain texture]
F 12	[Image of light grey paint swatch]

REV	DATE	DESCRIPTION	KEY	CLIENT	ADDRESS	SCALE	DWGING	REVISION
A	13.11.2020	ISSUED FOR DEVELOPMENT APPLICATION		ROSEN & SMITH	149 DARLING STREET BALMAIN NSW 2041	1:100 @ A3	DARL2-DA-901	A

**NICK BELL ARCHITECTS**  
 149, 149/151, 152/153  
 DARLING STREET  
 BALMAIN NSW 2041  
 02 9550 8272  
 4444 MARICREE  
 L2/27 RENNIST ST. PADDINGTON NSW 2021  
 NICKELLARCHITECTS.COM

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## Attachment C- Clause 4.6 Exception to Development Standards

NICK BELL  
ARCHITECTS

EXCEPTIONS TO DEVELOPMENT STANDARDS  
Pursuant to Clause 4.6 of Leichhardt Council LEP 2013

In regard to DA for:  
PROPOSED ALTERATIONS AND ADDITIONS  
149 DARLING ST, BALMAIN, NSW 2041

STANDARD SOUGHT TO BE VARIED  
FLOOR SPACE RATIO - Clause 4.4 (2B)(b) of LEP 2013

We wish to lodge a request to vary the above development standard for the reasons indicated:

*1. What are the environmental planning grounds that justify the contravening the development standard?*

The maximum permitted floor space ratio is 0.9:1. The site has a total area of 190.3 m<sup>2</sup> and the proposed gross floor area of 211.7 m<sup>2</sup> increases the existing gross floor area (187.9 m<sup>2</sup>) by 23.8 m<sup>2</sup> to a proposed FSR of 1.1:1. It is necessary to contravene the development standard in order to provide adequate and economic development of the site whilst at the same time comply with the aims and objectives of the Leichhardt Council LEP and DCP, in particular in relation to heritage controls, without compromising the existing streetscape. Diagrams demonstrating the GFA calculations have been included with this application.

*2. Why is compliance with the standard unreasonable or unnecessary? What are the special circumstances in this case? (To answer consider whether a development that complies is unnecessary or unreasonable).*

Full compliance with the required maximum 0.9:1 FSR is unreasonable or unnecessary considering the special circumstances of the site, including:

- The proposal is considered to be compatible with the desired future character of the surrounding area in relation to building bulk, form, and scale. There have been a number of approvals in recent years for developments within the Darling Street Distinctive Neighbourhood in Balmain and Balmain East for residential dwellings that do not meet the FSR standard, often by more significant margins than that of the present development proposal. This includes the terrace dwelling attached to the subject house at No. 151, which was granted approval in 2015 for an FSR of 1.43:1. This demonstrates that the desired future character of the area is one of increased density without compromising the form or bulk of the building as perceived from the public domain. Some of these approvals are listed below. For the purposes of comparison, the maximum FSR control for each individual site has been subtracted from the approved FSR of the proposed developments, to indicate the degree of the breach of the FSR control:

+61 2 9699 3572  
ADMIN@NICKBELLARCHITECTS.COM  
L2 27 RENNY ST, PADDINGTON NSW 2021  
NICKBELLARCHITECTS.COM

ABN 47 131 985 432 Nominated Architect: Nick Bell - NSW Architects Registration Board Number 8322

Site Address	Application Number	Date of Approval	Breach of max. FSR control
453 Darling St, Balmain	D/2010/143	02/09/2010	0.24
443 Darling St, Balmain	D/2015/4	14/07/2015	0.48
151 Darling St, Balmain	D/2015/529	08/12/2015	0.73
142 Darling St, Balmain East	D/2015/399	08/03/2016	0.10
134 Darling St, Balmain East	D/2015/614	12/04/2016	0.29
129 Darling St, Balmain East	D/2015/8	13/04/2015	0.08
90 Darling St, Balmain East	D/2010/556	08/02/2011	0.28
76 Darling St, Balmain East	D/2015/76	12/05/2015	0.13
52 Darling St, Balmain East	D/2012/616	09/04/2013	0.40
47 Darling St, Balmain East	D/2009/300	01/12/2009	0.54

- The proposed works seek to provide an improved standard of amenity and usable sizes of living spaces for the building, without compromising the appearance and character of the building from the public domain or impacting the adjacent neighbouring dwellings. As such, the additions to the building's FSR are largely contained within the existing building envelope and the result of the partial-lowering of the attic floor structure to achieve a habitable attic space compliant to NCC head height requirements to floor area currently excluded due to non-compliance. This is achieved whilst maintaining the existing roof form. In addition a new stair provides NCC compliant access to the attic room.
- The proposed design is well within the site coverage controls and the increased floor area of the proposal does not result in any change to the existing site coverage;
- The proposed development is well within council's controls for site coverage, landscaped area, and private open space; and
- The proposed development does not negatively impact neighbouring dwellings in terms of overshadowing, visual and acoustic privacy, or impact on sight lines.
- The proposed development results in improving a non-compliance for landscaped area to full compliance.

*3. Is the proposed development consistent with the objectives of the particular standard?*

The proposed development is consistent with the aims and objectives of Leichhardt Council LEP 2013 and DCP 2013 controls.

The design is compatible with the desired future character of the area, as the building's bulk, form, and scale, as perceived from the street, have been preserved. Alterations to the building are limited to the interior and rear of the property, where they do not impact the building's character or distinguishable scale, and remove any need for altering the building's rear building lines in any

significant way.

The design provides a suitable balance between landscaped areas and built form, increasing the area for soft landscaping by 11.7 m<sup>2</sup>, whilst retaining the heritage character of the main roof form and front façade.

*4. Is the proposal consistent with the objectives of the relevant zone?*

The proposed development is consistent with both the objectives of the standard and the relevant zone. It maintains the existing dwelling as a three-storey terrace house and promotes the desired future character of the area. Without imposing on the heritage character of the dwelling at the front of the property or impacting the space for soft landscaped area at the rear, the proposal results in an increase in gross floor area due primarily to an attic conversion that is contained within the existing rear roof slope. The proposed development provides for reasonable economic development of the property, retains the heritage character of the property and provides amenity consistent with the aims and objectives of the Leichhardt Council LEP 2013 and DCP 2013 requirements.



Nick Bell (Director)

NSW Architects Registration Board Number 8322