




 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2022/0565
<b>Address</b>	18 Johnston Street BALMAIN EAST
<b>Proposal</b>	Demolition of existing dwelling and construction of a new dwelling and associated works, including remediation of the site
<b>Date of Lodgement</b>	20 July 2022
<b>Applicant</b>	Gertrude K Buckley
<b>Owner</b>	Francis C Hayes and Gertrude K Buckley
<b>Number of Submissions</b>	Initial: 15
<b>Value of works</b>	\$1,200,000.00
<b>Reason for determination at Planning Panel</b>	Number of submissions
<b>Main Issues</b>	Foreshore Land and Wetland Protection Contamination Heritage Conservation View Loss Side Setbacks Solar Access
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Statement of Heritage Significance
	
<b>LOCALITY MAP</b>	
Subject Site 	Objectors 
Notified Area 	Supporters 
Note: Due to scale of map, not all objectors could be shown (14 Fitzroy Street, Balmain East)	

## Executive Summary

This report is an assessment of the application submitted to Council for the demolition of an existing dwelling and construction of a new three storey dwelling and associated works, including remediation of the site upon land legally identified as Lot 1 in DP 743275 and Lot 478 in DP 750249, known as 18 Johnston Street, Balmain East.

The application was notified to surrounding properties and fifteen (15) submissions were received in response to the initial notification.

The main issues associated with the application include:

- Foreshore Land and Wetland Protection
- Heritage Conservation
- Contamination
- Side Setbacks
- View Loss
- Solar Access

The development is compliant with all principal development standards, is generally compliant with Council's DCP, will result in acceptable impacts on the streetscape and amenity of the adjoining properties, including in terms of view sharing. Therefore, on balance, the application is acceptable on merit and recommended for approval.

## 2. Proposal

The subject proposal comprises demolition of the existing dilapidated dwelling and construction of a new three storey dwelling, open single car space and associated landscaping works and remediation of the site. The works are further detailed as follows:

### Basement and Foreshore Level

- Maximum 3m of excavation
- Living room with access to rear courtyard and foreshore area beyond
- Bedroom with walk-in-robe and ensuite
- Powder room
- Cellar
- Wet bar
- Landscaping including paving and reconstruction of standstone retaining walls and new retaining wall within the Foreshore Building Line
- Subfloor rainwater tank and bin store beneath parking.

### Ground Level

- Open plan living/kitchen/dining with access to rear deck
- Study
- Laundry
- Bathroom
- New front and side boundary fencing.



First Floor

- Two (2) bedrooms
- Bathroom
- Open single car space at the front of the site
- Photo voltaics on the eastern roof plane
- Skylights on eastern and western roof plane.

**3. Site Description**

The subject site is a regular (roughly rectangular) corner allotment located on the eastern side of Johnston Street, on the south east corner of the intersection with William Street. The site is orientated north-south with a total area of 318.6m<sup>2</sup> which slopes moderately (8m) from street level towards the south with topography that extends down to the foreshore of Johnston’s Bay. The site is currently occupied by a dilapidated one storey residential dwelling. There are no significant trees or vegetation located on the site.

The site is a corner allotment with a front boundary with William Street of 9.935m, secondary frontage to Johnston Street of approximately 37.37m and rear boundary with the foreshore of approx. 8.18m. The Site is zoned R1 General Residential pursuant to the *Inner West Local Environmental Plan 2022* (Refer to Figure 6).

The surrounding locality comprises a range of residential typologies including residential flat buildings (up to four storey in scale) and terraces, semi-detached dwellings and single dwellings of varying scales, ranging from single storey to three storey. Development typologies also vary in architectural style, from traditional to contemporary. The site is situated within the Balmain East heritage conservation area and located in proximity to a number of locally listed heritage items, including 31-25 William Street Balmain East (row of terrace houses) and 18 William Street Balmain East (single dwelling). Refer to Figure 7.

The site is affected by a Foreshore Building Line (FBL) which traverses east-west roughly across the centre of the site (Refer to Figure 8).



Figure 1 - Subject site as viewed from William Street (Google Maps 2020)



Figure 2 - Rear of subject site as viewed from Johnston Street (Google Maps 2020)



Figure 3 – View of Subject site from the foreshore (Photo supplied by Applicant)



Figure 4 – View of the foreshore from the rear of the subject site (Photo supplied by Applicant)

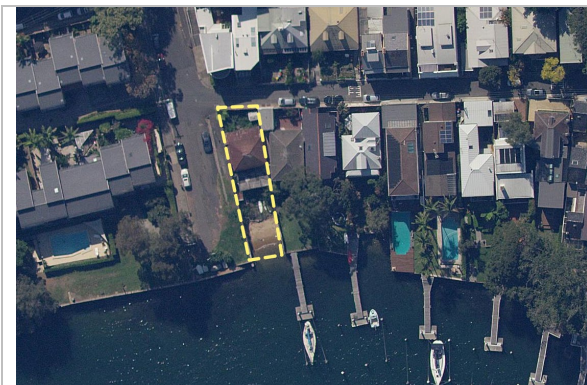


Figure 5 – Aerial map of subject site outlined in yellow (Google Maps 2020)



Figure 6 – Land use zoning map with subject site outlined in yellow (LLEP 2013)

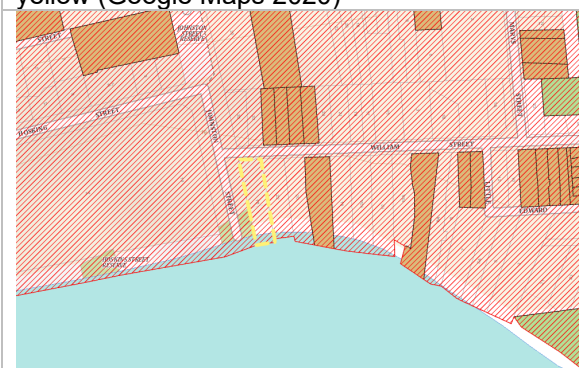


Figure 7 – Heritage map with subject site outlined in yellow (LLEP 2013)

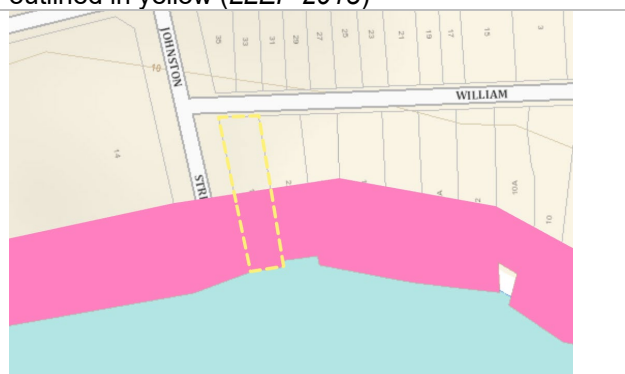


Figure 8 – Foreshore Building Line map (demarcated in purple) with subject site outlined in yellow (LLEP 2013)

## 4. Background

### 4(a) Site history

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

**Subject Site**

Application	Proposal	Decision & Date
PDA/2021/0311	Demolition of existing dilapidated cottage and construction of a new two storey dwelling and associated landscaping works	Advice issued - 15/09/2021
D/2019/329	Demolition of existing residential dwelling and construction of new residential dwelling and associated works, including new landscaping and sea wall, new swimming pool and new boat storage facility.	Refused - 17/10/2019 on the basis of the application being significantly incomplete and incapable of proper assessment.
D/2015/633	Alterations, restoration and rectification works to existing cottage and associated works, including new fencing.	Approved - 18/05/2016, works partially commenced but discontinued.

**Surrounding properties**22 William Street Balmain East

Application	Proposal	Decision & Date
D/1999/525	Partial demolition, alterations and additions to the existing two storey dwelling to provide three storeys. Provide new hardstand parking space to William Street elevation, construct new in ground pool to rear of property.	Approved - 09/05/2000

18 William Street Balmain East

Application	Proposal	Decision & Date
D/2012/529	Alterations and additions to existing dwelling including parking platform, access steps, gate and front fence.	Refused - 09/04/2012

**4(b) Application history**

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

Date	Discussion / Letter / Additional Information
23/02/2023	On 23 February 2023, Council issued a RFI seeking a revised and complete Materials and Colours Schedule identifying the colours proposed on all parts of the new building, and various design amendments responding to Council's Heritage referral.  On the 16 March 2023 and 4 April 2023, the Applicant issued a revised

Materials and Colours Palette and amended plans incorporating various design amendments, adequately addressing council's RFI and forms part of the DA documentation assessed as part of this assessment report – see assessment under Clause 5.10 - *Heritage Conservation* of the *LLEP 2013* for further details relating to required amendments and amendments carried out.

The amendments carried out are considered to have the same or a lesser impact as the original application, submitted by the request of Council to address submissions or relevant controls and deemed to have no measurable adverse effect on adjoining properties, and therefore, the amended plans under assessment did not require renotification in accordance with Council's Community Engagement Framework / Strategy.

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

##### Chapter 2 Coastal management

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

The subject site is located within the 'coastal zone', being within the 'coastal environment area' and 'coastal use area' pursuant to Clauses 13 and 14 of the SEPP as identified on the maps to the SEPP. However, these specific provisions do not apply to land located within the Foreshores and Waterways Area pursuant to the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Refer to assessment below).

A Foreshore Risk Management Report prepared by Horton Coastal Engineering dated 22 March 2022 has been provided with the application.

- Clause 2.12 of the SEPP, stipulates that:

*“development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land”.*



Comment: The proposed development will not cause adverse impacts or increased risk of coastal hazards on the land or adjacent land, as the foreshore is not proposed to be significantly altered, apart from reconfiguration of sea and retaining walls.

- Clause 2.13 of the SEPP stipulates that:

*“development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land”.*

Comment: It is understood that the Parramatta River Estuary Coastal Zone Management Plan (CZMP), that was gazetted on 1 July 2016, applies as a certified coastal management program at the subject property. The proposed residential development is not inconsistent with the CZMP.

In consideration of the above, subject to conditions, the proposed development will not adversely affect any coastal processes or values.

#### Chapter 4 Remediation of land

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

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

The site has been identified as contaminated. In consideration of Section 4.16 (2) the applicant has provided the following investigations which have been undertaken on the site:

- Stage 1 Preliminary Site Investigation (PSI) - December 2021
- Stage 2 Detailed Site Investigation (DSI) - June 2022
- Remediation Action Plan (RAP) – June 2022

The stage 1 PSI undertook a title search which indicated that the property has been owned privately since at least 1869. A dwelling (assumed to be the existing dilapidated building) is visible on the 1943 aerial photo.

Notwithstanding, historical aerial photos show that the site has been adjacent to various marine industrial entities/activities. Numerous ‘shipbuilders’ or ‘boatbuilders’ were listed in the Sands directory as residing in or near William Street. This may have had an impact on the soil with respect to chemical contamination. Considering the data gaps and potential for subsurface soil to be impacted with contaminants, the Stage 1 PSI concluded that there is inadequate information to form an opinion that the site is suitable for the development and recommended that a Stage 2 DSI be prepared.

Areas of environmental concern (shallow fill/soil impacted with heavy metals and benzo(a)pyrene) were identified in soil located in all borehole locations as part of the Stage 2 DSI. Impacted soil is required to be removed after demolition of the building and removal of the concrete slab.

Subsequently, a Remedial Action Plan (RAP) prepared by EBG dated 20 June 2022 has been provided to document the methodology for remediation. The RAP concludes that after remediation of the areas of environmental concern, the site shall be suitable for the proposed development, including:

- Demolition of existing dilapidated cottage.
- Construction of a new three storey dwelling with basement and associated landscaping works

On the basis of the Stage 2 DSI and RAP conclusions, Council can be satisfied that the land will be suitable for the proposed use and that the land can be remediated. Conditions of consent have been provided to ensure compliance and appropriate remediation of the site to accommodate the proposed development.

**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) State Environmental Planning Policy (Transport and Infrastructure) 2021**

*Chapter 2 Infrastructure*

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of *SEPP (Transport and Infrastructure) 2021* and was referred for comment for 21 days.

The relevant electricity supply agency (Ausgrid) has provided general terms of approval which have been incorporated into the recommendation.

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

*Chapter 2 Vegetation in non-rural areas*

The protection/removal of vegetation is identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

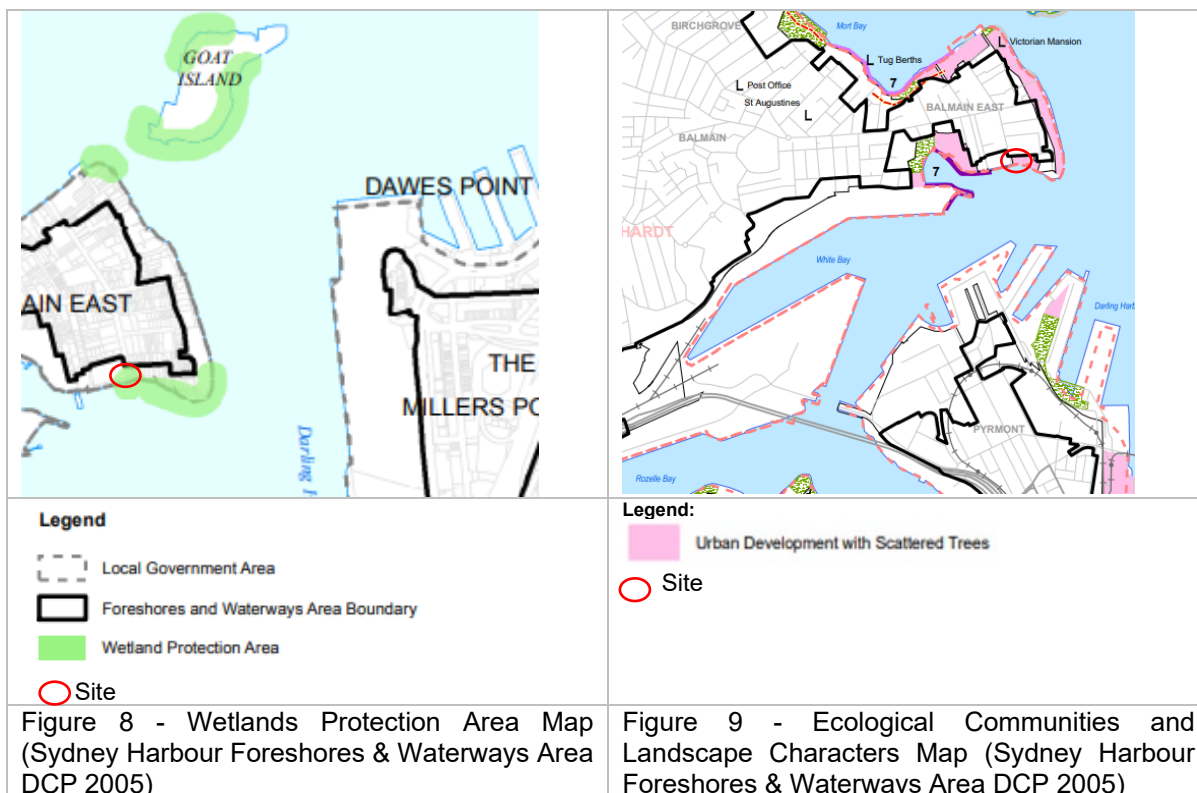
Inspection of the site has revealed there are no trees within or adjacent to the site that will be impacted by the proposal. A review of the plans has revealed new trees are proposed within the front and rear yards. However, no details have been provided about the proposed tree species to be planted. Therefore, to ensure quality trees are planted that will achieve a minimum height of at least six (6) metres, a tree planting condition has been included in the recommended conditions of approval.

Overall, the proposal is considered acceptable with regard to the SEPP and DCP, subject to the imposition of conditions, which have been included in the recommendation of this report.

*Chapter 6 Water Catchments*

The rear of the site is within a foreshore area. In addition, almost the entire site is located within a Wetland Protection Area. Furthermore, the site is mapped as landscaped character of which comprises “urban development with scattered trees” pursuant to the Sydney Harbour Foreshores & Waterways Area DCP 2005.

As a result, the proposal will need to demonstrate that all applicable requirements of Chapter 6 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and Chapter 2 of the Sydney Harbour Foreshores and Waterways Area DCP 2005 are satisfied.



An Aquatic Habitat Assessment for the subject site has been undertaken by Ocean Environmental. The report concludes that considering the land-based nature of the works at the site generally outside of the FBL, potential impacts on aquatic habitats and vegetation are expected to be minimal and can be managed effectively. The report provides recommendations and mitigation measures to ensure the development will have a neutral impact on the local water quality and form part of the recommended conditions of consent.

The site is not identified as a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and as such only the aims of the plan are applicable. The proposal is consistent with these aims, subject to conditions, as follows:

- The works are within a similar footprint to that of the existing dwelling and will maintain the unique natural assets of the foreshore and quality of Sydney Harbour
- The proposed works would not impede any existing public access (being located entirely on private property)
- There are no wetlands, riparian lands nor remnant vegetation present on the site, particularly within the footprint of the proposed works, thus the development will not affect the adjacent waterway beyond the existing situation.
- With the exception of maintenance and reconstruction of retaining walls, the proposed works are generally outside of the FBL and will not alter the existing sandy beach foreshore.

Sydney Harbour Foreshores and Waterways Development Controls Plan 2005

The following provides an assessment against the relevant provisions of the SHFWDCP 2005:

<b>SHFWDCP 2005</b>	<b>Compliance</b>
<b>1. Introduction</b>	Yes
<b>2. Ecological Assessment</b>	
2.2 General Aims	Yes
<b>3. Landscape Assessment</b>	
3.2 General Aims	Yes
<b>4. Design Guidelines for Water-Based and Land/Water Interface Developments</b>	N/A
<b>5. Design Guidelines for Land-Based Developments</b>	
5.1 Introduction	Yes
5.2 Foreshore Access	N/A
5.3 Siting of Buildings and Structures	Yes
5.4 Built Form	Yes
5.6 Planting	Yes

The proposed modifications will generally be consistent with the provisions of the SHFWDCP 2005.

In consideration of the above, the proposal satisfactorily addresses the requirements of Chapter 6 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and Chapter 2 of the Sydney Harbour Foreshores & Waterways Area DCP 2005.

### **5(a)(v) Local Environmental Plans**

#### Inner West Local Environmental Plan 2022 (IWLEP 2022)

The *Inner West Local Environmental Plan 2022 (IWLEP 2022)* was gazetted on 12 August 2022. As per Section 1.8A – Savings provisions, of this Plan, as the subject application was made before the commencement of this Plan the application is to be determined as if the *IWLEP 2022* had not commenced.

Section 4.15(1)(a)(i) of the *EPA Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and Section 4.15(1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 20 July 2022, on this date, the *IWLEP 2022* was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

Notwithstanding this, the amended provisions of the draft EPI do not alter the outcome of the assessment of the subject application.



*Leichhardt Local Environmental Plan 2013 (LLEP 2013)*

The application was assessed against the following relevant sections of *the Leichhardt Local Environmental Plan 2013 (LLEP 2013)*:

- Section 1.2 - Aims of the Plan
- Section 2.3 - Zone objectives and Land Use Table
- Section 2.7 - Demolition
- Section 4.3A - Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor Space Ratio
- Section 4.5 - Calculation of floor space ratio and site area
- Section 4.6 - Exceptions to development standards
- Section 5.7 - Development below mean high water mark
- Section 5.10 - Heritage Conservation
- Section 5.21 - Flood Planning
- Section 6.1 - Acid Sulfate Soils
- Section 6.2 - Earthworks
- Section 6.4 - Stormwater management
- Section 6.5 - Limited development on foreshore area
- Section 6.6 - Development on foreshore must ensure access

Section 2.3 Land Use Table and Zone Objectives

The site is zoned LR1 – General Residential under the *LLEP 2013*. The *LLEP 2013* defines the development as:

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

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

Section 4 Principal Development Standards

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

Standard	Proposal	non compliance	Complies
<b>Landscape Area</b> Minimum permissible: 20% or 63.72m <sup>2</sup>	39% or 125.25m <sup>2</sup>	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 191.16m <sup>2</sup>	49% or 154.4m <sup>2</sup>	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.8:1 or 254.8m <sup>2</sup>	0.75:1 or 240m <sup>2</sup>	N/A	Yes

Section 5.7 - Development below mean high water mark (MHWM)

Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

No works are proposed below MHWM (0 AHD) with exception of minor portions of the refurbished sandstone retaining walls to the side boundaries. The appropriate consent of which is sought under this DA.

Section 5.10 - Heritage Conservation

No. 18 Johnson Street is considered a contributory dwelling within the Balmain East Heritage Conservation Area. The site itself is not heritage listed, however, is it located in the vicinity of a number of heritage items, being Nos. 18, 25, 27, 29 and 31 William Street, these properties being opposite to the northeast and eastwards of the subject site.

The existing dwelling at the site, which is agreed to be in an advanced state of deterioration, has been regarded as a contributory element of the locality, evidence of the Area's history of development related to marine industries and boatbuilding, and its later evolution to residential uses.

The current proposal is supported by a Heritage Impact Statement (HIS) prepared by Urbis dated 7th February 2022. The proposal is also supported by a Historical Archaeological Impact Assessment Report which found that there is a moderate to high potential for locally significant relics to be found during site preparation, and that an Archaeological Research Design is to be professionally prepared for investigation, management and possible salvage excavation of relics discovered. A Section 140 Excavation permit should also be sought from Heritage NSW prior to any siteworks and disturbance.

The application was referred to Council's Heritage Officer. The referral addresses two key components of the proposal: the proposed demolition of the existing dwelling on the site, and the proposed new infill dwelling. These two key issues are outlined and summarised from Council's Heritage referral below:

Demolition of existing dwelling

It is concluded in the HIS that the condition of the existing house on the site is poor and degraded to the extent that meaningful conservation of the dwelling cannot be achieved. Having regard to the condition of the building's fabric and the tests of the Planning Principle (*Helou v Strathfield*) relating to Contributory buildings, it can be concluded that, while reconstruction might be argued as possible and potentially valuable in the context of the HCA, the economic viability of conserving and adapting the dwelling, given its poor, deteriorated and vandalised state, would be contestable and difficult to sustain as reasonable.

Considering the *Helou v Strathfield planning principle*, the following assessment is provided:

- *What is the heritage significance of the conservation area?*

Comment: No. 18 Johnson Street is considered a contributory dwelling within the Balmain East Heritage Conservation Area.

- *What contribution does the individual building make to the significance of the conservation area?*

Comment: A timber weatherboard house, increasingly rare, and related to maritime history.

- *Is the building structurally unsafe?*

Comment: Yes.

- *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition? Note: If the answer is yes, the cost of the necessary remediation/rectification works should be considered.*

Comment: It would be difficult to achieve the applicant's aspirations as shown in the proposals, while conserving the existing house. It is accepted that reconstruction/repair will be extensive and expensive.

- *Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?*

Comment: Accepted.

- *Is the replacement of such quality that it will fit into the conservation area?*

Comment: The proposal as amended is appropriate.

The HIS identified a number of changes as having been made to the original cottage. While none of these items are individually terminal to any goal of repairing and reconstructing the cottage, collectively they are substantial.

Subject to comprehensive archival recording, it is accepted that the dwelling can be removed to allow a new development of the site, pending acceptability of the currently proposed dwelling design which is assessed below.

#### New infill dwelling

The following design amendments were recommended by Council's Heritage Advisor as part of an RFI:

- Together with reduction and relocation of the dormer windows from the outer wall face line, the main ridge could be reduced in length by "hipping the ends", which would also reduce the proportionally high gable wall ends
- The roof sheeting must be Custom Orb profile corrugated steel in gal finish, or Colorbond Manor Red, Woodland Grey or Jasper
- The parapet gables should be amended to use bargeboard/fascia trims which are more common in the HCA
- The main wall finish should remain painted brick, not render, as a better response to the masonry of the HCA
- A timber gate or door more consistent with the timber picket fence should be used in the west facing Johnson Street elevation
- The scale and angular treatment of the glazing and main masonry opening of the south facing façade should be amended as suggested (reducing its scale).

The above amendments have effectively been adopted in the amended plans which are the subject of this assessment, with exception of render finishes in lieu of painted brick, which is considered acceptable on merit in the context of surrounding development.

As such the proposal as amended is considered to have no adverse impact on the HCA having regard to the provisions of Section 5.10 of *LLEP 2013* and the proposed infill dwelling is acceptable, subject to conditions.

#### Section 5.21 - Flood Planning

The site is identified as being flood affected by virtue of being impacted by potential coastal/estuarine processes. A Foreshore Risk Management Report has been prepared by Horton Coastal Engineers dated 22 March 2022 as it is a foreshore flood control lot in the Appendix E of the DCP mapping.

As concluded in the Foreshore Risk Management Report, with an EPL of 2.5m AHD, the proposed development (with a minimum habitable floor level of 3.4m AHD) is acceptable from an estuarine engineering perspective. Mitigation measures to reduce the risk of damage along the foreshore area seaward of the dwelling are outlined in Section 6.10 of the Foreshore Risk Management Report, with recommendations of which will form part of any development consent granted.

Furthermore, Council's Engineer has reviewed the proposal in this regard and has found the application acceptable subject to conditions, including ensuring that all habitable floor levels must be set at Foreshore Planning Level (flood level plus 500mm freeboard). In addition, all structures below the Foreshore Planning Level must be constructed from flood compatible materials.

#### Section 6.1 - Acid Sulfate Soils

The LLEP 2013 states that the property is located in a Class 5 Acid Sulfate Soil (ASS) area:

For Class 5 ASS, works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum (AHD) by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land requires further investigation. The site is located within 500 m of a Class 1 ASS Zone. Accordingly, acid sulfate soils may be an issue affecting the site.

The applicant has provided the following investigations have been undertaken on the site:

- Stage 1 Preliminary Site Investigation (PSI) - December 2021
- Stage 2 Detailed Site Investigation (DSI) - June 2022
- Remediation Action Plan (RAP) – June 2022

An acid sulfate soil assessment is included in the Stage 2 Report and subsequently, a RAP was prepared by EBG dated 20 June 2022 to address both potential for contamination and impacts of ASS. The RAP concluded that after remediation of the areas of environmental concern, the site shall be suitable for the proposed development.

Accordingly, on the basis of the Stage 2 DSI and RAP conclusions, Council can be satisfied that the land will be suitable for the proposed use. Conditions of consent have been provided to ensure compliance and appropriate remediation of the site to accommodate the proposed development.

Council's Engineer has reviewed the proposal in this regard and has found the application acceptable subject to conditions.

#### Section 6.2 – Earthworks

The proposal includes earthworks and up to 3m of excavation to accommodate the proposed development. The existing sandstone rock face (near the Foreshore Building Line) is to be excavated down to the basement level as part of the proposed development, with the dwelling located entirely landward of the Foreshore Building Line, except for stairs and a paved area. Footings for the dwelling are to be founded on sandstone bedrock.

Geotechnical stability of the overall site and proposed dwelling has been considered by Crozier Geotechnical Consultants (2022). If the recommendations provided in Section 6.6 are followed, it is considered that the foreshore retaining wall could achieve a low risk of instability over the design life.

#### Section 6.4 - Stormwater Management

Design of stormwater drainage for the proposed development has been provided in a Stormwater Management Plan prepared by Wehbe Consulting dated 27 January 2022. It is proposed to discharge piped stormwater from the property into an existing Council stormwater pipe that runs along Johnston Street into the harbour.

Foreshore Risk Management Report prepared by Horton Coastal Engineers dated 22 March 2022 stipulates that the ability to drain the lower portion of the site at times of elevated Sydney Harbour water levels may be constrained. As part of detailed design, the stormwater engineers should ensure that the stormwater drainage system has appropriate surcharge locations and overland flow paths away from development to minimise the risk of damage to development if surcharging occurs as a result of elevated harbour water levels, allowing for a tailwater level of 1.86m AHD. This Report and its recommendations will form part of any development consent.

As part of the proposed development, the existing sandy beach foreshore is to remain. Assuming that appropriate construction techniques are used to avoid undermining adjacent land, it would be expected that the proposed development would not cause adverse impacts on surrounding land.

Moreover, given the minimum habitable floor level of 3.4m AHD, significant issues are not expected.

Council's Engineer has reviewed the proposal in this regard and has found the application acceptable subject to conditions.

#### Section 6.5 Development within Foreshore Area

Clause 6.5(2) of the *LLEP 2013* outlines that:

*Development consent must not be granted for development on land in the foreshore area except for the following purposes—*

- a) the alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

No part of the new dwelling falls within the foreshore area (defined as land between the foreshore building line and mean high water mark) apart from a portion of the rear ground floor deck and access stair, which is consistent with the existing dwelling. Landscaping and maintenance of existing retaining walls and a new retaining wall at the sand/vegetation

interface also fall within the FBL. The proposed encroachments into the foreshore area are permitted in the foreshore area subject to meeting the following objectives:

- a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*

Comment: Land use zoning objectives are met

- b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

Comment: As discussed elsewhere in this assessment report, the proposed dwelling is considered to be compatible with the surround development and broader heritage conservation area.

- c) *the development will not cause environmental harm such as:*

- i. *pollution or siltation of the waterway, or*
- ii. *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- iii. *an adverse effect on drainage patterns, and*

Comment: An Aquatic Habitat Assessment for the subject site has been undertaken which concludes that potential impacts on aquatic habitats and vegetation are expected to be minimal and can be managed effectively, subject to conditions. Furthermore, the development is not expected to significantly increase stormwater drainage into the adjacent waterway.

- d) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

Comment: public access is not currently afforded on the site which wholly comprises private property.

- e) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

Comment: as discussed under Section 5(a)(iv) Section 5.1, the proposal as amended is considered acceptable in the context of the surrounding heritage conservation area.

- f) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

Comment: the new dwelling will not have an adverse impact on the amenity or aesthetic appearance of the foreshore.

- g) *sea level rise or change of flooding patterns as result of climate change has been considered*

Comment: the proposed dwelling is largely outside of the FBL. A Foreshore Risk Management Report has been provided with recommended mitigation measures proposed against the effects of coastal inundation.

## 5(b) Draft Environmental Planning Instruments

There are no draft EPIs relevant to the subject proposal.

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 (LDCP 2013).

The following provides discussion of the relevant issues:

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes - See discussion under s5.10 of <i>LLEP 2013</i> above
C1.4 Heritage Conservation Areas and Heritage Items	Yes – See discussion under s5.10 of <i>LLEP 2013</i> above
C1.5 Corner Sites	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes – see discussion
C1.20 Foreshore Land	Yes - see discussion under s.6.5 of the <i>LLEP 2013</i> above and below
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.2 Balmain East Distinctive Neighbourhood; and C2.2.2.2(a) Eastern Waterfront Sub Area	Yes – see discussion
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No - see discussion
C3.10 Views	Yes – see

	discussion
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic 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
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.5 Foreshore Risk Management Report	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.3.2 Foreshore Risk Management	Yes – see discussion

The following provides discussion of the relevant issues:

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

The proposed basement level will require excavation below existing ground levels to a maximum depth of approximately 3.0m. The proposal is supported by a Geotechnical Investigation to investigate the sub-surface geology and identification of ground water conditions. The rock unit typically comprises of medium to coarse grained quartz sandstone with minor lenses of shale and laminite.

The excavation is expected to extend through a relatively thin layer of fill and residual soils before intersecting sandstone bedrock. There is no visual rocky outcrop or cliff face visible from the foreshore, and fundamentally, the proposal will not impact any significant landscape features.

Accordingly, the proposal is acceptable subject to the recommendations made within the Geotechnical Investigation.

C1.20 Foreshore Land

The rear of the site is within a foreshore area. In addition, almost the entire site is located within a Wetland Protection Area.

The proposed new infill dwelling is considered to respect the topographical features of the site, will be sited in a landscape setting and will not be visually intrusive when viewed from the adjacent waterway (Figure 10). The development meets all objectives of this part inclusive of the requirements under Clause 6.6 and Clause 6.5 of the *LLEP 2013* and provisions of the *SEPP (Biodiversity and Conservation) 2021 as discussed in detail* under Section 5 of this assessment report.





Figure 10 - Montage of proposed development as viewed from the harbour (Image supplied by Applicant)

#### C2.2.2.2 Balmain East Distinctive Neighbourhood and C2.2.2.2(a) Eastern Waterfront Sub Area

The subject site is within the Balmain East Distinctive Neighbourhood and Eastern Waterfront Sub Area.

The requirements and overarching objectives of this part of the DCP are met as follows:

- The development presents as single storey with dormer style first floor accommodation from the primary frontage (William Street), transitioning into a three storey development towards the rear, therefore responding appropriately with the fall in topography and constraints of the site which is restricted by the FBL which traverses east-west roughly halfway across the property.
- The predominant scale of development is two storeys when viewed from Johnston Street.
- The individual patterns of architectural style along the street are maintained and the character of the area by keeping development consistent in architectural style, building form and materials including sandstone wall cladding, galvanised corrugated iron roofing, rendered masonry and picket front fence.
- Facilitates reasonable view sharing from surrounding properties (refer to detailed assessment below).
- The new infill development is considered to be sympathetic to the historic and conservation values of the neighbourhood.
- The proposal does not impact on any significant trees or vegetation within and adjoining the site.
- The development will not result in any adverse amenity impacts to neighbouring properties.
- The new infill dwelling achieves a front setback consistent with development along the southern side of William Street.
- The maximum building wall height is 6m measured from the primary frontage (William Street).

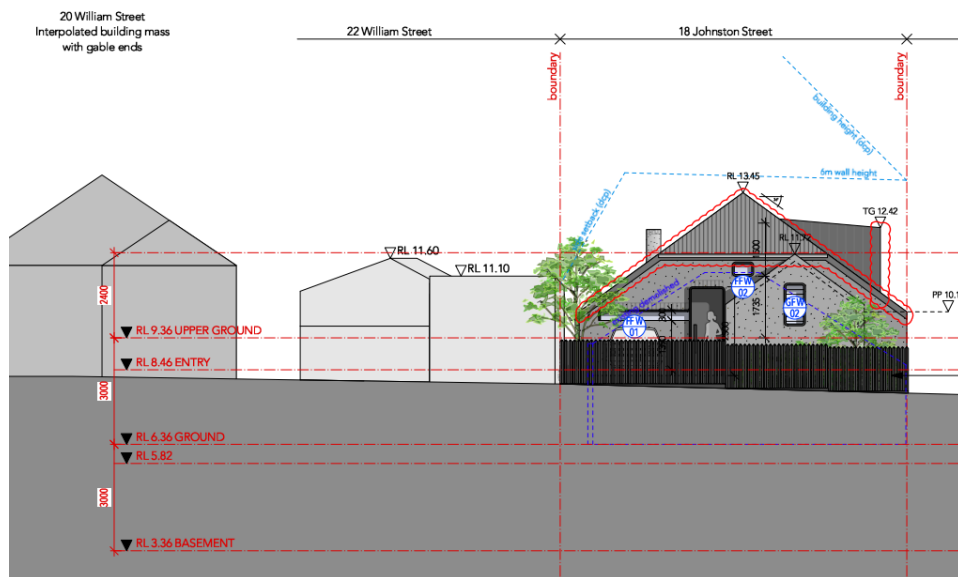


Figure 11 – Front elevation of new dwelling (COSO Architecture, March 2023)

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

*Building Location Zone*

The proposal comprises demolition of an existing single storey dwelling and construction of a new three storey infill dwelling on the site and seeks to alter both the front and rear building location zone (BLZ) on the site. The BLZ on this site is limited by virtue of the FBL which prevents development across approximately half the site.

The proposed front BLZ is generally in alignment to the equivalent of the immediate neighbouring property to the east located at 22 William Street, with exception of a minor component of the ground floor study which extends approximately 4m beyond. This is considered acceptable as it provides a modulated façade and does not contribute to the overall bulk of the building, nor does it detract from the streetscape character. The overall front building alignment is also commensurate to the front alignment and footprint of the parking structure located within the front setback at 22 William Street, providing a consistent pattern of built form when viewed from the street. Moreover, the building retains a single storey appearance from William Street with dormer style first floor accommodation largely contained within the roof form.

The proposal seeks a marginal increase to the rear BLZ which is largely within the FBL and in alignment with the equivalent BLZ of the two storey development to the east, with exception of the new ground floor rear deck. Open-sided structures, such as balconies and verandas, may extend beyond the BLZ, and is considered acceptable, given it is an open structure which does not contribute to any amenity, bulk and scale or streetscape impacts.

In consideration of the above, the proposed BLZ is considered to satisfactorily address the intent and objectives of the controls.

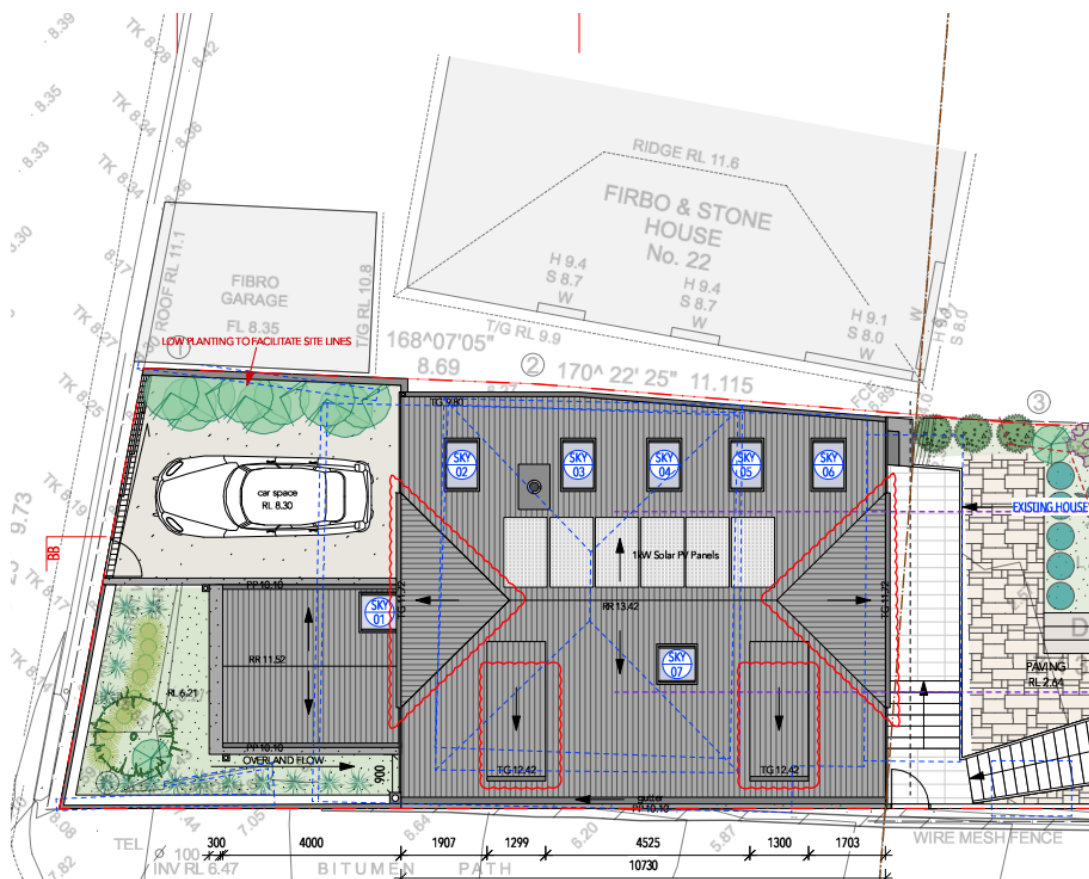


Figure 12 – Site Plan illustrating proposed BLZ in context of neighbouring dwelling (COSO Architecture, March 2023)

*Side Setbacks*

The site is a corner allotment and Council may exercise some flexibility in relation to the side setback to the secondary street frontage (Johnston Street), depending upon the relative importance of this frontage and the characteristic pattern of development.

The proposal breaches the minimum side setback requirements at the eastern and western elevations towards the rear of the development comprising the three storey portion of the dwelling, the variation which increases exponentially with the fall in topography southward.

The technical departure is considered appropriate in this instance where the building footprint is significantly constrained by the FBL which traverses roughly halfway across the site, subsequently confining the gross floor area of the dwelling within a comparatively small footprint. It is also noted that efforts have been made to ensure built form massing is shifted from the eastern elevation to the western boundary addressing Johnston Street, which will mitigate bulk and scale and amenity impacts to the neighbouring property at 22 William Street.

Furthermore, the proposed development complies with all principal development standards, including FSR, Landscaped Area and Site Coverage. The proposed side setbacks are commensurate to those in the streetscape, including equivalent three storey dwellings further along William Street and the pattern of development is not compromised. Reasonable access is afforded for necessary maintenance of this adjoining property.

The presentation to the Johnston Street secondary frontage is considered acceptable, where the building appears as a two storey development with dormer style accommodation largely contained within the gable roof form.

In consideration of the above, the proposed technical non-compliance with the sliding scale setback requirement is considered satisfactory and the objectives of the control are achieved.



Figure 13 – Rear (South) Elevation Plan (COSO Architecture, March 2023)

**Building Envelope**

The new dwelling is compliant with the 6m wall height and is within the 45 degree inclined plane measured from the William Street frontage.

**C3.9 Solar Access**

Solar access diagrams for mid-winter have been provided. The proposed development comprises a new dwelling, with the subject and adjoining properties orientated east-west, therefore the following solar access controls apply:

**Single Dwellings**

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

Comment: A minimum of three hours solar access to the main living room and private open space is not achieved at mid-winter. This is attributed to a number of factors, including its north-south site orientation, fall in topography and relative levels exacerbating shadows cast, the adjoining development to the east and a constrained building footprint due to the FBL, presenting difficulty in achieving the minimum solar access requirements.

*Minimising overshadowing to neighbours*

- *Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice*
- *Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*
- *Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9am and 3pm to 50% of the total area during the winter solstice.*

The site is a corner allotment orientated north-south, and therefore, shadows cast by the proposed dwelling between 9am and 12pm mid-winter fall across Johnston Street with no impacts to adjoining properties.

The adjoining property to the east at No. 22 William Street will experience some minor additional overshadowing to the rear private open space at 3pm, however maintains solar access to 50% of the private open space between 9am and 3pm mid-winter. No additional shadows cast to living room windows.

In regard to the above, the overshadowing impacts are considered reasonable.

C3.10 Views

The subject property is located on a foreshore and is currently single storey. Although the bulk and overall height of the development is minimised through cut and fill, it is expected that some loss of views towards Johnston's Bay will arise as result of the new infill dwelling.

A number of adjoining and nearby properties have lodged submissions raising concerns relating to view loss from their properties. The following sites were able to be accessed for view loss assessment:

- 27, 29, 31, 33,35 William Street Balmain East
- 1, 12/14, 13/14 Hosking Street, Balmain East

The following properties who provided a submission with concerns for view loss were unable to be visited:

- 22 William Street Balmain East
- 11/14 Hosking Street, Balmain East

Notwithstanding, the submitter of no. 11/14 Hosking Street provided photos which have been taken into consideration in the below view loss assessment.

In this regard, an assessment of the reasonableness of any view impacts to surrounding properties has been undertaken in accordance with the planning principle established in *Tenacity Consulting v Warringah (2004) NSWLEC 140* is below:

- First Step





*The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly*








than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

33 William Street, Balmain East

First Step Comment: The existing views over the subject site from 33 William Street include whole views of land water interface comprising Johnston’s Bay and the city skyline (including Barangaroo and Jones Bay Wharf) from the first floor internal living area and balcony and first floor bedrooms. The pictures provided in the table below identify the existing views.









	
<p>1st floor Balcony (standing)</p>	<p>1st floor Balcony (seated)</p>
	
<p>1st floor Living room (standing)</p>	<p>1st floor Living room (standing central)</p>
	
<p>1st floor Living room (seated)</p>	<p>1st floor Living room (seated)</p>

	
<p>Top floor bedroom (standing)</p>	<p>Top floor Balcony (standing, straight)</p>
	
<p>Top floor bedroom 2 (standing)</p>	<p>Top floor bedroom 2 (seated)</p>
	
<p>Top floor Balcony (right)</p>	<p>1st floor Balcony (left)</p>
	
<p>Top floor bedroom (seated position)</p>	

*35 William Street, Balmain East*

First Step Comment: Similar to 33 William Street, the existing views over the subject site from 35 William Street include whole views of land water interface comprising Johnston’s Bay and the city skyline (including Barangaroo, Darling Harbour and Jones Bay Wharf) from the first-floor internal living area and balcony and first floor bedrooms. The pictures provided in the table below identify the existing views.



	
<p>1st floor Living (standing position)</p>	<p>1st floor Living (standing position)</p>
	
<p>1st floor Balcony (standing position, left)</p>	<p>1st floor Balcony (standing position, right)</p>
	
<p>1st floor Balcony (standing position, centre)</p>	<p>2nd floor bedroom (standing position)</p>
	
<p>2nd Floor Bedroom (standing position)</p>	<p>2nd Floor Bedroom (standing position)</p>



	
<p>2nd Floor Bedroom (standing position)</p>	<p>2nd Floor Bedroom (standing position)</p>

*31 William Street, Balmain East*

**First Step Comment:** The existing views over the subject site from 31 William Street include partial filtered glimpses of water interface comprising Johnston’s Bay and the city skyline (including Barangaroo and Jones Bay Wharf). The pictures provided in the table below identify the existing views.

	
<p>Outside living room window (seated, left)</p>	<p>Outside living room window (standing, right)</p>
	
<p>Verandah (seated, left)</p>	<p>Verandah (seated, left)</p>
	
<p>Front yard (seated, right)</p>	<p>Front yard (seated, left)</p>




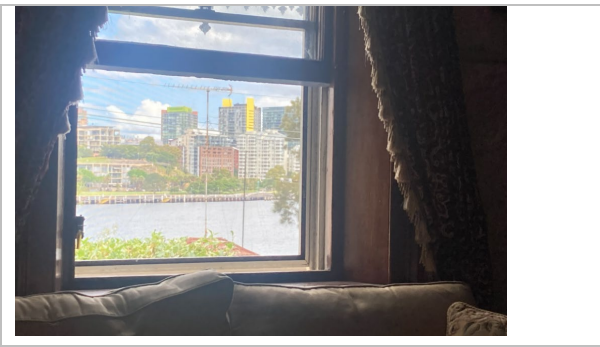

	
<p>Front yard (standing, right)</p>	<p>Verandah (seated, right)</p>

*29 William Street, Balmain East*

**First Step Comment:** The existing views over the subject site from 29 William Street include land-water water interface comprising Johnston’s Bay and the city skyline (including Barangaroo and Jones Bay Wharf). The pictures provided in the table below identify the existing views.

	
<p>Front verandah (seated, left)</p>	<p>Front verandah (standing, right)</p>
	
<p>Front veranda (standing position, left)</p>	<p>Front veranda (seated, right)</p>
	
<p>First Floor Bedroom Dormer Standing (standing, left)</p>	<p>First Floor Bedroom Dormer (standing right)</p>



	
<p>First Floor Bedroom Dormer (standing, central)</p>	<p>Front Living (seated position)</p>
	
<p>Front Living (standing position)</p>	

*27 William Street, Balmain East*

**First Step Comment:** The existing views over the subject site from 27 William Street include partial land-water water interface views filtered through trees comprising Johnston’s Bay and the city skyline (including Jones Bay Wharf). The pictures provided in the table below identify the existing views.

	
<p>Outside living room window Standing (right)</p>	<p>Front Verandah Seated (right)</p>
	
<p>Front Verandah Standing (right)</p>	<p>Front Verandah Standing (left)</p>

*1 Hosking Street, Balmain East*

First Step Comment: The existing views over the subject site from 1 Hosking Street include partial corridors of land-water water interface comprising Johnston’s Bay and the city skyline (including Barangaroo, Darling Harbour and Jones Bay Wharf). The pictures provided in the table below identify the existing views.




	
<p>GF bedroom (central, seated)</p>	<p>GF bedroom (centre of room, standing)</p>

*11/14 Hosking Street, Balmain East*











**First Step Comment:** The existing outlook over the subject site from 11/14 Hosking Street include a narrow corridor of land-water interface views comprising Johnston’s Bay and the city skyline (including Barangaroo). As this site was not accessed, it is unknown if any other views are accessed from other rooms of the property. The pictures provided by the submitter in the table below identify the existing views.

	
<p>First Floor Front Balcony (far left, standing)</p>	<p>First Floor Front Balcony (far right, standing)</p>
	
<p>First Floor Front balcony (far right, seated)</p>	





*13/14 Hosking Street, Balmain East*

**First Step Comment:** The existing outlook over the subject site from 13/14 Hosking Street include views of land-water interface comprising Johnston’s Bay and the city skyline (including Barangaroo, Jones Bay Wharf and Darling harbour). The pictures provided in the table below identify the existing views.







	
1st Floor Balcony (right, seated)	1st Floor Balcony Far right seated.
	
1st Floor Balcony Far right standing	1st Floor Balcony wrap
	
1st Floor living Seated	1st Floor living standing
	
1st Floor kitchen	Top floor bedroom
	



<p>top floor bedroom Balcony</p> 	<p>top floor bedroom Balcony</p> 
<p>top floor office-bed</p> 	<p>rear courtyard</p> 
<p>rear courtyard (seated)</p>	<p>Rear courtyard (standing)</p>

*12/14 Hosking Street, Balmain East*

First Step Comment: The existing outlook over the subject site from 12/14 Hosking Street include views of land-water interface comprising Johnston’s Bay and the city skyline (including Barangaroo and Jones Bay Wharf). The pictures provided in the table below identify the existing views.

	
<p>Balcony (central, standing)</p>	<p>Balcony (left, standing)</p>
	
<p>Balcony (left, seated)</p>	<p>Living (standing, right)</p>

- Second Step

The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a

*standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

*33 William Street, Balmain East*

Second Step Comment: The views are obtained from across the front and rear boundaries of the subject dwelling from both standing and seated positions central and towards the front of the internal and external living areas and upper floor bedrooms. Some views of the land/water interface (including part of Jones Bay Wharf) will be impacted by the proposal, more so at the ground floor levels (including living room and balcony). However, the majority of whole views of the land-water interface and iconic views of Barangaroo will be retained from all rooms and balconies, particularly from left and right aspects either side of the new dwelling.

*35 William Street, Balmain East*

Second Step Comment: The views are obtained from across the front and rear boundaries of the subject dwelling from both standing and seated positions central and towards the front of the internal and external living areas and upper floor bedrooms. Some views of the land/water interface (including part of Jones Bay Wharf) will be impacted by the proposal, more so at the ground floor levels (including living room and balcony) However, the majority of whole views of the land-water interface and iconic views of Barangaroo will be retained from all rooms and balconies, particularly from left and right aspects either side of the new dwelling.

*31 William Street, Balmain East*

Second Step Comment: The views are obtained from across the front and rear boundaries of the subject dwelling and neighbouring dwellings from both standing and seated positions from the ground floor internal living area, balcony and front yard. Some of the partial views of the water (filtered through trees) from the ground floor front veranda and front yard will be obscured by the proposed development. However, the views towards the west of Barangaroo and partial water views will be retained from these areas.

*29 William Street, Balmain East*

Second Step Comment: The views are obtained from across the front and rear boundaries of the subject dwelling and neighbouring dwellings from both standing and seated positions from the front living room, front verandah and first floor bedroom. Some of the land-water interface views from the front veranda front living room will be obscured by the proposed development. However, the views towards the west of Barangaroo and a portion of land-water interface views will be retained from these areas.

*27 William Street, Balmain East*

Second Step Comment: The views are obtained from across the side boundaries of the subject dwelling from both standing and seated positions from the front verandah (accessed from the living room). Some of the filtered land-water interface views from the front veranda will be obscured by the proposed development. However, a reasonable portion of land-water interface views will be retained from the front balcony.



*1 Hosking Street, Balmain East*

Second Step Comment: The views are obtained from across the side boundaries of the subject dwelling from both standing and seated positions from upper and ground floor balconies, living area and bedrooms. A minor portion of water views from the ground and second floor bedrooms and upper floor balconies will be obscured by the proposed development. However, the views towards the west of Barangaroo and land-water interface views will be retained from these areas and the living room of the dwelling.

*11/14 Hosking Street, Balmain East*

Second Step Comment: The views are obtained from across the side boundaries of the subject dwelling from both standing and seated positions from the front balcony area. A large portion of land/water interface views will be obscured by the proposed development given the relatively small view corridor is obtain across the side boundary of the subject site. However, the views of Barangaroo will be largely retained from this balcony. As the site was not able to be accessed, it is unknown if any other rooms of the dwelling enjoy views, and to what extent they will be retained/impacted.

*13/14 Hosking Street, Balmain East*

Second Step Comment: The views are obtained from across the side boundaries of the subject dwelling from both standing and seated positions from upper floor living area, kitchen bedrooms, front balconies and rear courtyard. A very minor portion of water views from the upper floor bedroom, living and front balconies will be obscured by the proposed development. Water glimpses filtered through trees will be largely obscured from the ground floor rear courtyard and upper floor kitchen from both standing and seated positions. However, the views towards the west of Barangaroo and land-water interface views will be retained from the upper floor living area, bedrooms and front balconies of the dwelling.

*12/14 Hosking Street, Balmain East*

Second Step Comment: The views are obtained from across the side boundaries of the subject dwelling from both standing and seated positions from the front living area and adjoining balcony. A minor portion of water views from these areas will be obscured by the proposed development. The land-water interface views towards the west of Barangaroo south towards Jones Bay Wharf will be retained.

- Third Step

*The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

*33 William Street, Balmain East*

Third Step Comment: Properties located along the northern side of William Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering the impact will be greater at the

ground floor living area and front balcony of this site, the view loss from this property is considered moderate overall.

*35 William Street, Balmain East*

Third Step Comment: Properties located along the northern side of William Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views from living areas and bedrooms. Considering the impact will be greater at the first floor living area and balcony of this site, the view loss from this property is considered moderate overall.

*31 William Street, Balmain East*

Third Step Comment: Properties located along the northern side of William Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering the impact will be from living areas (both seated and standing) of this site, the view loss from this property is considered moderate overall.

*29 William Street, Balmain East*

Third Step Comment: Properties located along the northern side of William Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering the biggest impact will be from living areas (both seated and standing) of this site, the view loss from this property is considered moderate overall.

*27 William Street, Balmain East*

Third Step Comment: Properties located along the northern side of William Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering that there will only be a partial loss of filtered views from the front balcony of this site, the view loss from this property is considered minor overall.

*1 Hosking Street, Balmain East*

Third Step Comment: Properties located along the northern side of Hosking Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering the biggest impact will be from a ground floor bedroom (both seated and standing) of this site, the view loss from this property is considered minor overall.

*11/14 Hosking Street, Balmain East*

Third Step Comment: Properties located along the northern side of Hosking Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will obscure land/water interface views from the front balcony. As the site was not able to be accessed, it is unknown if any other rooms of the dwelling enjoy views, and to what extent they will be retained/impacted, thus a holistic assessment of views that would be impacted/retained from the whole dwelling could not be undertaken. Considering that a compliant development would have a similar impact on view loss of the land/water interface from this area, the access to the view across a side boundary of the subject site and that views will largely be retained to Barangaroo city skyline, the view loss from this property is considered moderate and reasonable overall.

13/14 Hosking Street, Balmain East

Third Step Comment: Properties located along the northern side of Hosking Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering the extent of views retained to the majority of rooms and balconies of this site, with the biggest impact being filtered views of water from a ground floor rear courtyard and upper floor and kitchen, the view loss is considered minor overall.

12/14 Hosking Street, Balmain East

Third Step Comment: Properties located along the northern side of Hosking Street currently share views from their front (southern) elevations and due to their elevated position, the proposal will only partially obscure these views. Considering extent of views will largely be retained to the living room and adjoining balcony of this site, the view loss from this property is considered minor overall.

- Fourth Step

*The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Fourth Step Comment: The development is largely compliant with Council's LEP and DCP controls, with partial obstruction of views not directly a result of any non-compliances and a more skilful design would not have a discernible impact. As the existing dwelling on the subject site is single storey, it is considered that any increase in height of development on the site will have an impact to the views benefited by surrounding development.

In the circumstances of the case and consideration of the Tenacity Consulting v Warringah (2004) NSWLEC 140 Planning Principle, the extent of view loss to surrounding properties as result of the development is considered reasonable.

### C3.11 Visual Privacy

No windows are proposed to the eastern elevation to minimise overlooking to the adjoining dwelling at No. 22 William Street.

Given that the existing building includes an elevated rear deck, the proposed elevation of the main living area and deck at the rear ground level of the dwelling is acceptable as there are not considered to be any additional privacy impacts to that of the existing situation. The proposal has incorporated privacy screening along the eastern edge of the proposed elevated rear balcony to minimise visual privacy impacts.

There will be sufficient spatial separation (>9m) between the neighbouring building located to the west (separated by Johnston Street) to minimise overlooking impacts to the adjacent balcony and living room windows.

#### 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 the Community Engagement Framework for a period of fourteen (14) days to surrounding properties.

A total of fifteen (15) submissions were received in response to the initial notification.

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

- Loss of views – see detailed assessment under Section 5(c) - C3.10 Views
- Streetscape character - see detailed assessment under Section 5(c) C2.2.2.2 Balmain East Distinctive Neighbourhood and C2.2.2.2(a) Eastern Waterfront Sub Area
- Bulk and scale - see detailed assessment under Section 5(c) C3.2 Site Layout and Building Design
- Heritage conservation - see detailed assessment under Section 5(a)(v) - 5.10 Heritage Conservation
- Solar Access - see detailed assessment under Section 5(c) - C3.9 Solar Access
- Materials and finishes - see detailed assessment under Section 5(a)(v) - 5.10 Heritage Conservation
- Visual privacy – see detailed assessment under Section 5(c) - C3.11 Visual Privacy

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Construction noise and traffic impacts during works

Comment: Standard conditions of consent will be imposed to minimise impacts associated with construction

Issue: Relocate skylights and solar panels to the western roof plane to minimise impacts of future development of 22 William Street Balmain East

Comment: It is not considered that the location of the proposed skylights and solar panels to the eastern roof plane will unreasonably preclude any future redevelopment of 22 William Street.

Issue: Non-compliance with Floor Space Ratio

Comment: As outlined under Section 5(a)(iv) Section 4.4 – Floor Space Ratio, the proposal complies with the maximum FSR development standard

Issue: Light spill

Comment: The development is residential in nature and not considered to emit unreasonable light spill.

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.

Referral	Comment
Heritage	Supported subject to conditions requiring archival recording of the remnant dwelling and structures prior to construction
Engineering	Supported subject to conditions
Health	Supported subject to conditions
Urban Forest	Supported subject to planting of trees which will achieve a minimum height of 6m

6(b) External

The application was referred to the following external agency pursuant to the SEPP (Transport and Infrastructure) 2021, s2.48.

- AusGrid – General Terms of Approval provided.

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 \$12,000 would be required for the development under the former Leichhardt Contributions Plan 2020. 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 the *Leichhardt Local Environmental Plan 2013* and the *Leichhardt Development Control Plan 2013*.

The development is compliant with all principal development standards, is generally compliant with Council’s DCP, will not result in any significant impacts on the amenity of the adjoining properties and the streetscape, facilitates a reasonable level of view sharing 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

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/2022/0565 for demolition of existing dwelling and construction of a new dwelling and associated works, including remediation of the site at 18 Johnston Street Balmain East, 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
DA01 Rev B	Site Analysis Plan	16.03.2023	COSCO Architecture
DA02 Rev B	Basement + Foreshore Plan	16.03.2023	COSCO Architecture
DA03 Rev B	Ground Floor Plan	16.03.2023	COSCO Architecture
DA04 Rev B	Upper Ground Floor Plan	16.03.2023	COSCO Architecture
DA05 Rev B	Roof Plan	16.03.2023	COSCO Architecture
DA06 Rev B	Section AA	16.03.2023	COSCO Architecture
DA07 Rev B	Section BB	16.03.2023	COSCO Architecture
DA08 Rev B	Section CC	16.03.2023	COSCO Architecture
DA09 Rev B	Elevation North_William Street	16.03.2023	COSCO Architecture
DA10 Rev B	Elevation West_Johnston Street	16.03.2023	COSCO Architecture
DA11 Rev B	Elevation South_Johnston Street	16.03.2023	COSCO Architecture
DA12 Rev B	Elevation East_Along Boundary	16.03.2023	COSCO Architecture
DA17 Rev A	Erosion and Sediment Management Plan	21.12.2021	COSCO Architecture
DA18 Rev A	Site Calculations	21.12.2021	COSCO Architecture
DA19 Rev C	Materials Selection	06.04.2023	COSCO Architecture
DA20 Rev A	Landscape Plan	21.12.2021	COSCO Architecture
MD02 Rev A	Demolition Plan	21.12.2021	COSCO Architecture
SW1017-1 Rev A	Stormwater Construction Notes and Standard Details	27.01.2022	Wehbe Consulting

SW1017-2 Rev A	Roof Layout and Upper Ground Layout	27.01.2022	Wehbe Consulting
SW1017-3 Rev A	Ground Floor and Lower Ground Floor Layout	27.01.2022	Wehbe Consulting
1273943S_02	BASIX Certificate	15.07.2022	Frys Energywise
P0037231 Rev 01	Heritage Impact Statement	07.02.2022	Urbis
P0037231 Rev D01	Historical Archaeological Impact Assessment	22.02.2022	Urbis
P0037231 Rev D004	Aboriginal Objects Due Diligence Assessment	03.02.2022	Urbis
N/A	Structural Report	Jan 2022	R.Balas Consulting
IrJ0509	Foreshore Risk Management Report	22.03.2022	Horton Coastal Engineering
N/A	Aquatic Habitat Assessment	11.01.2022	Ocean Environmental
N/A	Notice of Category 2 Remediation of Soil	20.06.2022	EBG Environmental Geoscience
EBG-02941.Stage1.PSI.12.21	Stage 1 Preliminary (Environmental) Site Investigation	14.12.2021	EBG Environmental Geoscience
EBG-02971.Stage2.DSI.05.22.R00	Stage 2 Detailed Site Investigation	01.06.2022	EBG Environmental Geoscience
EBG-02981.RAP.06.22	Remediation Action Plan	20.06.2022	EBG Environmental Geoscience
2021-273 Rev 0	Report on Geotechnical Investigation	02.02.2022	Crozier Geotechnical Consultants
N/A	Ausgrid Letter of Consent	N/A	Ausgrid

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 the *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\*:

\$12,000

\*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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

**4. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$12,000.00
<b>Inspection Fee:</b>	\$350.00

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

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

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

restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

#### **GENERAL CONDITIONS**

##### **5. 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.

##### **9. Hazardous Materials Survey**

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

##### **10. Contamination – Remedial Action Plan (No Site Auditor Engaged)**

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by EBG Environmental Geoscience (Edwards Blasche Group Pty Ltd), reference Report ID : EBG-02981.RAP.06.22 dated 20 June 2022, the *Contaminated Land Management Act 1997* and Chapter 4 - Remediation of Land of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

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

##### **11. 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 the adjoining property 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.

#### **12. Advising Neighbours Prior to Excavation**

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

#### **13. 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.

#### **14. Hoardings**

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

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

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

#### **15. Recording of Buildings that are to be Demolished**

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 demolished.

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

- a. 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.
- b. Coloured photographs of:
  - i. each elevation,
  - ii. each structure and landscape feature;
  - iii. views to the subject property from each street and laneway or public space.

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

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

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.

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### **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 13 20 92*

#### **17. Structural and Geotechnical Report**

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

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

**18. Foreshore Risk Management Plan**

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

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

**19. Flood Affected Site**

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

- a. All habitable floor levels must be set at Foreshore Planning Level (flood level plus 500mm freeboard). All structures below the Forshore Planning Level must be constructed from flood compatible materials;
- b. All electrical equipment and wiring must be waterproofed or installed at or above Foreshore PLanning Level;
- c. A structural engineer's certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the 1 in 100-year flood level;
- d. The existing ground levels throughout the site must be maintained so as not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths must be detailed on the plan; and
- e. All fencing within the overland flow path must be of an open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.

**20. Parking Facilities - Domestic**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard

AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The garage slab or driveway must rise within the property to be 170 mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- b. A minimum of 2200 mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided at a natural scale of 1:25, demonstrating compliance with the above requirements;
- d. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 3300 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- e. Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided. These physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004. The design of structural barriers must be certified by a suitably qualified Civil Engineer with Chartered Engineer of Institution of Engineers Australia (CPEng) or Registered Professional Engineer of Professionals Australia (RPEng) qualifications;
- f. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces;
- g. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004; and
- h. The external form and height of the approved structures must not be altered from the approved plans.

#### **21. Stormwater Drainage System – Minor Developments (OSD is not required)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof and paved areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to Johnston's Bay as per RMS standard requirements;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;



- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- e. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;
- f. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- g. The overland flow path through the site must remain unobstructed;
- h. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- i. Habitable floor areas must be at or above the Flood Planning Level or a minimum 150 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas, whichever is the highest;
- j. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- k. No nuisance or concentration of flows to other properties;
- l. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- m. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for the stormwater outle to Johnston's Bay;
- o. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site; and
- p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

#### **22. Dilapidation Report – Pre-Development – Minor**

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

#### **DURING DEMOLITION AND CONSTRUCTION**

#### **23. 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.

#### **24. 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.

#### **25. Imported Fill Materials**

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

#### **26. Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **27. Certification of Tree Planting**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of 2x 75 litre size additional trees, which will attain a minimum mature height of six (6) metres, must be planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

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

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

#### **29. Light Duty Vehicle Crossing**

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

#### **30. Protect Sandstone Kerb**

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

#### **31. No Encroachments**

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

**32. Public Domain Works**

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

- a. Light duty concrete vehicle crossing(s) at the vehicular access location(s); and
- b. Other works subject to the *Roads Act 1993* approval.

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

**33. Solid Fuel Heater (Domestic) – Installation**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be satisfied through the issue of appropriate certification that the system installed complies with the standard specified in the Environment Protection Authority's Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters; AS/NZS 2918:2001 Domestic solid fuel burning appliances-Installation and the Building Code of Australia.

**34. Contamination – Validation (No Site Audit Statement Required)**

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.

The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines *Consultants Reporting on Contaminated Sites* and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

**35. Contamination – Disposal of Soil**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: *Classifying Waste* (EPA 2014), *Protection of the Environment Operations (Waste) Regulation 2014* and the *Protection of the Environment Operations Act 1997*.

**ON-GOING****36. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

**37. Bin Storage**

All bins are to be stored within the site.

**ADVISORY NOTES****Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

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

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**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.

**Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

**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*.

**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 Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)  
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.

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

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

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

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

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

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

#### **Insurances**

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

#### **Permits**

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

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

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

**Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> 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 Class A 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 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

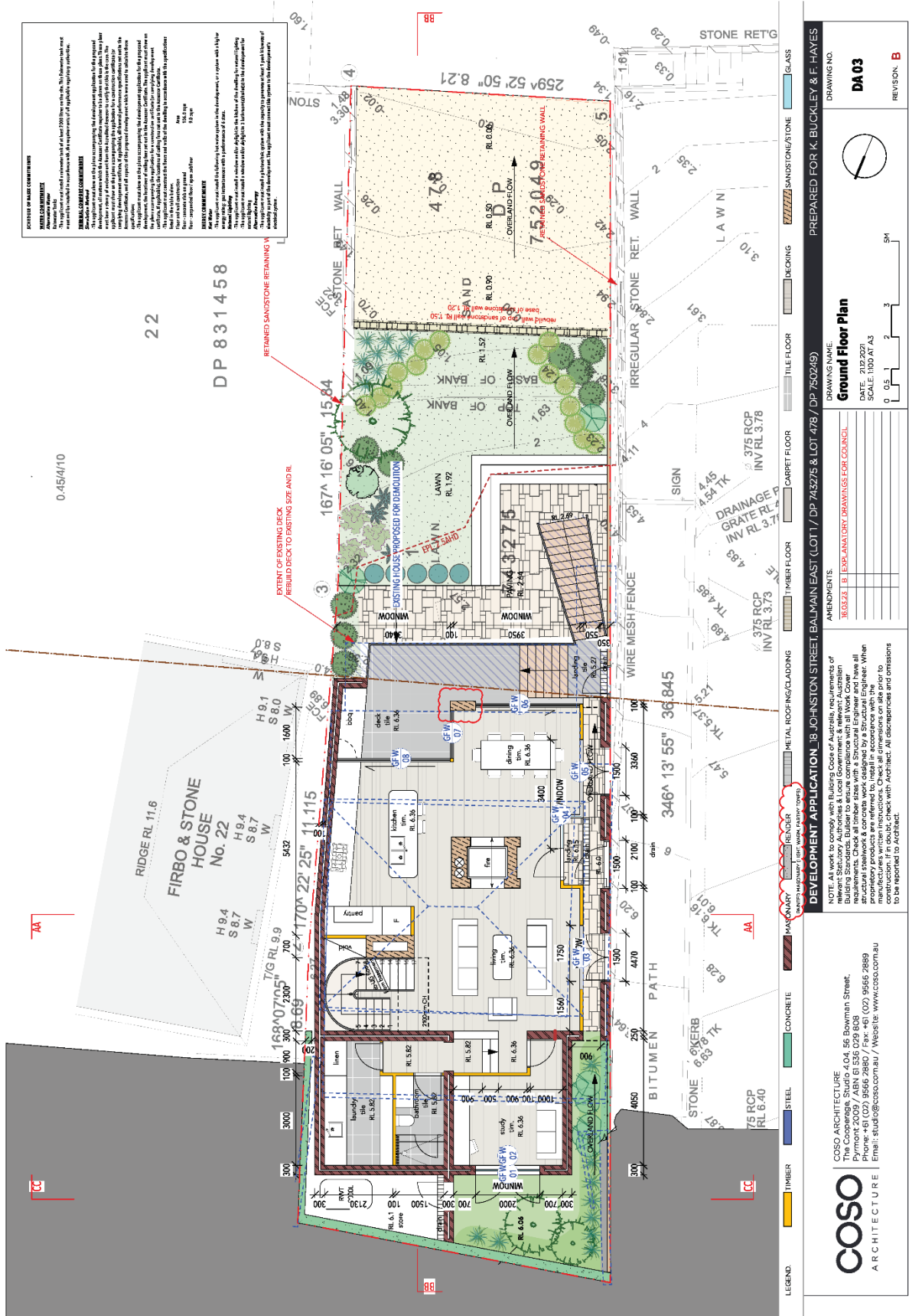
**Street Numbering**

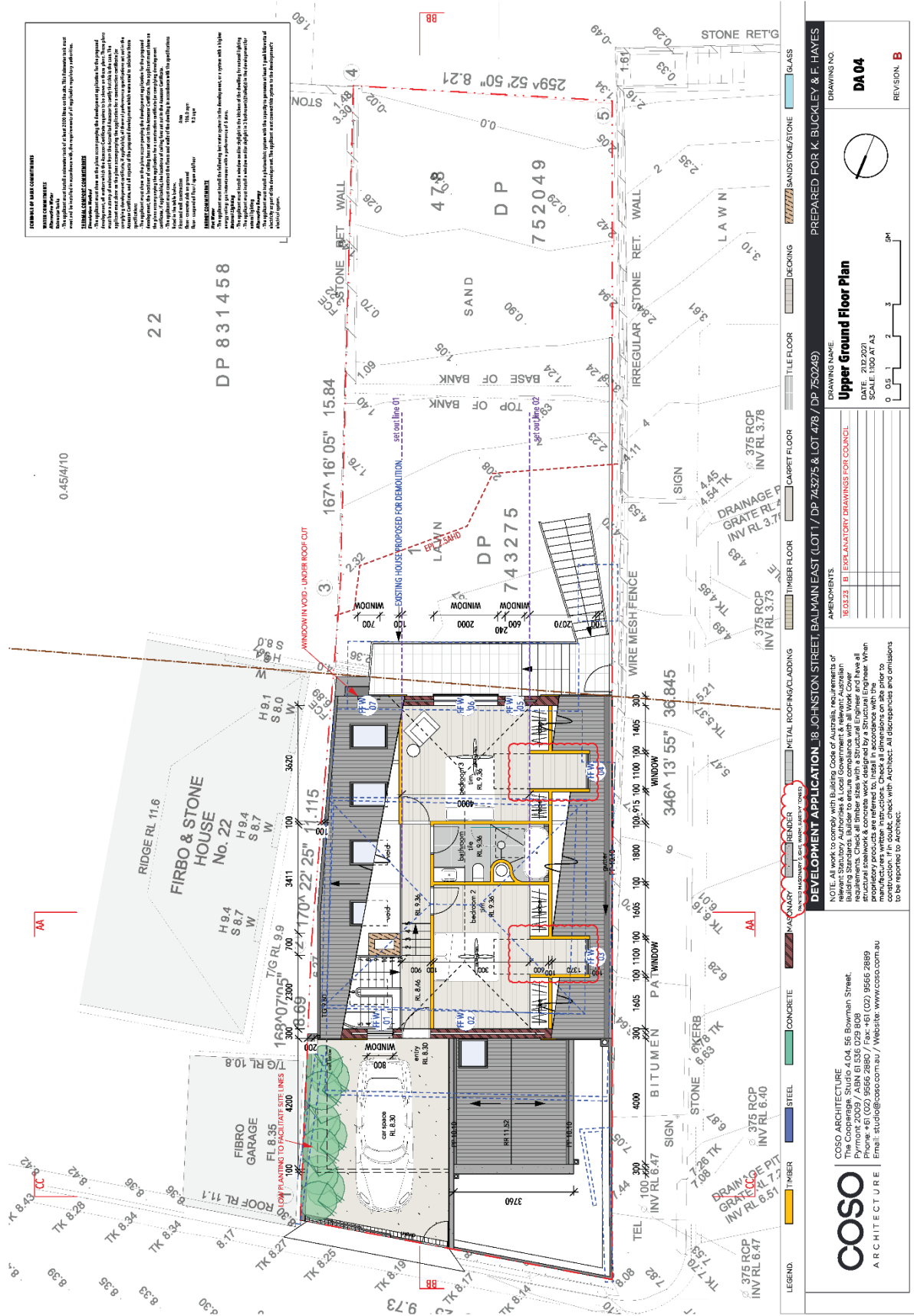
If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)











**TERMS OF SALE COMMENTS**  
 The applicant must comply with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.  
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**GENERAL COMMENTS**  
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22  
 DP 831458

0.45/4/10

**LEGEND**

- GLASS
- STONE/STONE
- DECKING
- TILE FLOOR
- CARPET FLOOR
- TIMBER FLOOR
- METAL ROOFING/CLADDING
- MASONRY
- RENDER
- CONCRETE
- STEEL
- TIMBER

**DEVELOPMENT APPLICATION: 8 JOHNSTON STREET, BALMAIN EAST (LOT 1 / DP 743275 & LOT 478 / DP 750249)**

**AMENDMENTS:**

16.03.21 | EXPLANATORY DRAWINGS FOR COUNCIL

**Upper Ground Floor Plan**

DATE: 21.02.2021  
 SCALE: 1:100 AT A3

0 0.5 1 2 3 4 5 6 7 8 9 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100

PREPARED FOR K. BUCKLEY & F. HAYES

**COSO ARCHITECTURE**  
 The COSO Group  
 Phone: +61 (02) 9566 2880 / Fax: +61 (02) 9566 2899  
 Email: studio@coso.com.au / Website: www.coso.com.au

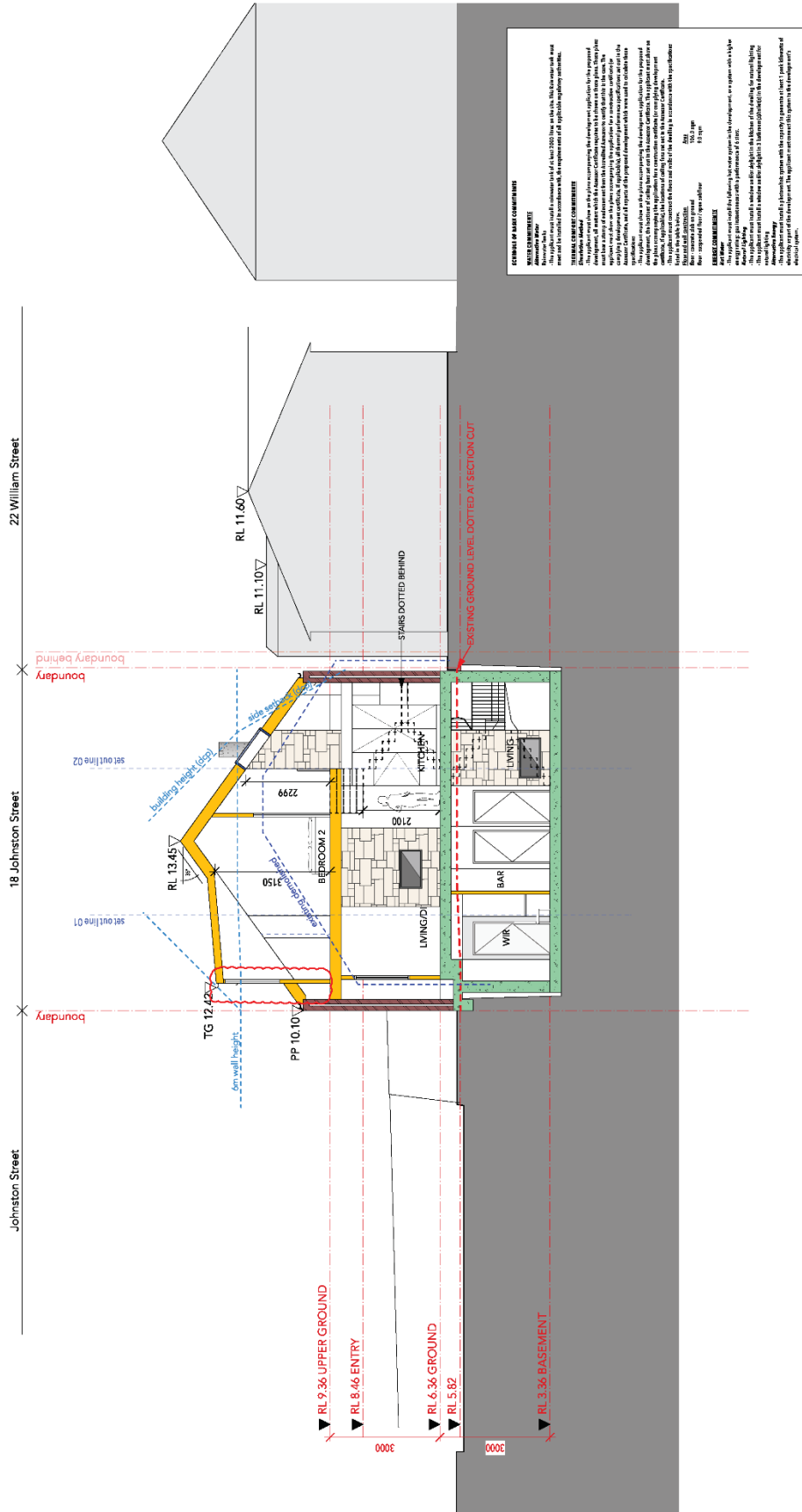
**DRAWING NO. DA 04**

REVISION: B

**NOTE:** All work to comply with Building Code of Australia, requirements of relevant Statutory Authorities & Local Government & relevant Australian Standards. Check all dimensions to ensure compliance with the relevant structural standards & concrete work designed by a Structural Engineer. When proprietary products are referred to, check in accordance with prior to construction. If in doubt, check with Architect. All discrepancies and omissions to be reported to Architect.







**LEGEND**

- TIMBER
- STEEL
- CONCRETE
- MASONRY
- RENDER
- METAL ROOFING/CLADDING
- TIMBER FLOOR
- CARPET FLOOR
- TILE FLOOR
- DECKING
- GLASS
- STONE/STONE

**DEVELOPMENT APPLICATION 18 JOHNSTON STREET, BALMAIN EAST (LOT 1 / DP 745275 & LOT 478 / DP 750249)**

**AMENDMENTS**  
 18.03.21 R EXHIBIT B ARCHITECTURE

**Section AA**

**DRAWING NO.**  
 DA 06

**DATE:** 21/02/2021  
**SCALE:** 1:100 AT AS

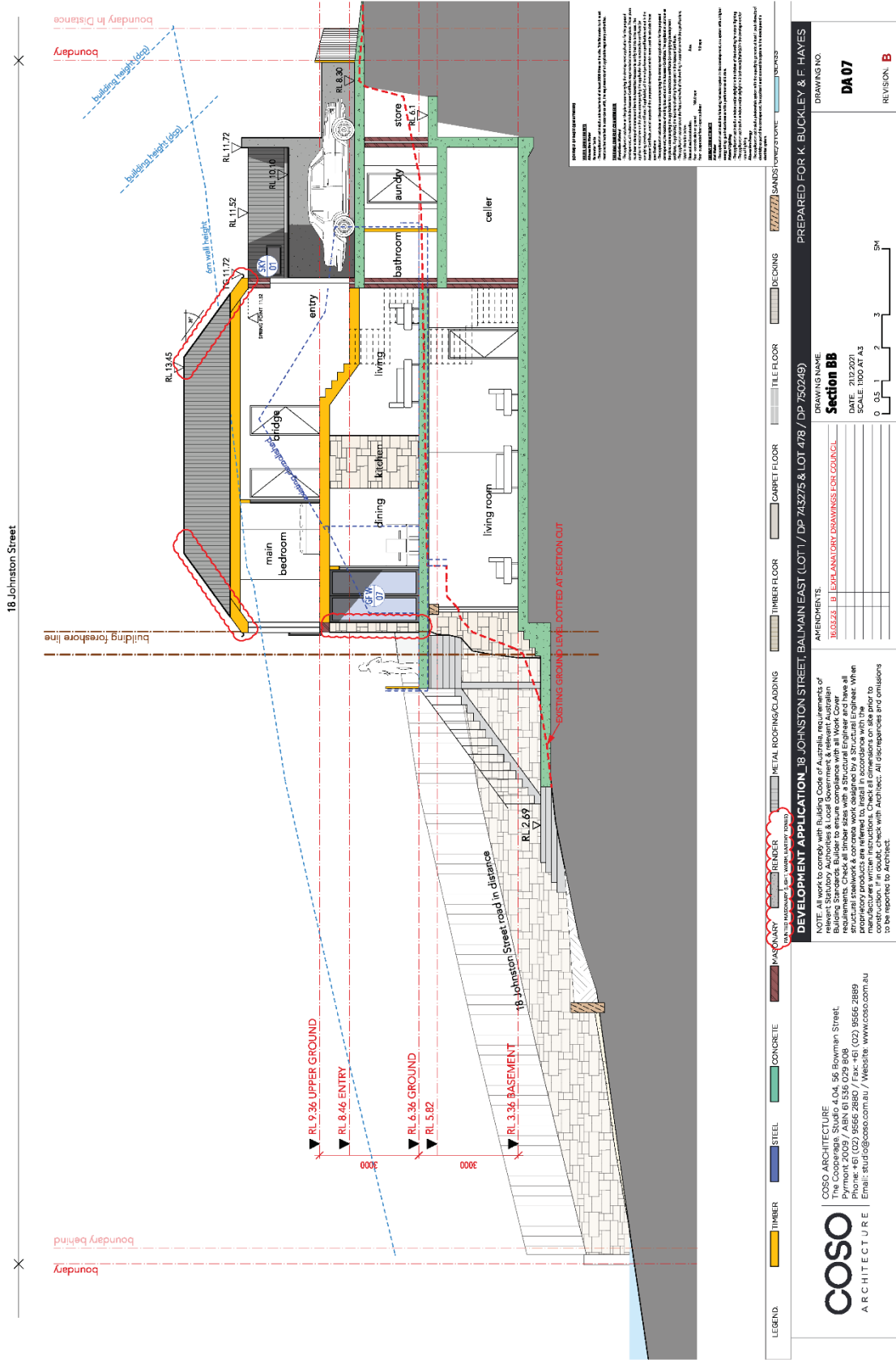
**REVISION B**

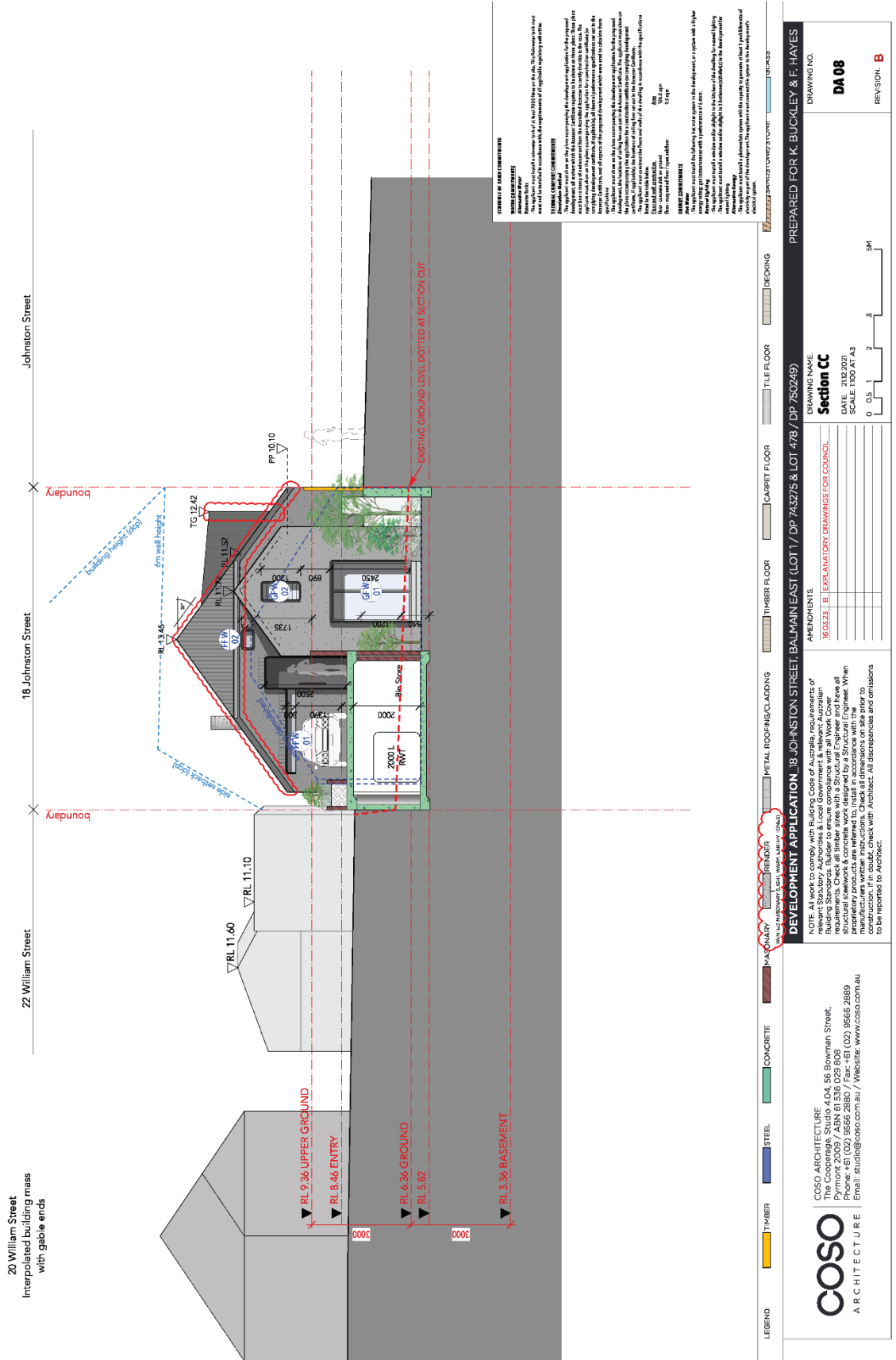
**NOTE:** All work to comply with Building Code of Australia, requirements of relevant Statutory Authorities and Local Government & relevant Australian Standards. The applicant must ensure that the proposed development complies with the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the Building Regulations 2001. The applicant must ensure that the proposed development complies with the relevant provisions of the Building Code of Australia (BCA) and the relevant provisions of the Building Regulations 2001.

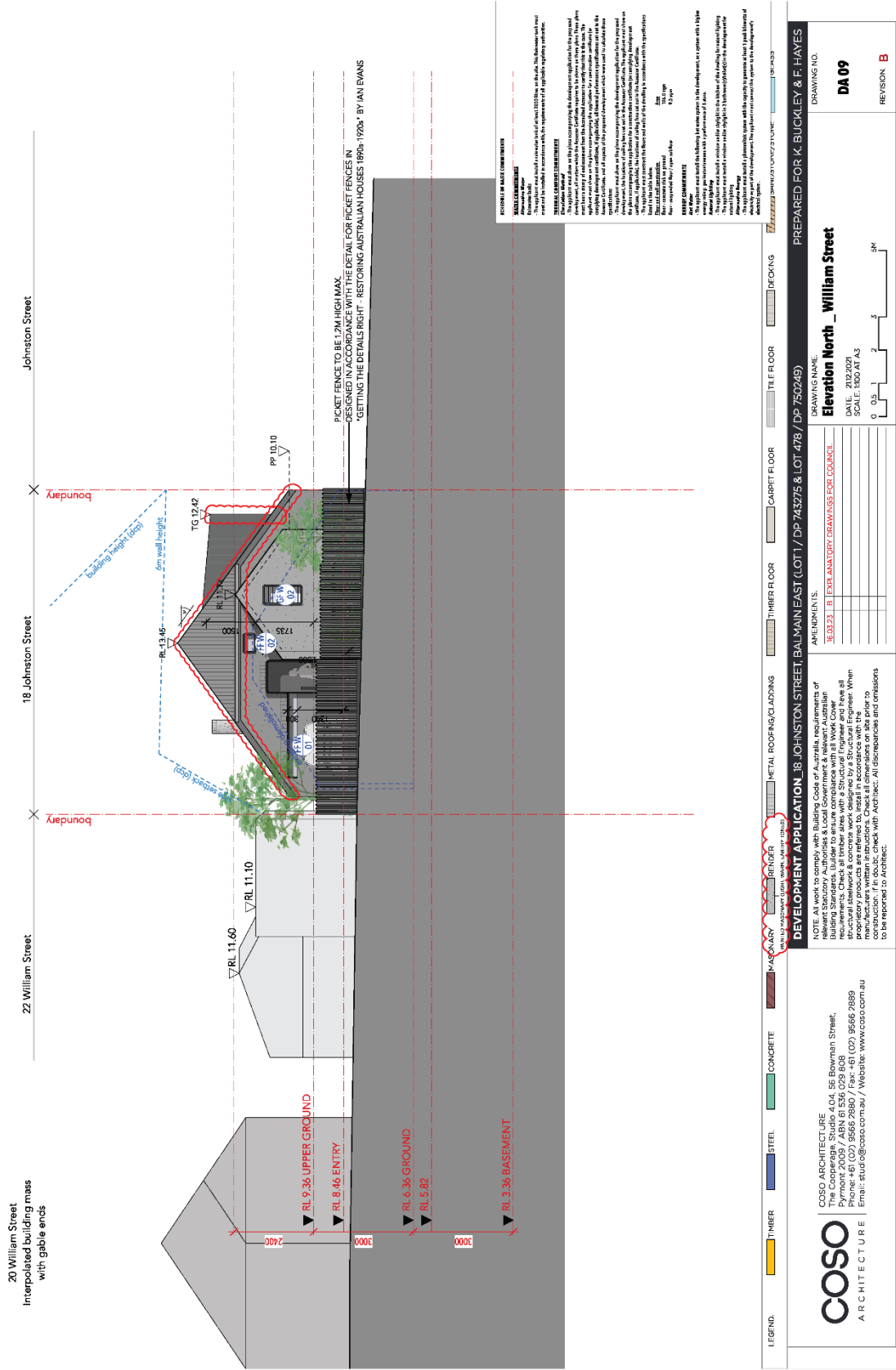
**COSO ARCHITECTURE**  
 104/ 55 Bowman Street,  
 Sydney NSW 2009 / ABN 61 534 029 808  
 Phone: +61 (0)2 9566 2880 / Fax: +61 (0)2 9566 2889  
 Email: studio@coso.com.au / Website: www.coso.com.au

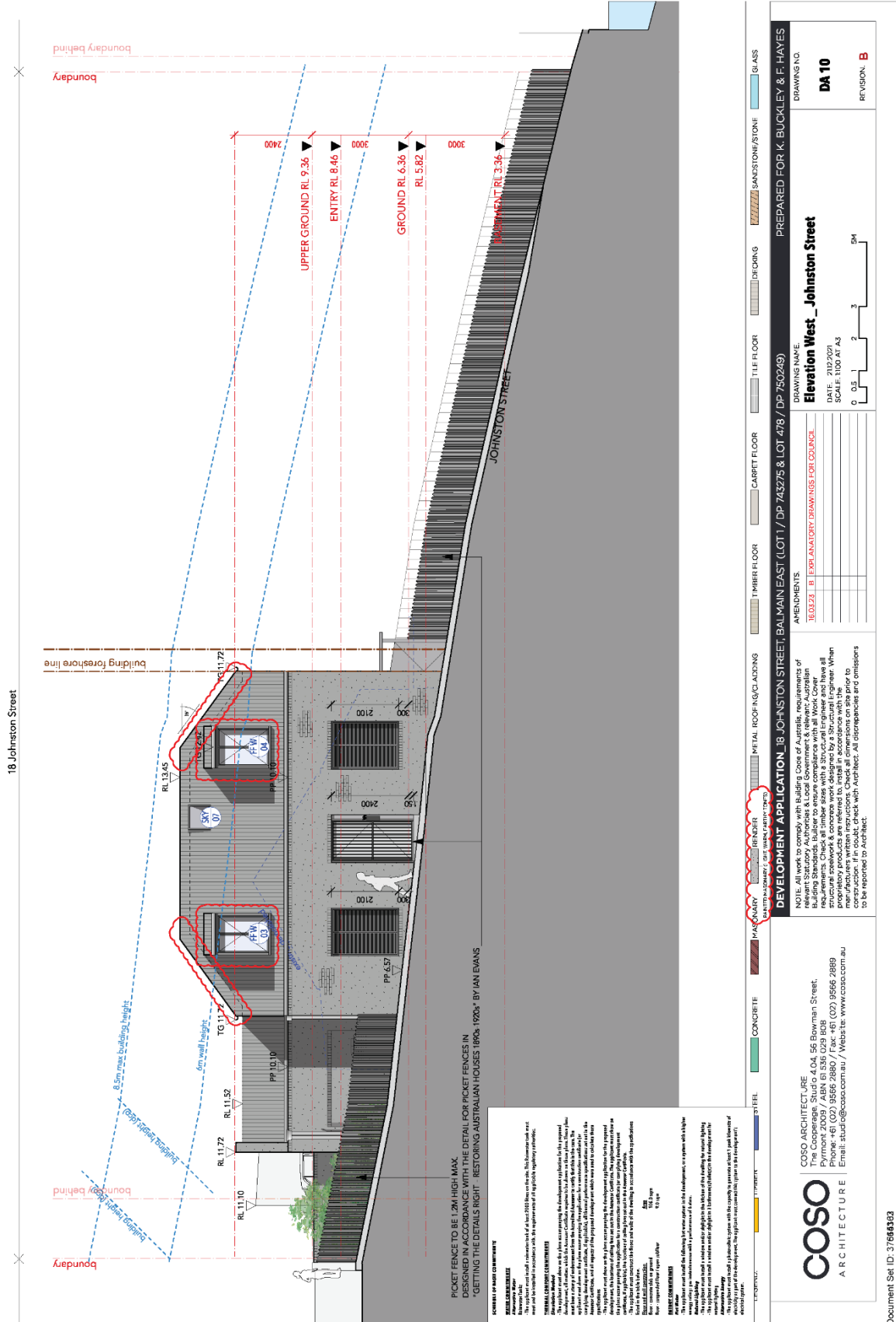
Document Set ID: 37646363  
 Version 3, Version Date: 28/05/2023











18 Johnston Street

PICKET FENCE TO BE 1.2M HIGH MAX. DESIGNED IN ACCORDANCE WITH THE DETAIL FOR PICKET FENCES IN "GETTING THE DETAILS RIGHT" RESTORING AUSTRALIAN HOUSES 1920s BY IAN EVANS

**GENERAL NOTES**  
 1. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 2. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 3. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 4. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 5. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
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 8. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 9. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.  
 10. The applicant must ensure that all work is completed in accordance with the relevant regulatory standards.

**LEGEND:** CONCRETE, STEEL, TIMBER, CARPET FLOOR, TILE FLOOR, FLOORING, SANDSTONE/STONE, GLASS

**DEVELOPMENT APPLICATION 18 JOHNSTON STREET, BALMAIN EAST (LOT 1 / DP 743275 & LOT 478 / DP 750249)** PREPARED FOR K. BUCKLEY & F. HAYES

**COSO ARCHITECTURE**  
 COSO ARCHITECTURE  
 The Cooperative Studio 4.04.56 Bowman Street,  
 Pyrmont 2009 / A/B/N 61 536 029 808  
 Phone: +61 (0)2 9566 2880 / Fax: +61 (0)2 9566 2889  
 Email: studio@coso.com.au / Website: www.coso.com.au

**DRAWING NO. DA 10**  
 REVISION: B

**Elevation West - Johnston Street**  
 DRAWING NAME:  
 DATE: 10/05/2023  
 SCALE: 1:100 AT A3

**AMENDMENTS:**  
 18.03.23 B EXPLANATORY DRAWINGS FOR COUNCIL

**NOTE:** All work to comply with Building Code of Australia, requirements of relevant Statutory Authorities & Local Government's (relevant Australian Standards). Check all timber sizes with a Structural Engineer and have all structural framework & concrete work designed by a Structural Engineer. When manufacturers written instructions. Check all dimensions on site prior to construction. If in doubt, check with Architect. All discrepancies and omissions to be reported to Architect.



**LEGEND:** TIMBER, STEEL, CONCRETE, MASONRY, RENDER, METAL ROOFING, CARPET FLOOR, TILE FLOOR, BECKING, GLAZING

**DEVELOPMENT APPLICATION 18 JOHNSTON STREET, BALMAIN EAST (LOT 1 / DP 743275 & LOT 478 / DP 750249)**

**AMENDMENTS:** 18.03.23 | B | EXHIBIT A: ARCHITECTURE FOR COUNCIL

**DRAWING NAME:** Elevation South - Johnston Street

**DATE:** 21.02.2023  
**SCALE:** 1:50 (A1)

**PREPARED FOR:** K. BUCKLEY & F. HAYES

**DRAWING NO.:** DA 11

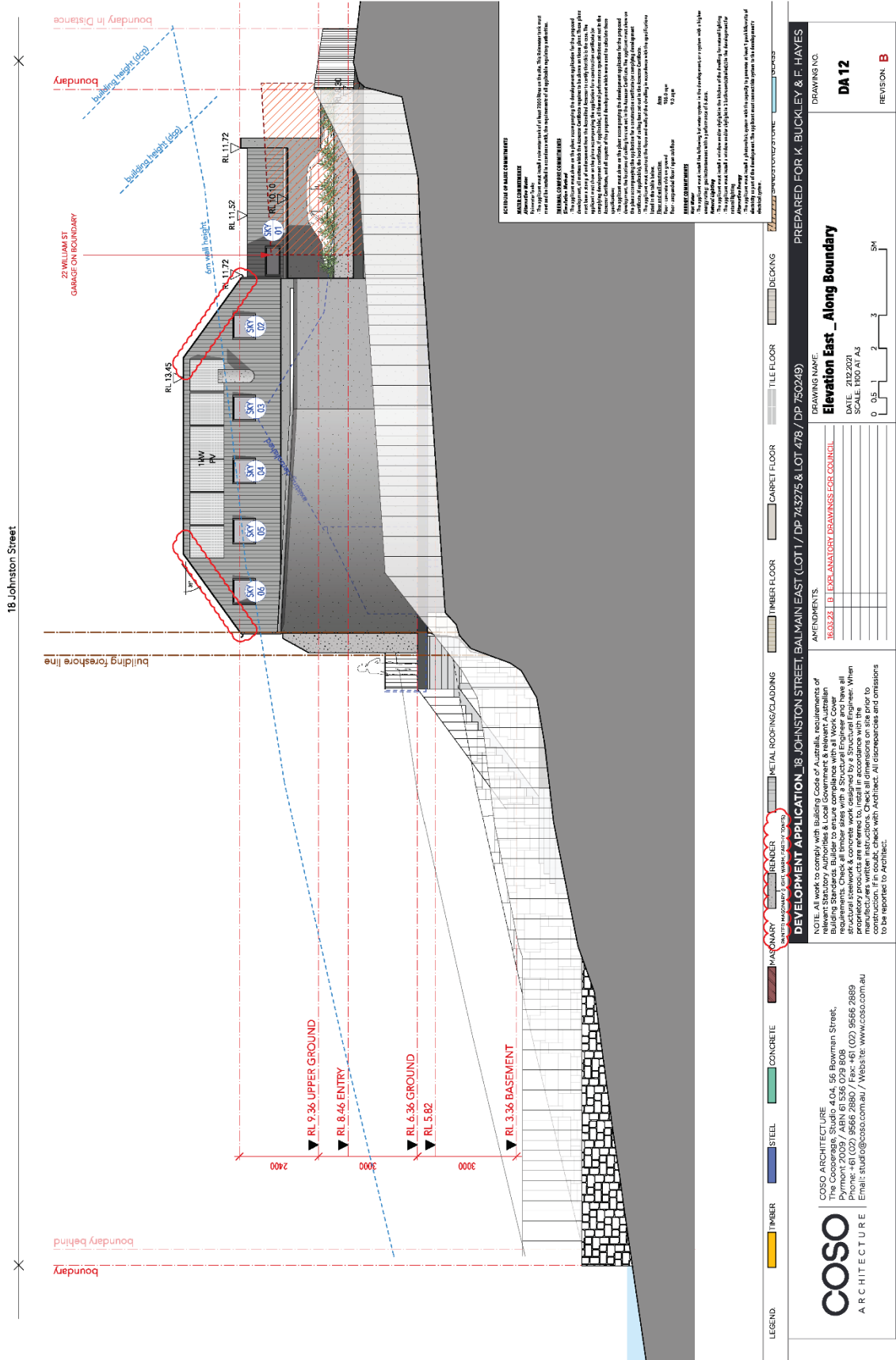
**REVISION B**

**NOTE:** All work to comply with Building Code of Australia, and elements of relevant Statutory Authorities & Local Government & relevant Australian Standards. Check all timber sizes with a Structural Engineer and have all structural steelwork & concrete work designed by a Structural Engineer. When manufacturers written instructions. Check all dimensions on site prior to construction. If in doubt, check with Architect. All discrepancies and omissions to be reported to Architect.

**COSO ARCHITECTURE**  
COSO ARCHITECTURE  
4/154, 55 Ryemans Street,  
Pyrmont 2009 / ABN 61 535 029 808  
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Email: studio@coso.com.au / Website: www.coso.com.au

Document Set ID: 37683992  
Version 2, Version Date: 28/05/2023

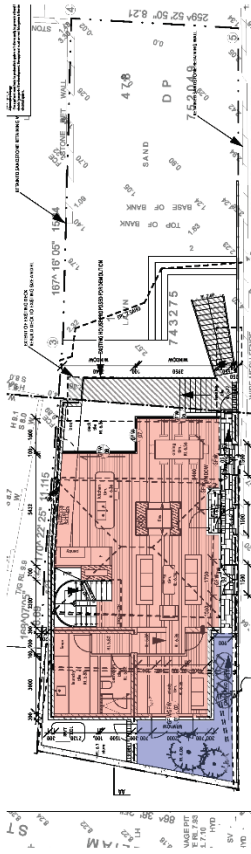
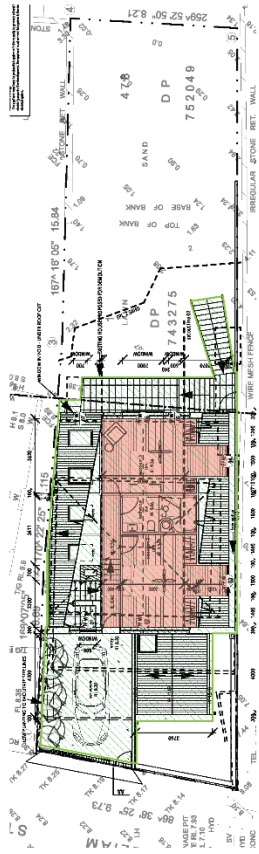






18, JOHNSTON STREET, BALMAIN EAST  
SITE AREA 321sqm

CONTROLS	PROPOSAL	COMPLIES
<b>FLOOR SPACE RATIO</b> Maximum permissible: 0.81 or 256.8sqm	0.51 or 243.3sqm	YES
<b>LANDSCAPE AREA</b> Minimum required: 20% of 64.2sqm Hard Landscaping: 0.081 or 26.2sqm	0.391 or 125.25sqm 0.081 or 26.2sqm	YES
<b>SITE COVERAGE</b> Minimum permissible: 65% or 197.6sqm	0.491 or 159.6sqm	YES



**CONFORM TO BASIX REQUIREMENTS**  
**WATER EFFICIENCY**  
 The proposed development is designed to conform to the BASIX requirements for water efficiency. The proposed development is designed to conform to the BASIX requirements for water efficiency. The proposed development is designed to conform to the BASIX requirements for water efficiency.

**ENERGY EFFICIENCY**  
 The proposed development is designed to conform to the BASIX requirements for energy efficiency. The proposed development is designed to conform to the BASIX requirements for energy efficiency. The proposed development is designed to conform to the BASIX requirements for energy efficiency.

**HEALTHY BUILDINGS**  
 The proposed development is designed to conform to the BASIX requirements for healthy buildings. The proposed development is designed to conform to the BASIX requirements for healthy buildings. The proposed development is designed to conform to the BASIX requirements for healthy buildings.

LEGEND: ■ TIMBER ■ STEEL ■ CONCRETE ■ GLASSING ■ METAL ROOFING/CLADDING ■ TIMBER FLOOR ■ CARPET FLOOR ■ TILE FLOOR ■ DECKING

**DEVELOPMENT APPLICATION 18 JOHNSTON STREET BALMAIN EAST (LOT 1 / DP 743275 & LOT 478 / DP 750249)**

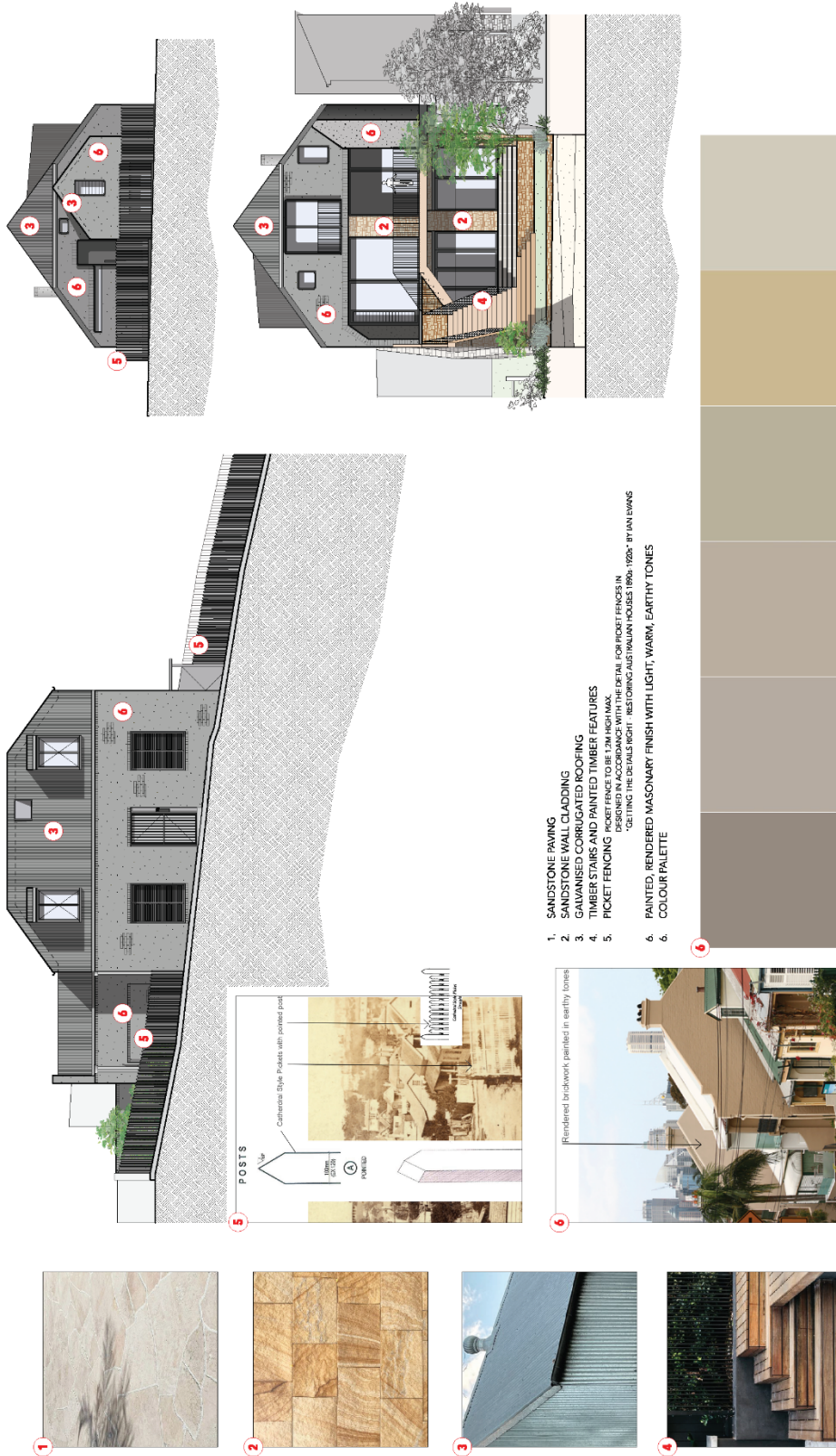
PREPARED FOR **K BUCKLEY & F. HAYES**  
DRAWING NO. **DA 18**  
REVISION: **A**

**COSO ARCHITECTURE**  
 Paul Connor RAIA#7058 Anthony Solomon RAIA#5684  
 The Coopage, Studio 404, 56 Bowman Street,  
 Pyrmont NSW 1580  
 Phone: +61 (02) 9566 2880 / Fax: +61 (02) 9566 2889  
 Email: studio@coso.com.au / WebSite: www.coso.com.au

**Site Calculations**  
 DATE: 21/2/2021  
 SCALE: 1:100 AT A3

NOTE: All work to comply with Building Code of Australia, requirements of relevant Statutory Authorities & Local Government & relevant Australian Building Standards. Builder to ensure compliance with all Work Cover requirements. All structural steelwork & concrete work designed by a Structural Engineer. When proprietary products are referred to, install in accordance with the manufacturer's instructions. If in doubt, check with Architect. All discrepancies and omissions to be reported to Architect.

Document Set ID: 37615392  
Version: 2, Version Date: 22/05/2023



- 1. SANDSTONE PAVING
- 2. SANDSTONE WALL CLADDING
- 3. GALVANISED CORRUGATED ROOFING
- 4. TIMBER STAIRS AND PAINTED TIMBER FEATURES
- 5. PICKET FENCING
- 6. PAINTED, RENDERED MASONRY FINISH WITH LIGHT, WARM, EARTHY TONES
- 7. COLOUR PALETTE

**LEGEND:** TIMBER, STYRE, CONCRETE, MASONRY, METAL ROOFING/CORRUGAS, CARPET FLOOR, TIMBER FLOOR, TILES FLOOR, PICKING, SANDSTONE/STONE, GLASS

**DEVELOPMENT APPLICATION\_18 JOHNSON STREET, BALMAIN EAST (LOT 1 / DP 743275 & LOT 478 / DP 750249)**

**APPLICANT:** MARY HARRISON & GUY MARRAS (AS TRUSTEES)

**PREPARED FOR:** K. BUCKLEY & F. HAYES

**NOTICE:** All work to comply with Building Code of Australia, requirements of Building Standards. Builder to ensure compliance with all Work Cover requirements. Check all timber areas with a Structural Engineer and have all proprietary products are referred to, installed in accordance with the manufacturer's instructions. All materials to be approved by the Council prior to construction. In-kind check with Architect. All completed drawings to be reported to Architect.

**COSO ARCHITECTURE**  
 The Coopersage, Studio 4.04, 56 Bowman Street,  
 Pyrmont, 2009 / ABN 61 535 029 808  
 Phone: (02) 9556 7889  
 Email: stud@coso.com.au / Website: www.coso.com.au

**MATERIALS & COLOUR PALETTE**

**APPENDIX:**

6.03.031	B. BRT DWG AMATORY DRAWINGS FOR COUNCIL
6.03.032	C. 100% OVER PLANNING & LOCALITY PLAN

**DRAWING NO:** DA 19

**DATE:** 21/2/2021

**SCALE:** 1:100 AT A3

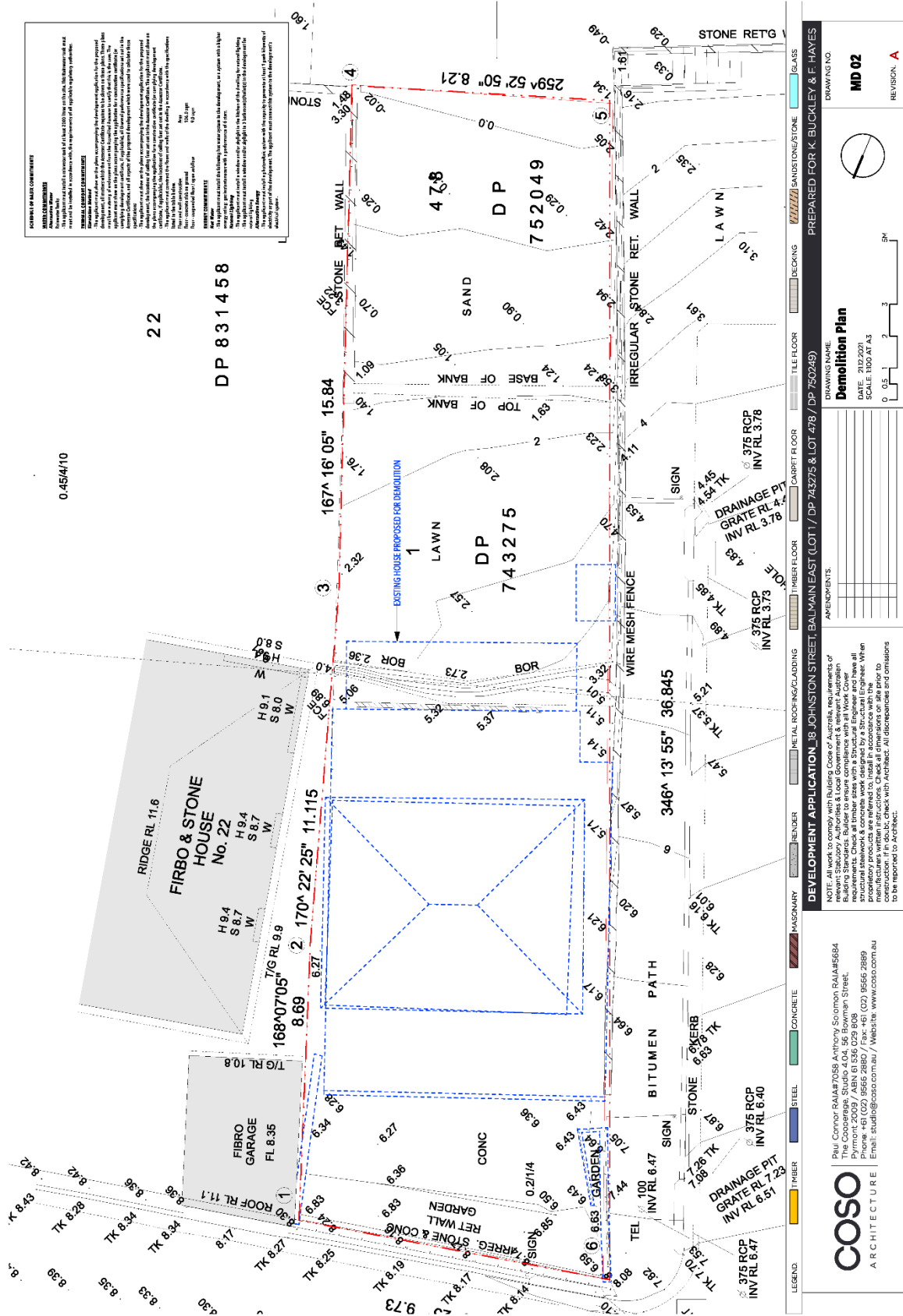
**REVISION:** C

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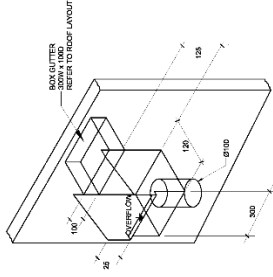




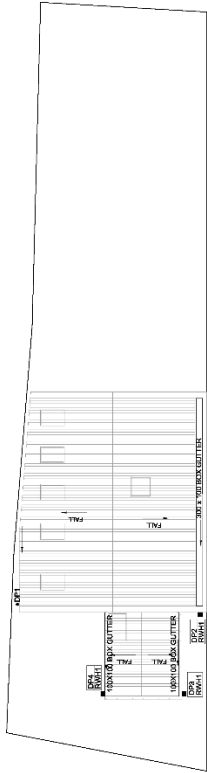




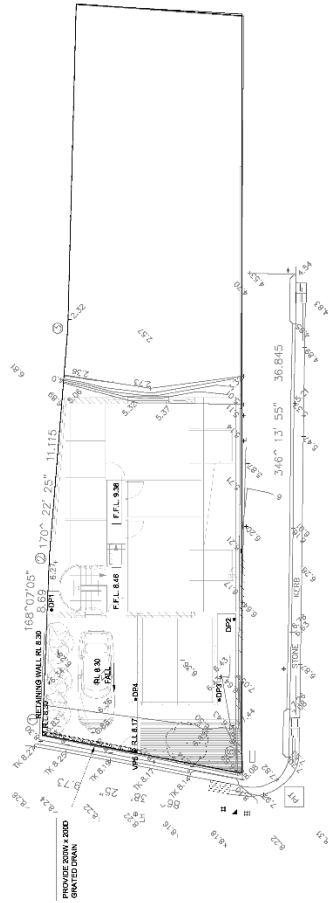
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RAIN WATER HEAD DETAIL N.T.S



ROOF LAYOUT 1:100 (NAT)

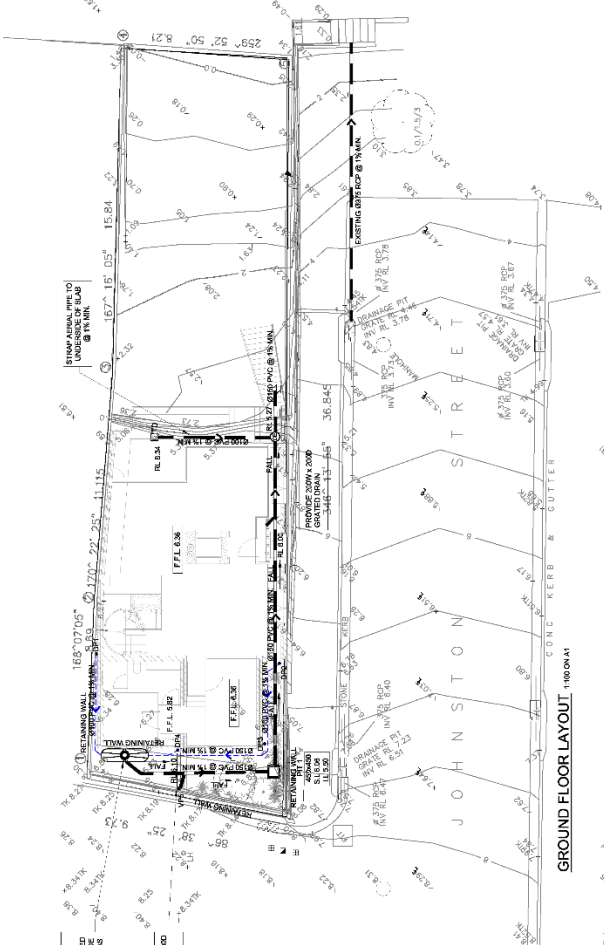


UPPER GROUND LAYOUT 1:100 (NAT)

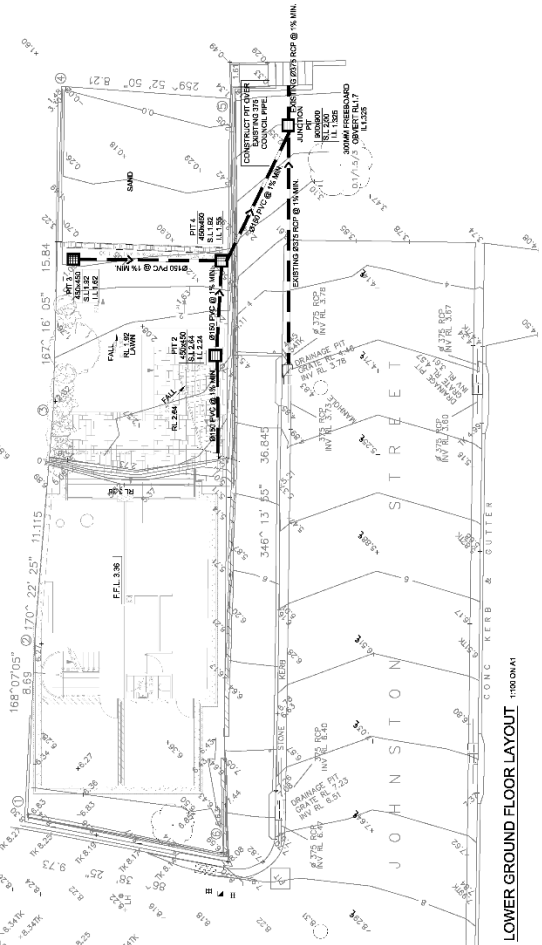


**wehbe** CONSULTING  
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 DRAWING NUMBER: SWP017.2  
 PROJECT: PROPOSED DEVELOPMENT  
 18 JOHNSTON STREET BALMAIN EAST  
 NEW SOUTH WALES 2040  
 DRAWING: UPPER GROUND LAYOUT  
 DRAWING DATE: 20/01/08  
 DRAWING BY: JAMES ELW  
 CHECKED BY: JAMES ELW  
 ISSUED FOR: A  
 ISSUED FOR: B  
 DATE: 20/01/08  
 DRAWN BY: JAMES ELW

Drawn by: J. Elw  
 Checked by: J. Elw  
 Date: 20/01/08



GROUND FLOOR LAYOUT 1:100 DA/A1



LOWER GROUND FLOOR LAYOUT 1:100 DA/A1

**STORMWATER DESIGN**  
 STORMWATER WITHIN THE SITE COMPLEIES WITH E.1.2.2 AND 2.3 OF THE LOCAL PLAN. PLACED AREAS ARE DRAINAGE BY GRAVITY TO JOHNSON DRIVE.



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 DAWKINS NUMBER SW15317-3  
**PROJECT: PROPOSED DEVELOPMENT**  
**18 JOHNSTON STREET, BALMAIN EAST**  
**GROUND FLOOR AND LOWER GROUND FLOOR LAYOUT**  
 DRAWING NO: SW15317-3-01  
 DRAWING DATE: 11/11/2025  
 DRAWING BY: J. SMITH  
 CHECKED BY: J. SMITH  
 APPROVED BY: J. SMITH  
 SCALE: AS SHOWN  
 SHEET NO: 1 OF 1

**RAINWATER TANK (SWT)**  
 PROVIDE RAINWATER TANK 3000L IN ACCORDANCE WITH THE LOCAL PLAN REQUIREMENTS. TANK TO BE CONNECTED TO THE STORMWATER SYSTEM BY OVERFLOW TO STORMWATER SYSTEMS SHOWN.

**PROVIDE 2000V 2000 GRATED DRAIN**

Drawn by: J. SMITH  
 11/11/2025

Attachment C – Statement of Heritage Significance





**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Associate Director, Heritage Fiona Binns, B Arts, M Arts (Curatorial Studies), M ICOMOS  
Heritage Consultant Rebecca Zulaikha, B Fine Arts (Hons), B Landscape Architecture, Grad Cert Herit Cons  
Project Code P0037231  
Report Number 01 07/02/2022 Issue 1 – Draft for Review

**Urbis acknowledges the important contribution that  
Aboriginal and Torres Strait Islander people make in  
creating a strong and vibrant Australian society.**

**We acknowledge, in each of our offices the Traditional  
Owners on whose land we stand.**

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

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## EXECUTIVE SUMMARY

Urbis has been engaged by Coso Architecture to prepare the following Heritage Impact Statement (HIS) for 18 Johnston Street, East Balmain (subject site).

The subject property is not listed as a heritage item, however it is located within the Balmain East Heritage Conservation Area (C3) listed under Part 2 of Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013. The contributory nature of the former cottage is considered to have been irrevocably degraded by its derelict condition. The subject site is also located in proximity to a number of listed heritage items as set out in section 4.2.

On 27 August 2019, the previous owner of the subject property lodged a Development Application (D/2019/329) to Inner West Council, which was subsequently refused. This HIS has extracted relevant background information from the previously completed supporting Heritage Impact Statement (dated August 2019) prepared by Urbis and provides an updated impact assessment of the fully revised proposal.

It is proposed to demolish the limited remains of the existing cottage located on the subject site and to construct a two-storey dwelling with basement and landscaping, that will include the repair of original foreshore sandstone walls and repositioning of the original sea wall. Further details of the proposed works are included in Section 1.5. This HIS has been undertaken to determine the potential heritage impact of the proposed works on the subject site, the Balmain East HCA and the heritage items in the vicinity.

A detailed impact assessment of the proposed work has been undertaken in Section 5 of this report. The proposed development has been assessed to have no adverse impact on the subject site, the HCA and the vicinity heritage items. Key aspects of the proposal assessment are listed below:

- While the remnant existing cottage could be argued as contributing to the Balmain East HCA, the extent of remaining original fabric is minimal and what does remain of the original cottage is in such a dilapidated state that its overall contribution is considered to have been rendered negligible.
- Having regard for the poor physical condition of the structure, to retain or reinstate the dwelling would require full reconstruction with the exception of perhaps the sandstone masonry of the chimney.
- The existing cottage demonstrates that very little original fabric remains and the potential for reuse of any fabric is extremely limited, having regard for its very poor condition. In accordance with the Burra Charter, reconstruction is appropriate only where there is sufficient evidence to reproduce an earlier state of the fabric. Such a reconstruction also risks detracting from the conservation area by appearing as a 19th century dwelling rather than a contemporary approximation of almost entirely new fabric and construction. Good heritage practice as set out in the Burra Charter typically does not endorse reconstruction of an entire building, except where there are exceptional social or cultural motives that are related to the identity of the entire community. This is not the case with the subject cottage.
- The existing cottage is considerably dilapidated. Alterations and additions to the remnant cottage form are not considered a viable option as any would significantly compromise the integrity of the built form, both externally and internally. As well, the existing building has been assessed by a structural engineer and determined that it poses significant risk to any tradespersons who would need to undertake remedial works.
- The proposed two-storey dwelling, basement and associated landscape works is considered to be a well-mannered design that respects and complements the character of the HCA in terms of its height, bulk, scale and materiality.
- The proposed new dwelling has been carefully designed to follow the topography of the landform that falls towards the bay ensuring that the mass and scale of the proposed new dwelling is substantially minimised in views towards the site from William Street and Johnston Street to the north-west of the subject site. Further, the proposed first floor level is partially contained within the roof form thereby ensuring that the first-floor level is minimised and includes only a small pop-out from the proposed roof form. The roof form is also characteristic of the HCA. Overall, the proposed new dwelling is considered as sympathetic to the surrounding context of the streetscape and broader Balmain East HCA.
- The landscape works have been designed to have minimal impact on the natural falls towards the water, with the gradient predominantly retained across the site. The existing retaining sea wall is proposed to be carefully deconstructed and repositioned and constructed from materials salvaged from the site. The proposal also includes the conservation and repair of the side boundary sandstone retaining walls.



- Whilst the proposed development is contemporary in architectural style, it references the extant cottage and the traditional architectural forms and materiality that are characteristic of the Balmain East HCA including masonry wall construction, sandstone cladding and corrugated metal roofing. The proposed dwelling adopts a simple form with a gabled roof that is typical of the dwellings within the Balmain East HCA and surrounding local context.
- Overall, the proposed new development, whilst contemporary in design, is a well-mannered proposal that is sympathetic in its height, form, bulk scale and materiality. The proposal respects the streetscape and character of the Balmain East HCA while allowing for the redevelopment of a derelict site.

For the reasons stated above, the proposed works are recommended for approval from a heritage perspective having regard to the proposed recommendations below.

## RECOMMENDATIONS

- Prior to the issue of a Construction Certificate, an archival photographic recording of the subject site should be prepared by a suitably qualified and experienced heritage consultant. The archival recording should include measured drawings including details of the window, remnant mortice and tenon structure, wall framing and weatherboard profiling to record details of the former cottage.
- Consideration should be given to the reuse of any historic building fabric in a reasonably good condition. For instance, there is an opportunity for salvaged sandstone footings to be used to construct the new sea wall. Salvaged building materials surplus to the project may be transferred to an established second-hand building material dealer for recycling. This should include sandstone and remnant weatherboards (condition permitting).

# 1. INTRODUCTION

## 1.1. BACKGROUND

Urbis has been engaged by Coso Architecture to prepare the following Heritage Impact Statement (HIS) for 18 Johnston Street, East Balmain (subject site).

The subject property is not listed as a heritage item; however, it is located within the Balmain East Heritage Conservation Area (C3) listed under Part 2 of Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013. The contributory nature of the former cottage is considered to have been irrevocably degraded by its derelict condition. The subject site is also located in proximity to a number of listed heritage items as set out in section 4.2.

On 27 August 2019, the previous owner of the subject property lodged a Development Application (D/2019/329) to Inner West Council, which was subsequently refused. This HIS has extracted relevant background information from the previously completed supporting Heritage Impact Statement (dated August 2019) prepared by Urbis and provides an updated impact assessment of the fully revised proposal.

It is proposed to demolish the limited remains of the existing cottage located on the subject site and to construct a two-storey dwelling with basement and landscaping, that will include the repair of original foreshore sandstone walls and repositioning of the existing sea wall. Further details of the proposed works are included in Section 1.5.

This HIS has been undertaken to determine the potential heritage impact of the proposed works on the subject site, the Balmain East HCA and the heritage items in the vicinity.

## 1.2. SITE LOCATION

The subject site is located at 18 Johnston Street, at its intersection with Johnston Street. The dwelling has a frontage (north) to William Street and west to Johnston Street. The site is an irregular shaped rectangular lot located on the northern shores of Johnstons Bay. The subject site's legal description is Lot 1 of Deposited Plan (DP) 743275.

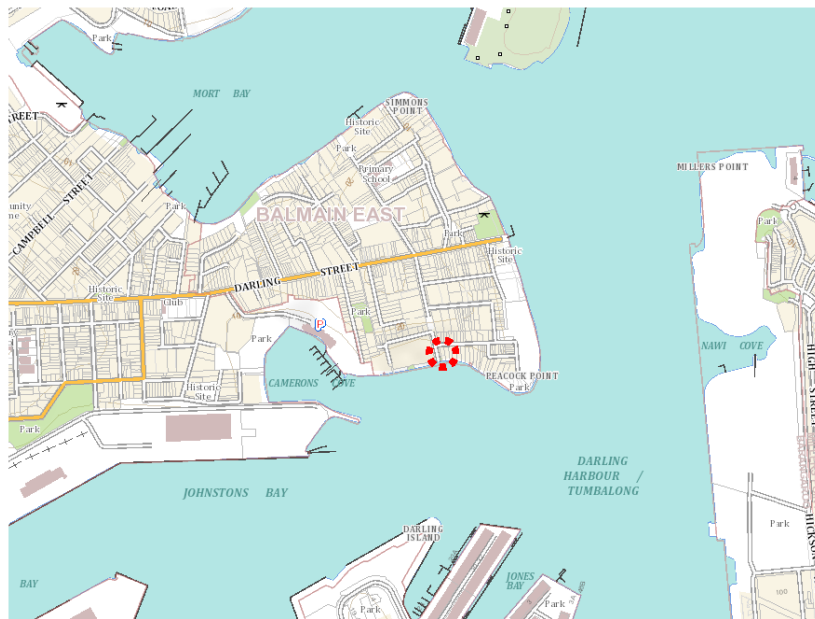


Figure 1 Locality map with the subject site outlined in red.

Source: Six Maps, 2021 with Urbis overlay.

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### 1.3. METHODOLOGY

This Heritage Impact Statement has been prepared in accordance with the NSW Heritage Division guidelines 'Assessing Heritage Significance', and 'Statements of Heritage Impact'. The philosophy and process adopted is that guided by the *Australia ICOMOS Burra Charter 1999* (revised 2013).

Site constraints and opportunities have been considered with reference to relevant controls and provisions contained within the Leichhardt Local Environmental Plan (LEP) 2013 and the Leichhardt Development Control Plan (DCP) 2013.

### 1.4. AUTHOR IDENTIFICATION

The following report has been prepared by Rebecca Zulaikha (Heritage Consultant). Fiona Binns (Associate Director) has reviewed and endorsed its content.

An earlier Development Application was prepared for the site in 2019. This HIS has extracted relevant background information from a previous Heritage Impact Statement (dated August 2019) prepared for the site by Urbis and co-authored by Mary Knaggs (Registered Architect). Fabric analysis was undertaken by Mary Knaggs as part of the previous (2019) assessment. This report provides an updated impact assessment of the revised proposal.

Unless otherwise stated, all drawings, illustrations and photographs are the work of Urbis.

### 1.5. THE PROPOSAL

It is proposed to redevelop the subject site, as summarised hereunder:

#### Demolition

- Demolition (and salvage where appropriate) of the existing remnants of the cottage;

#### New Development

- Construction of a two-storey dwelling with basement and off-street parking;
- New landscaping across the site, including trees, shrubs, and hard stand areas;
- Repositioning of the original sandstone sea wall to provide better amenity in the rear garden – to be constructed from materials salvaged on site, including the carefully deconstructed sea wall that it replaces.
- New boundary fences.

#### Conservation Works

- Conserve and repair the rear sandstone boundary retaining wall;

Urbis has been provided with drawing documentation prepared by Coso Architecture. This HIS has relied on these plans for the impact assessment include in Section 5. Extracts of the proposed plans are also provided overleaf. Full size plans should be referred to for detail.

Table 1 Provided Plans

Author	Drawing No.	Drawing Name	Revision	Date
Coso Architecture	MD_01	Existing Site Plan	A	21/12/21
Coso Architecture	MD_02	Demolition Plan	A	21/12/21
Coso Architecture	DA_01	Site Analysis Plan	A	21/12/21
Coso Architecture	DA_02	Basement/Foreshore Plan	A	21/12/21
Coso Architecture	DA_03	Ground Floor Plan	A	21/12/21

Coso Architecture	DA_04	Upper Ground Floor Plan	A	21/12/21
Coso Architecture	DA_05	Roof Plan	A	21/12/21
Coso Architecture	DA_06	Section AA	A	21/12/21
Coso Architecture	DA_07	Section BB	A	21/12/21
Coso Architecture	DA_08	Section CC	A	21/12/21
Coso Architecture	DA_09	Elevation (North)	A	21/12/21
Coso Architecture	DA_10	Elevation (West_Johnston E St)	A	21/12/21
Coso Architecture	DA_11	Elevation (South_Johnston E Bay)	A	21/12/21
Coso Architecture	DA_12	Elevation (East)	A	21/12/21
Coso Architecture	DA_13	Shadow Diagram Winter Solstice 9am	A	21/12/21
Coso Architecture	DA_14	Shadow Diagram Winter Solstice 9am	A	21/12/21
Coso Architecture	DA_15	Shadow Diagram Winter Solstice 9am	A	21/12/21
Coso Architecture	DA_16	Waste Management Plan	A	21/12/21
Coso Architecture	DA_17	Erosion Sediment Control Plan	A	21/12/21
Coso Architecture	DA_18	Site area and FSR Calculations	A	21/12/21
Coso Architecture	DA_19	Materials Selection	A	21/12/21

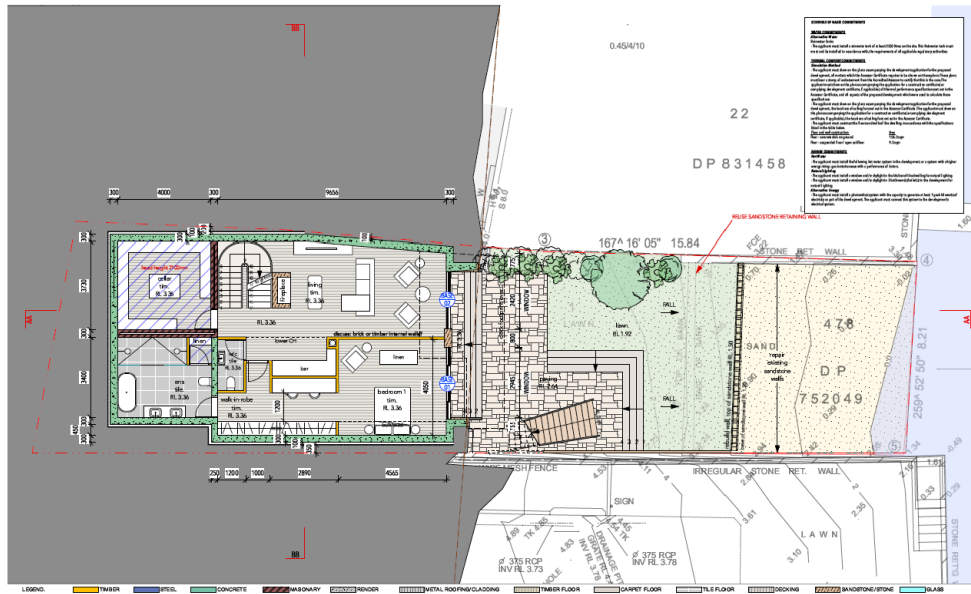


Figure 2: Basement and Foreshore Floor Plan.

Source: Coso Architecture, 2021.

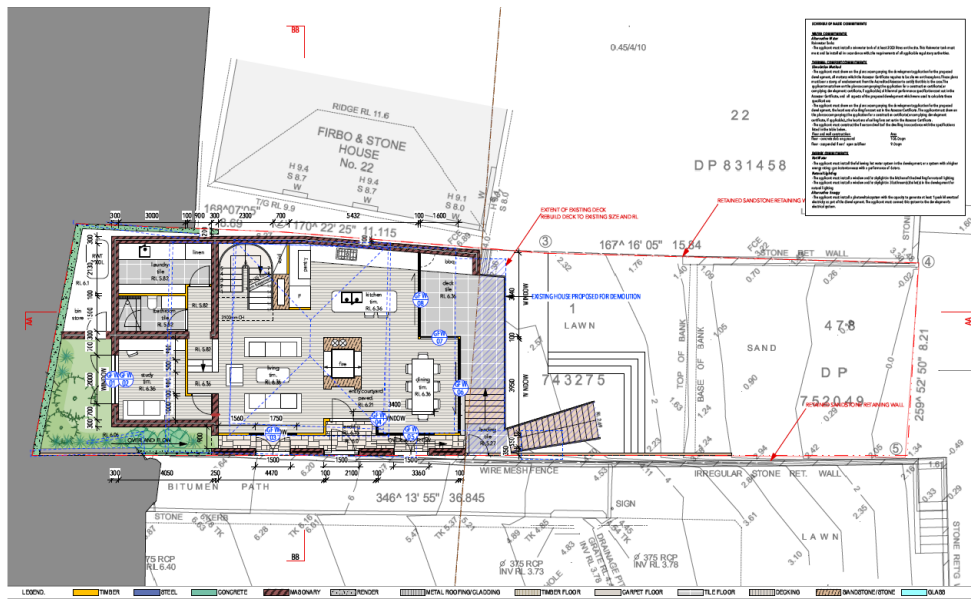


Figure 3: Ground Floor Plan.

Source: Coso Architecture, 2021.



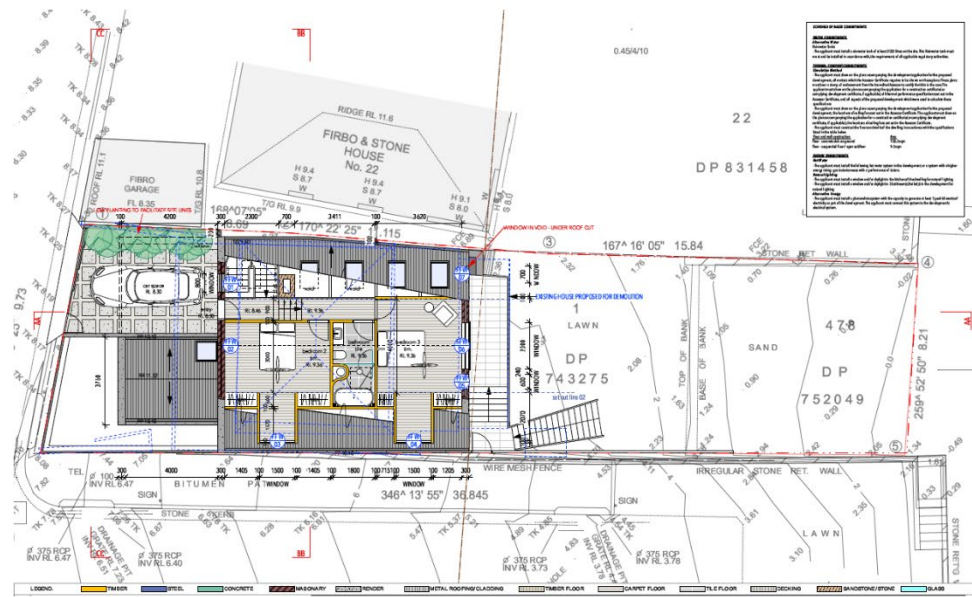


Figure 4: Upper Ground Floor Plan.

Source: Coso Architecture, 2021.

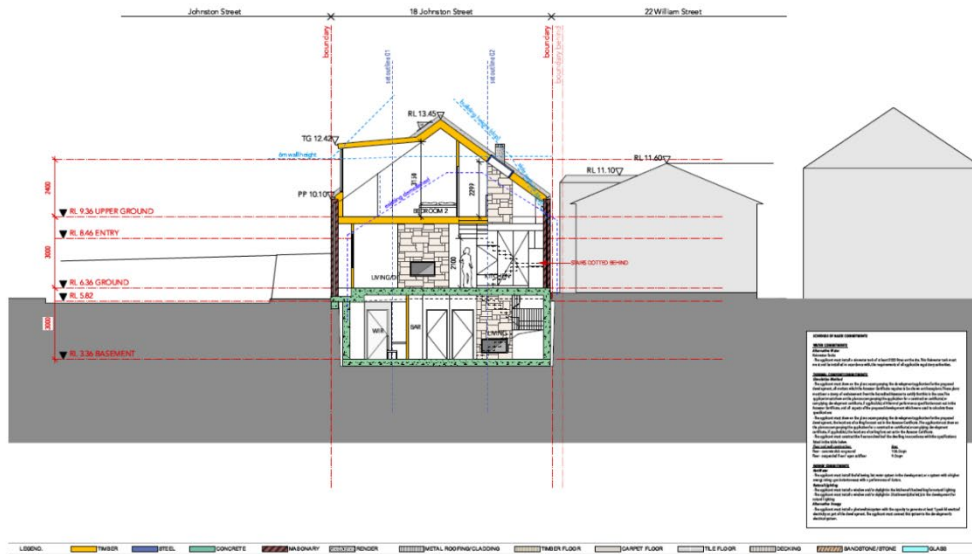


Figure 5: Section AA.

Source: Coso Architecture, 2021.

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INTRODUCTION 7

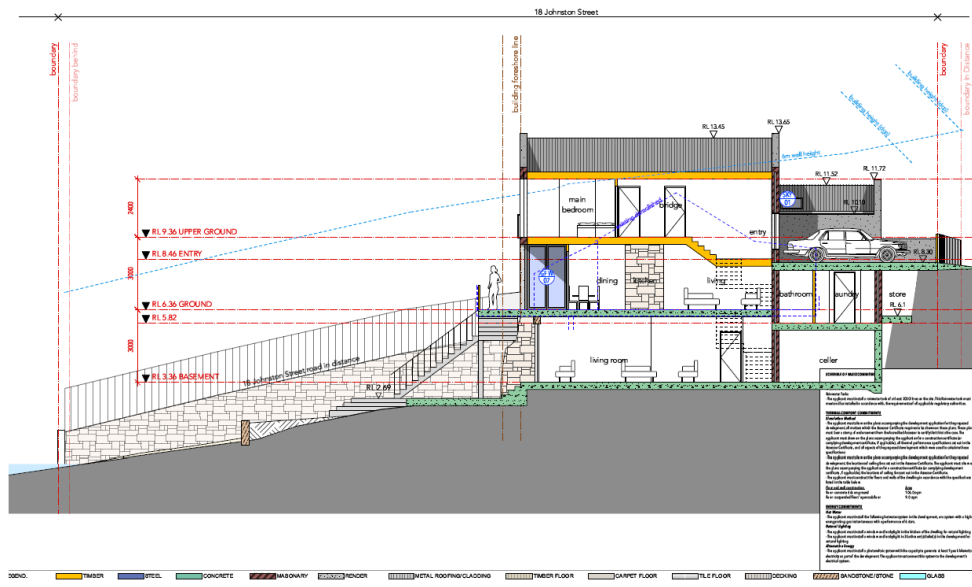


Figure 6: Section BB.

Source: Coso Architecture, 2021.



Figure 7: Section CC.

Source: Coso Architecture, 2021.

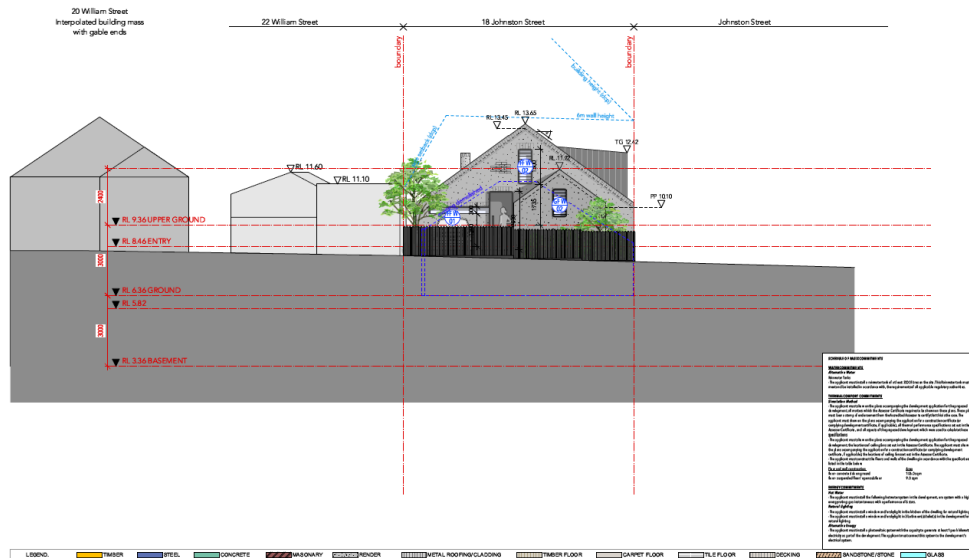


Figure 8: Elevation North - William Street.

Source: Coso Architecture, 2021.

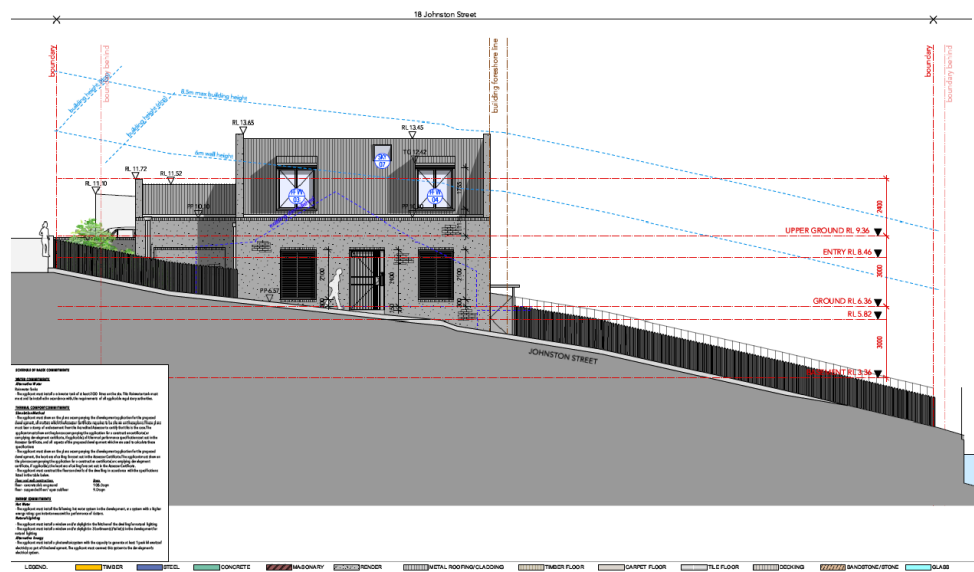


Figure 9: Elevation West – Johnston Street

Source: Coso Architecture, 2021.



Figure 10: Elevation South – Johnston Street

Source: Coso Architecture, 2021.

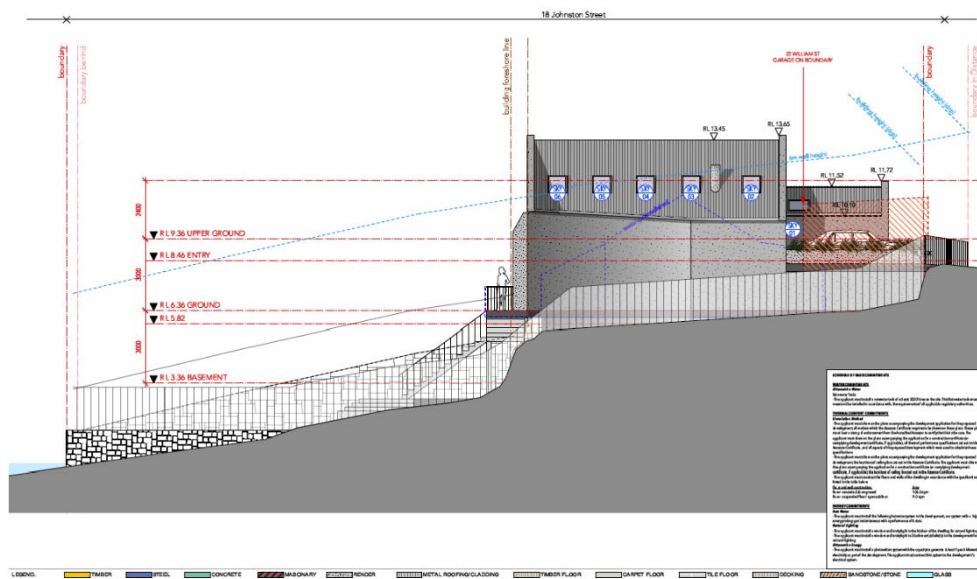


Figure 11 : Elevation East – Along Boundary.

Source: Coso Architecture, 2021.



Figure 12: Materials Selection.

Source: Coso Architecture, 2021.

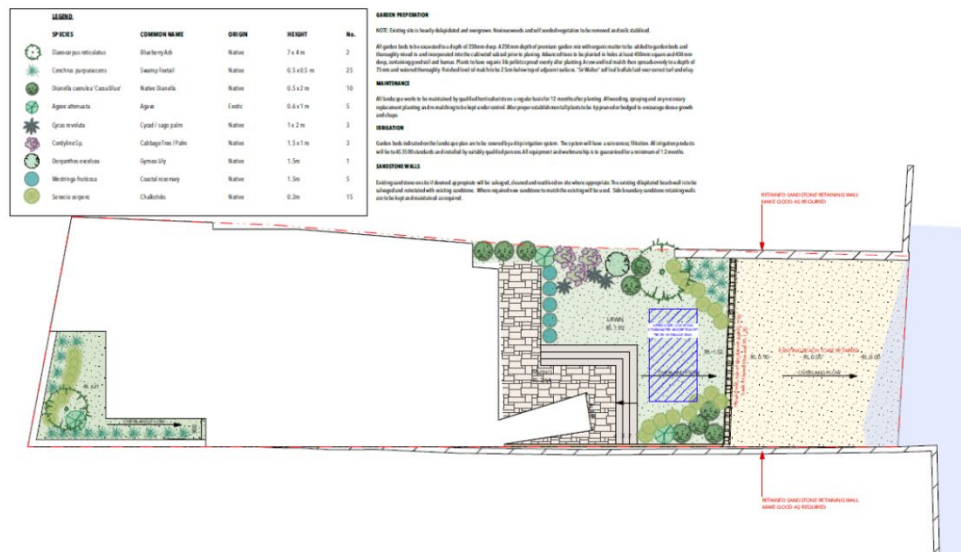


Figure 13: Landscape Plan

Source: Coso Architecture, 2021.



## 2. SITE DESCRIPTION

### 2.1. SITE SETTING

The subject site is located at 18 Johnston Street, Balmain East, at the intersection of Johnston Street and William Street. The site is an irregular rectangular shape, looking out towards Darling Harbour, within the Balmain East Heritage Conservation Area (HCA). The HCA is located on a peninsula on the shores of Sydney Harbour, with Mort Bay to the north and Johnstons Bay to the south. The HCA is dominated by steep sandstone typology and many narrow minor streets which branch off the main arterial road of Darling Street and terminate at the waterfront. Remnants of sandstone kerbing remain along the streets. Views from the public domain along streets and between buildings present vistas of Sydney Harbour, the harbour bridge and the city. The HCA presents a mix of building types varying in age from the mid-nineteenth century to the twenty-first century including sandstone villas, weatherboard, sandstone and brick cottages and terraces, former corner stores, shops and pubs, and maritime industrial buildings located around the south-western extent of the HCA.

The immediate surrounds of the subject site, along Johnston Street and William Street, presents a range of different low scale dwellings dating from the 1850s to the present. Immediately to the west across Johnston Street is a late twentieth century terrace house development, while to the east on the southern side of William Street are a range of different detached dwellings ranging from one to two storeys in height. The properties are a mix of contemporary and modified early cottages with their principal orientation to the south directly towards Johnstons Bay, most with private wharves. Typical presentations to William Street include low scale fences of brick, render, and metal, interspersed with carports and garages. The northern side of William Street differs, with low scale fences of sandstone and iron paling, timber picket, and rendered brick. Houses range in their setback from the street, with early stone semi-detached cottages having deep front yards, and brick terraces having minimal setback from the street.



Figure 14 – Aerial view with the subject site outlined in red.

Source: SIX Maps, 2019



Figure 15 – Looking east across the subject property and neighbouring dwellings along William Street.



Figure 16 - Looking south-east from Johnston Street toward Barangaroo.



Figure 17 – Looking south-west toward Anzac Bridge from Johnston Street.



Figure 18 – Looking west across Johnston Street toward the contemporary townhouse development.



Figure 19 – Looking east along William Street at its northern side (with the subject site just visible at right).



Figure 20 – Looking east along William Street at its southern side with the subject site partially visible at right.

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SITE DESCRIPTION 13



## 2.2. SITE DESCRIPTION

The subject site is located at the intersection of Johnston and William Street and slopes from north to south to its waterfront access to the Johnstons Bay. The northern portion of the site is excavated into the natural rock face, while the southern portion of the site, to the south of the cottage, is primarily reclaimed land, with a small beach. A profiled metal fence runs along the northern boundary, and a portion of the western boundary of the site. Sandstone block retaining walls extend down the western and eastern boundaries of the site and into the bay. The northern yard is primarily paved with concrete.

Located on the site is the shell of a small timber-framed weatherboard cottage originally constructed c1865. The cottage has been unoccupied since the mid-2000s. Prior to becoming vacant the cottage had been subject to extensive modifications. Over the years the remnant fabric has become severely degraded. The cottage currently consists of a roof supported by the timber frame. The existing roof is hipped and clad with pressed metal tile sheeting, which is laid over corrugated metal sheeting. The timber roof structure appears to have been constructed at a later date to the original cottage and likely replaced a more steeply pitched hipped roof.

A narrow skillion roof verandah runs along the western elevation of the building and is enclosed on its western side by sheets of corrugated metal. A skillion roof extends off the northern elevation and an open balcony, constructed of timber, extends off the southern elevation.

While part of the wall framing is original with a mortice and tenon jointing system, the greater part is replacement timber framing. All the wall framing is in very poor condition due to termite activity and rot. The original external cladding has been removed from the timber frame, apart from the western elevation which retains early beaded weatherboards. Part of the original perimeter ceiling and eaves framing remains in evidence, also with mortice and tenon connections.

Internally, all original lath and plaster ceilings have been removed, with only a few remnants remaining attached to the ceiling battens. There is evidence of the former lath and plaster system on those remaining parts of the original wall framing. Early hand cut nails remain within some of the remnant timber frame. The timber used for the frame has a mix of original, early and later materials. Some of the extant original timber framing is pit-sawn or hand hewn.

Only one original timber double-sash window remains on the west façade. Internally, only one piece of the architrave remains along the top of the window.

The floor of the cottage consists of a mixture of original suspended timber flooring supported on brick piers and sandstone foundations and a contemporary concrete slab at the rear of the cottage. Some early tongue and groove floorboards remain in the southern portion of the cottage; however they have been lifted and re-laid in a non-traditional manner. (Limited) inspection of the sandstone foundations suggests that the foundations were exposed, with the southern yard being accessed via a central stair from the front elevation.

A double-faced fireplace with hearth constructed of large sandstone blocks remains near the centre of the cottage. It has been demolished to below the roof line. There is evidence that the stone fireplace was originally plastered and had timber mantles.

Inspection of the remnant fabric indicates that the original form of the cottage comprised a typical 4 room configuration, with a central entry off the principal southern (waterfront) façade and a secondary entry from the western (Johnston Street) façade.

The overall condition of the cottage, whilst retaining some early fabric of the original cottage, is beyond repair. A structural report undertaken for the cottage in April 2019 observed that most of the original and early timber members have deteriorated.<sup>1</sup> The ground floor joists were also warped and sagging and irreparable damage had been done through termite damage. The timber framing of the west wall, the only partially intact façade, was found to be overridden with termites and had numerous cracks in the timber members. Parts of the ceiling and roof framing too were found to be in very bad condition with many timber members irreparable due to termite damage. The report concludes that due to the current condition of the cottage, it is structurally unsafe and dangerous and beyond repair.

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<sup>1</sup> R. Balas Consulting P/L, *Structural Report on the condition of the existing timber framing at 18 Johnston Str. Balmain East* (25 April 2019)



Figure 21 – View of subject site from corner of William and Johnston Street.



Figure 22 – View of the western side of subject site from Johnston Street. The verandahs do not reflect a mid-19th century form and obscure the remnant façade behind.



Figure 23 – View north to the subject dwelling from the waterfront end of Johnston Street.



Figure 24 – Northern elevation of cottage from the northern courtyard.



Figure 25 – Rear northern yard of subject site.



Figure 26 – View of rear skillion roof extension to the northern portion of the cottage.

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SITE DESCRIPTION 15





Figure 27 – Looking north-west from corner of dwelling.



Figure 28 – Looking west through cottage, with new concrete floor slab a timber studs.



Figure 29 – Looking west across the cottage. This is the only remaining original joinery. One piece of the architrave remains along the top of the window although in poor condition.



Figure 30 – Remnant of the ceiling laths and part view of the remnant window, including the remnant architrave.



Figure 31 – Looking north-east through the cottage. There is evidence that the stone fireplace was originally plastered with timber mantles.



Figure 32 – Remains of chimney breast (the chimney has been demolished above the roof line).





Figure 33 – View north between the fireplace and the western façade.



Figure 34 – Narrow enclosed verandah off the western façade (showing the remnant beaded weatherboard façade).



Figure 35 – Exposed roof beam and rafters, with earlier corrugated iron sheeting. Some of the roof beams appear to be hand hewn.



Figure 36 – Looking west across the cottage within the former living room area and showing the fireplace.

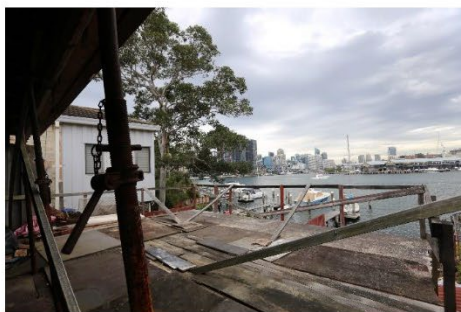


Figure 37 – Contemporary deck located positioned to maximise waterfront views.

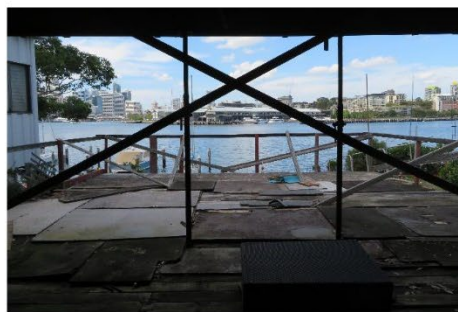


Figure 38 – View south from the dwelling to the contemporary deck and Johnstons Bay.

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Figure 39 – Overgrown natural rock wall under the contemporary deck.



Figure 40 – Stone retaining wall on the western boundary of the site. It is assumed that a stair may have been previously located here.



Figure 41 – Sandstone and brick foundations.



Figure 42 – Subfloor under southern portion of cottage.



Figure 43 – Rear yard of subject site.



Figure 44 – Beach reserve of the subject site on Johnstons Bay.



### 3. HISTORICAL OVERVIEW

In 1788, William Bradley, First Lieutenant of the HMS Sirius, made mention in his journal of an area "up the Harbour" known as "Major Ross' Garden". Captain John Hunter of the same vessel prepared a survey chart of the headland with "Ross' Farm" marked over East Balmain. Major Ross, Lieutenant Governor of the Colony and Commandant of the Marine Detachment, arrived in the Colony in 1788 aboard the First Fleet vessel, Scarborough. There is no record of any registered grants being made to Ross, nor is the exact location and size of the grant and any details regarding his use of the area known. Ross did not hold the land for an extended period as in March 1790, he was transferred to Norfolk Island. He did return to Sydney in September 1791, but promptly set sail for England, leaving the Colony for good.

"Ross' Garden" subsequently formed part of an official grant by Governor Hunter to Dr William Balmain, Principal Surgeon of the Colony of New South Wales, on 26 April 1800. This grant comprised 550 acres (222 hectares). Balmain did not occupy the grant for long and transferred the property in its entirety to Professor John Hay Borthwick Gilchrist, head of Fort William College in Calcutta, for the sum of five shillings. Gilchrist had attended medical school at Edinburgh University in 1779-80 with William Balmain. And like Balmain, Gilchrist entered the Royal Navy as an Assistant Surgeon in 1782. He subsequently joined the Indian Medical Service and was posted to Calcutta – he never travelled to New South Wales.

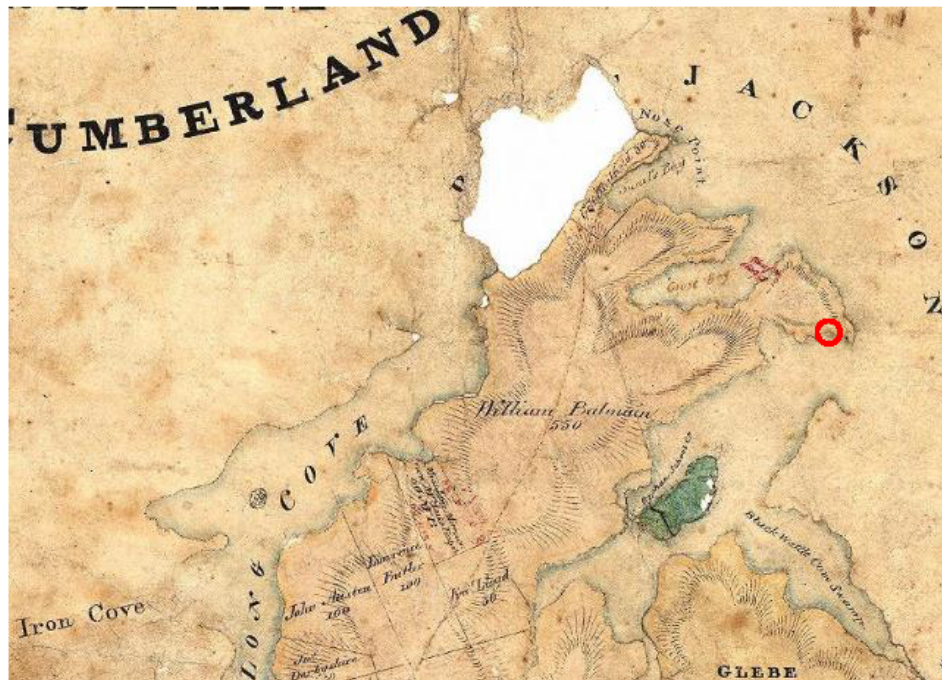


Figure 45 – Detail from Parish of Petersham County of Cumberland, undated. The approximate location of the subject site is circled in red.

Source: NSW LRS, HLRV, PMapMNo4 1406221



Figure 46 – Detail from Plan of the Balmain Estate, 1852 / C E Langley, Surveyor. North at top of page. The approximate location of the subject site is circled in red.

Source: NLA, MAP F 535

In 1823, Gilchrist mounted an unsuccessful campaign to sell off part of the 220 hectares. Ten years later, he decided to place the Balmain/Gilchrist Place property on the market again. He gave power of attorney to his Sydney-based agent, Frederick Parbury, who in turn commissioned surveyor John Armstrong to lay out a subdivision of the land in preparation for sale. John Hay Borthwick Gilchrist died in January 1841 leaving the property to his trustees to hold the land in trust to convert it into money and to invest the proceeds so that it might be allocated to charitable purposes.<sup>2</sup>

Armstrong initially laid out twenty-two lots. In 1840, Paul advertised the new subdivision for sale and sold the entire estate during July and August that year. The following year, Walter Gilchrist Whicker filed a suit in the English courts claiming he was heir-at-law to John Hay Borthwick Gilchrist and challenging the land sales at Balmain. In the meantime, he travelled to New South Wales in 1837.

When sales in John Gilchrist's 222-hectare grant resumed in 1852, surveyor Charles Langley subdivided the remaining land into forty-six (later forty seven) sections, using existing routes such as Darling Street and other contour-hugging tracks such as Beattie and Mullen Streets to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.<sup>3</sup>

### 3.1. SITE HISTORY

The subject site is located on part of lot 20 of the subdivision of Captain John Jenkins Peacock's subdivision of the Balmain estate at Peacocks Point (Balmain East). In 1836, Peacock, a Sydney merchant and ship owner purchased four acres on the point (renamed Peacocks Point in his honour).

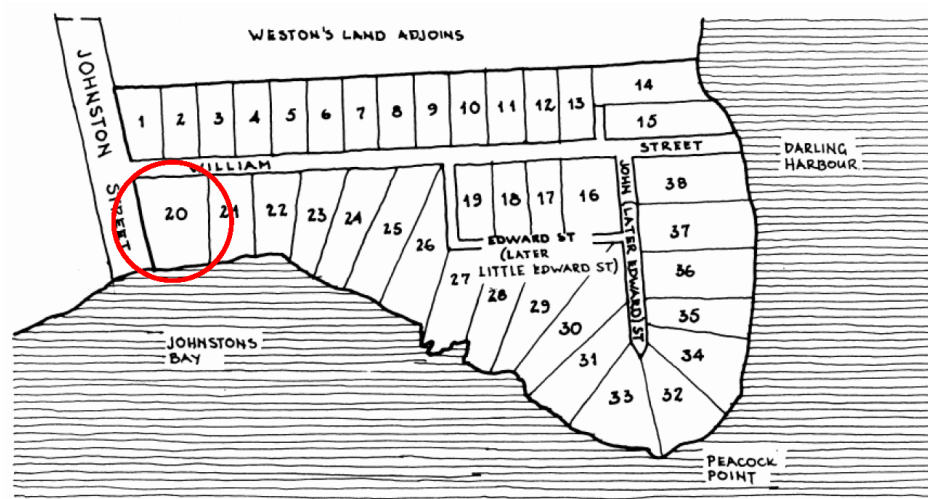


Figure 47 – Peacock's Subdivision, 1841. The location of the subject site circled in red.

Source: *Leichardt Historical Journal No 11, 1982 p.28.*

In 1841, Joshua Rose, an established farmer at Wisemen's Ferry, bought lots 20 and 21 of Peacock's Subdivision at the corner of Johnston and William Streets from Peacock in 1841 for £360. The pair of allotments is shown in the redrawn plan at Figure 50. Joshua Rose was the son of Thomas Rose, and with his mother, two brothers and sister, they were the first free family to come to Sydney in 1793.<sup>4</sup>

In 1856, Joshua Rose divided his remaining land in William Street into two halves. He gave part of Lot 20, at the corner of Johnston Street and William Street (marked A1 on Figure 50), to his second son, William Henry Rose, a shipwright. Henry built a timber cottage on this site in about 1865. A precise construction date is not known. An image from c1865 of William Street documents the dwellings constructed along the street. It appears from the image that the dwelling was constructed by this time, with a steeply pitched roof clad with

<sup>2</sup> Reynolds, Peter, *William Balmain (1762-1803) and John Gilchrist (1759-1841) family and property*, 2003.

<sup>3</sup> NBRS Architecture, *Statement of Heritage Impact – Datchett Street Reserve, East Balmain – Incinerator*, October 2017.

<sup>4</sup> A. McMartin, "Thomas Rose" in ADB, Vol II, p. 394.



timber shingles. In 1867, William Rose reclaimed 5½ perches of land at Peacock Point, Johnstons Bay below his cottage as shown in Figure 49. Simultaneously, Ann Rose applied to reclaim the adjoining portion of foreshore land to the east.



Figure 48 – View of Cameron's Cove, Balmain, around 1865. The dwelling indicated by the red arrow could be the cottage at the subject site, based upon comparison with the Figure 51 which depicts four dwellings being located on the western end of William Street in 1888.

Source: Sydney Living Museums, Caroline Simpson Library & Research Collection, Record Number 38367

Upon the study site, William Rose carried on the business of boat building, though the earliest newspaper references appear in the mid-1880s. For instance, in 1884, the *Sydney Morning Herald* reported that a new ketch named "Ellen Jenkins" was launched from Rose's yard at Peacocks Point.<sup>5</sup> In the same year, William Rose advertised the sale of a new 41-tonne ketch named "Siskin".<sup>6</sup>

According to the *Sands Directory*, William Henry Rose was listed at Johnston Street until 1888. A precipitating factor in the Rose family leaving 18 Johnston Street Balmain may have been the death of his eleven-year-old daughter Florrie in April 1889. The detail survey map from 1888 outline a dwelling located at the subject site with a verandah wrapping around the western and southern elevations (Figure 42). A small outbuilding is located in the north-western corner of the site.

The house was subsequently let to a succession of tenants including (but not limited to) Henry Ellis (shipwright), John Owen, Francis Beynon, Andrew Fulton, Archibald Everingham and John Robinson. Richard D Faulkner, a launch proprietor, is listed at 18 Johnston Street from 1921 until his death in 1924; his widow continued to live here until at least 1932-33 when the *Sands Directory* ceased publication.

<sup>5</sup> *SMH*, 13 September 1884, p12

<sup>6</sup> *SMH*, 25 October 1884, p24

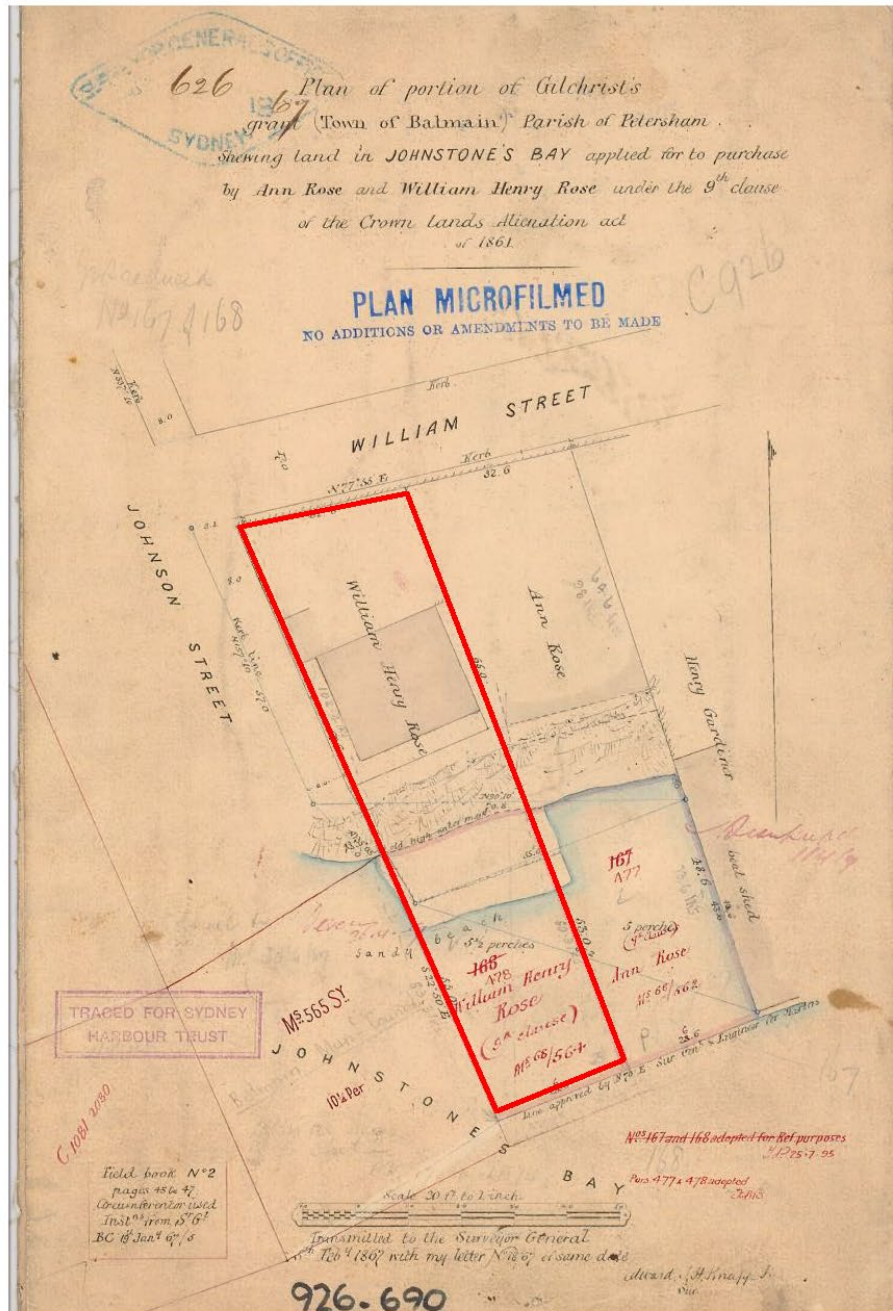


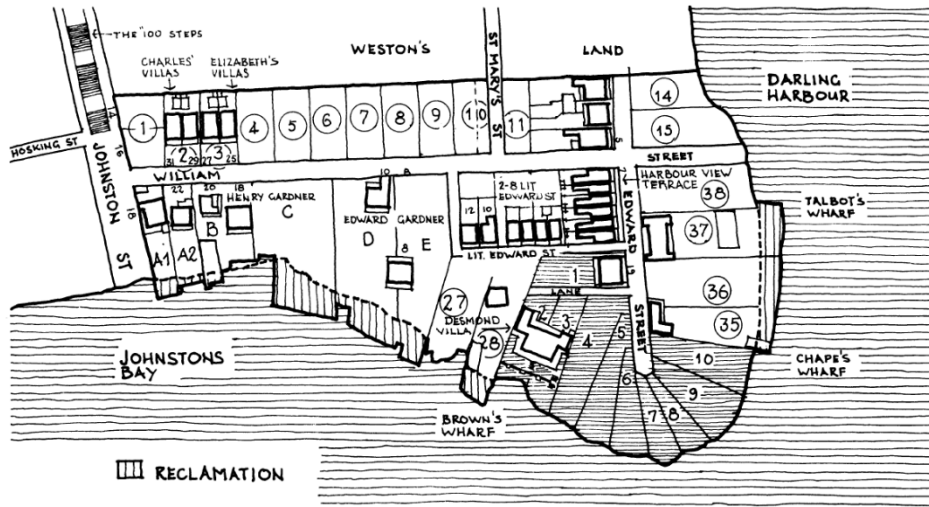
Figure 49 – Plan of Portion of Gilchrist’s grant (Town of Balmain) Parish of Petersham shewing land in JOHNSTONE’S BAY applied for to purchase by Ann Rose and William Henry Rose under the 9<sup>th</sup> clause of the Crown Lands Alienation act of 1861, February 1867 with later annotations. Subject site outlined in red.

Source: NSW LRS, Crown Plan 926-690

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HISTORICAL OVERVIEW 23

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PEACOCK'S LAND AFTER 1870 (selected buildings shown only). Francis Smith snr re-subdivided lots 29-34 into new lots 1-10 between 1855 and 1872. The single-storey verandahed cottage on Smith's lot 1 was pulled down by Edward Boulton, jeweller, who built the present 19 Edward Street in 1902. (Peacock's lot nos circled; street nos shown on frontage (cf Peacock's 1841 subdivision in Leichhardt Hist J, No 11, 1982, p15) (from d5) TABLE I

Figure 50 – Peacock's land after 1870 (only selected buildings shown).

Source: Leichhardt Historical Journal No 12, 1983, p28.



Figure 51 - Extract from Detail Survey Balmain Sheet 21, 1888 showing subject site outlined in red.

Source: SLNSW, Call Number, M Ser 4 811.17/1, IE Number IE4378807, FL4378828





Figure 52 – Extract from Detail Survey Balmain Sheet 21, 1896 with subject site outlined in red.

Source: SLNSW, Call Number, M Ser 4 811.17/1, IE Number 4378807, FL4378829

Following the death of William Henry Rose in June 1906, the subject site was advertised for auction sale on 13 November 1936 (Figure 53). The dwelling was noted to verandahs, four rooms and an office. As can be seen in the advertisement, the property was promoted to boatbuilders, tugboat proprietors, lightermen and others.

Sometime between 1896 and 1943, an additional structure was erected on the site to the south of the original house. This may have been constructed in combination with the boatbuilding business undertaken at the site. The structures appear to have been demolished by 1976, according to the historical image shown at Figure 55. The dwelling is depicted with a low-pitched hipped roof with no chimney, with verandahs wrapping around the western and southern elevation. A skillion addition also appears to be present along the northern elevation of the dwelling.

The land remained in old system title until 1987 when it was converted to Torrens system by conversion action 19295. At this date the property was in the ownership and occupancy of George Ronald May and Marjorie Lillian May. The property was sold in 1992, 2001 and 2006.<sup>7</sup>

Leichhardt Council considered an application in 2001 for proposed restoration, additions and alterations to the existing dwelling.<sup>8</sup> Details of these modifications have not been obtained from Council. According to aerials from 2007 (Figure 56) and 2009 (Figure 57), the southern verandah was partially demolished. The cottage appears to have remained in the same condition since that time.

<sup>7</sup> Relestate.com.au

<sup>8</sup> D/2001/437

**In the Estate of the late W. H. ROSE.**  
**Of Interest to Boatbuilders,**  
**Tugboat Proprietors, Lightermen, and others.**  
**BALMAIN.**  
**DEEP-WATER FRONTAGE PROPERTY.**  
**THE LAND has 32 feet frontage to WILLIAM-**  
**STREET, a depth of 165ft ALONG JOHNSTON-**  
**STREET, EXTENDING TO JOHNSTON'S BAY, OP-**  
**POSITE DARLING HARBOUR, to which the frontage**  
**is 26ft. Part Torrens, part Freehold.**  
**THE SITE is occupied by A WEATHERBOARD**  
**COTTAGE, having verandahs, and containing 4**  
**rooms and offices. Let at 17/6 per week.**

Figure 53 – Auction sale advertisement.  
 Source: Sydney Morning Herald, 31 October 1936, p26



Figure 54 – Detail from 1943 aerial survey showing subject site outlined in red.  
 Source: SIX Maps, 2019



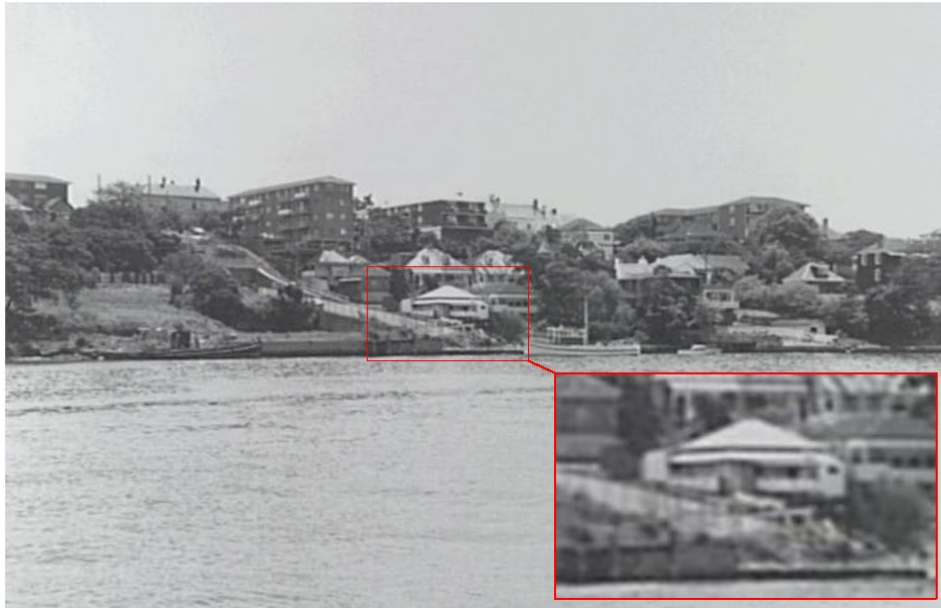


Figure 55 – Foreshore at Balmain East ,1976, with the location of the subject site indicated.

Source: Inner West Council Libraries, BRN 188294, <https://innerwest.spydus.com/cgi-bin/spydus.exe/ENQ/WPAC/BIBENQ?BRN=188294>



Figure 56 – Aerial view of subject site outlined in red, March 2007.

Source: Google Earth Pro

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Figure 57 – Aerial view of subject site outlined in red, June 2009.

Source: Google Earth Pro

A Development Application (DA) for alterations and additions was submitted in 2015 by the existing owner of the property. The DA consisted of alterations, rectification and reconstruction works to the remains of the cottage.<sup>9</sup> The site was in much the same dilapidated state when this DA was submitted and the DA proposed retention and restoration of the western wall and remnant fabric where possible. It appears that some works approved under this DA commenced, including the laying of a concrete slab in the north-eastern corner of the cottage, within the proposed location of the new bathroom and some new timber framing was installed in the same area.

The proposed works for the cottage were based on conjecture and do not accurately reconstruct the original dwelling; for instance, the proposal incorporates elements that referenced Federation and early 20<sup>th</sup> century detailing, particularly in the proposed reinstated wrap around verandah and proposed brackets, which reproduce an earlier detail not documented on the site. The reinstated "front door" is shown in an incorrect location within the verandah rather than within the main cottage form a window is duplicated in the location of the former entry. The proposed roof replaces the existing cladding but does not reinstate the original pitch, which has not documented. The plan also denotes reinstatement of the stair to the southern yard; however, this is purely a conjecture not documented by the historical record. Lastly, the approved plans also do not recognise the poor condition of the fabric and as it has been established above, it is unlikely that any of the extant fabric is able to be retained.

The approval demonstrates the impropriety of reconstruction where full documentation is not available. Should the approved cottage be constructed, the result would be a conjectural folly rather than a true reconstruction. The approved design has the effect of appearing as a modified Victorian building rather than a new or reconstructed building which confuses the legibility of the original form and fabric. Having regard to the limited physical fabric remains, and limited physical and documentary evidence it is not possible to reinstate the cottage to its former c1865 form and therefore the outcome is considered by Urbis to be inappropriate.

<sup>9</sup> D/2015/633



### 3.2. PROPERTY OWNERS

Table 2 – Property Owners

Date	Owner	
	William Balmain	
	John Gilchrist	
1836?	John Jenkins Peacock	Bk M No 90
June 1841	Joshua Rose	Bk 12 No 641
October 1856	William Henry Rose	Bk 45 No 659
May 1869	William Henry Rose	
Nov 1936	Albert Henry Rose	Vol 85 Fol 185 (5½ perches reclaimed Crown Land) and Bk 2611 No 9199 being part lot 20)
Sep 1961	Amy Emilie Grace Dornan and James Frederick McEwan (execs)	
Sep 1961	George Nathaniel May	
Dec 1976	Public Trustee	
1977	George Ronald May and Marjorie Lillian May	Bk 3270 No 150 and Vol 85 Fol 185
June 2007	John Muscat	

### 3.3. DATE OF CONSTRUCTION

Historical research indicates that 18 Johnston Street was built between 1856 and 1869, though this report theorises that it was more likely constructed c.1865 for William Henry Rose (shipwright).

### 3.4. ALTERATIONS AND ADDITIONS

A GIPA application was made to Inner West Council in April 2019, however, no response has been received to be able to produce a record of alterations and additions.

When comparing the archival images, it is clear that although the main cottage plan form has remained constant there have been many changes including:

- Construction and removal of the small 19<sup>th</sup> century outbuilding on the northwest corner of the cottage (Figure 40). This may have been incorporated into the full skillion addition across the north of the cottage – however no early framing or cladding remains.
- Alterations to the front (south) and side (west) verandah form.
- Changes to the form of the main roof and the verandahs (Figure 39 shows a more steeply pitched hipped roof).
- Changes to the roof cladding.
- Removal of most of the external and internal linings and joinery with the exception of a section of weatherboards on the western cottage wall and one double hung 6 pane sash window on the west elevation.
- Lifting of all the original flooring although some remnant wide hardwood boards remain on site.
- Commencement of an extension and deck to the south (never completed) (Figure 42).
- Commencement of concrete slab in north-eastern corner of cottage (never completed).



## 4. HERITAGE SIGNIFICANCE

### 4.1. WHAT IS HERITAGE SIGNIFICANCE?

Before making decisions to change a heritage item, an item within a heritage conservation area, or an item located in proximity to a heritage listed item, it is important to understand its values and the values of its context. This leads to decisions that will retain these values in the future. Statements of heritage significance summarise the heritage values of a place – why it is important and why a statutory listing was made to protect these values.

### 4.2. SIGNIFICANCE ASSESSMENT

The Heritage Council of NSW has developed a set of seven criteria for assessing heritage significance, which can be used to make decisions about the heritage value of a place or item. There are two levels of heritage significance used in NSW: state and local. The following assessment of heritage significance has been prepared in accordance with the ‘Assessing Heritage Significance’ guides.

Table 3 Assessment of Heritage Significance

Criteria	Significance Assessment
<p><b>A – Historical Significance</b></p> <p><i>An item is important in the course or pattern of the local area’s cultural or natural history.</i></p>	<p>The subject site reflects the early subdivision of Balmain East during the mid-nineteenth century. Purchased by Joshua Rose in 1841, and developed by his son in c1865, the subject site reflects the development of small cottages associated with boat building constructed along the northern shores of Johnstons Bay in Balmain East. Following the departure of William Henry Rose from the cottage in 1888, the site continued to be occupied by boat builders until the early twentieth century. Despite remnants of the original cottage remaining on the site, other properties located throughout Balmain East, and directly in the vicinity of the site better convey the historical development of the area due to their integrity and intactness.</p> <p>The subject site does not meet the threshold for individual heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ shows evidence of a significant human activity <input type="checkbox"/></li> <li>▪ is associated with a significant activity or historical phase <input type="checkbox"/></li> <li>▪ maintains or shows the continuity of a historical process or activity <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ has incidental or unsubstantiated connections with historically important activities or processes <input type="checkbox"/></li> <li>▪ provides evidence of activities or processes that are of dubious historical importance <input type="checkbox"/></li> <li>▪ has been so altered that it can no longer provide evidence of a particular association <input checked="" type="checkbox"/></li> </ul>
<p><b>B – Associative Significance</b></p> <p><i>An item has strong or special associations with the life or works of a person, or group of persons, of importance in the local area’s cultural or natural history.</i></p>	<p>The subject site is associated with the first free family to come to Sydney in 1793, the Rose family. The subject site was purchased by Joshua Rose in 1841 and his son, William Henry Rose, likely constructed the timber cottage on the site in c1865, carrying on his business of boat building on the site until 1888. The cottage continued to be</p>



	<p>owned by the Rose family until 1906 with the death of William Rose, whereby it passed into the ownership of his Estate. The sites ability to communicate this association is considered to be degraded by the substantial changes to the cottage over its history, and it's extremely degraded condition. It is noted that the adjoining residence (although modified) better represents this association as an intact residence.</p> <p>The subject site does not meet the threshold for heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ shows evidence of a significant human occupation <input type="checkbox"/></li> <li>▪ is associated with a significant event, person, or group of persons <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ has incidental or unsubstantiated connections with historically important people or events <input type="checkbox"/></li> <li>▪ provides evidence of people or events that are of dubious historical importance <input type="checkbox"/></li> <li>▪ has been so altered that it can no longer provide evidence of a particular association <input checked="" type="checkbox"/></li> </ul>
<p><b>C – Aesthetic Significance</b></p> <p><i>An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area.</i></p>	<p>The subject site was constructed c1865 with the as a characteristic modest timber weatherboard cottage. The cottage has undergone substantial modifications throughout its history, removing its original roof and chimney and modifying/ extending original verandahs. Its condition is derelict with partial retention of only one external wall and one window (western façade). Internally, all walls and ceilings have been stripped of their lath and plaster, with only remnant laths surviving. The original and early fabric that remains of the dwelling is in very poor condition.</p> <p>Overall it is considered that alterations and additions and the poor condition of remnant fabric have resulted in the degradation of the aesthetic or contributory character of the place as a mid-19<sup>th</sup> century cottage.</p> <p>Due to the condition and intactness of the cottage, it is not considered to meet the threshold for individual heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ shows or is associated with, creative or technical innovation or achievement <input type="checkbox"/></li> <li>▪ is the inspiration for a creative or technical innovation or achievement <input type="checkbox"/></li> <li>▪ is aesthetically distinctive <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ is not a major work by an important designer or artist <input checked="" type="checkbox"/></li> <li>▪ has lost its design or technical integrity <input checked="" type="checkbox"/></li> <li>▪ its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded <input checked="" type="checkbox"/></li> </ul>

<ul style="list-style-type: none"> <li>▪ has landmark qualities <input type="checkbox"/></li> <li>▪ exemplifies a particular taste, style or technology <input type="checkbox"/></li> </ul>	<ul style="list-style-type: none"> <li>▪ has only a loose association with a creative or technical achievement <input type="checkbox"/></li> </ul>
<p><b>D – Social Significance</b></p> <p><i>An item has strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons.</i></p>	<p>Although there is evidence that these modest workers cottages are important to the community as characteristic workers housing on the Balmain peninsula, the dwelling is considered to be in such a degraded state that its contribution is negligible. No specific social associations with the subject site are known.</p> <p>The subject site does not meet the threshold for heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ is important for its associations with an identifiable group <input type="checkbox"/></li> <li>▪ is important to a community’s sense of place <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ is only important to the community for amenity reasons <input type="checkbox"/></li> <li>▪ is retained only in preference to a proposed alternative <input checked="" type="checkbox"/></li> </ul>
<p><b>E – Research Potential</b></p> <p><i>An item has potential to yield information that will contribute to an understanding of the local area’s cultural or natural history.</i></p>	<p>The subject building is of simple construction that is consistent with its typology and period and thus does not provide evidence of significant technical achievement.</p> <p>It is beyond the scope of this report to assess the archaeological potential of the site. Notwithstanding, there is evidence of small structures being constructed on the site in its north-western corner and southern -eastern corner during the mid-nineteenth and early twentieth century, respectively.</p> <p>The subject site does not meet the threshold for heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ has the potential to yield new or further substantial scientific and/or archaeological information <input type="checkbox"/></li> <li>▪ is an important benchmark or reference site or type <input type="checkbox"/></li> <li>▪ provides evidence of past human cultures that is unavailable elsewhere <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ the knowledge gained would be irrelevant to research on science, human history or culture <input type="checkbox"/></li> <li>▪ has little archaeological or research potential <input type="checkbox"/></li> <li>▪ only contains information that is readily available from other resources or archaeological sites <input checked="" type="checkbox"/></li> </ul>
<p><b>F – Rarity</b></p> <p><i>An item possesses uncommon, rare or endangered aspects of the local area’s cultural or natural history.</i></p>	<p>While only a few timber weatherboard cottages dating to the mid-nineteenth century remain within Balmain East (including 110 Darling Street, 4 Pearson Street, and 20 and 20A Datchett Street), the subject site has been heavily degraded such that it has lost its integrity and is not considered to be an intact or representative example of its period/ typology. Its condition is poor and much of the</p>

	<p>extant early/ original fabric has been assessed beyond repair.</p> <p>The subject site does not meet the threshold for heritage listing under its criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ provides evidence of a defunct custom, way of life or process <input type="checkbox"/></li> <li>▪ demonstrates a process, custom or other human activity that is in danger of being lost <input type="checkbox"/></li> <li>▪ shows unusually accurate evidence of a significant human activity <input type="checkbox"/></li> <li>▪ is the only example of its type <input type="checkbox"/></li> <li>▪ demonstrates designs or techniques of exceptional interest <input type="checkbox"/></li> <li>▪ shows rare evidence of a significant human activity important to a community <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ is not rare <input checked="" type="checkbox"/></li> <li>▪ is numerous but under threat <input type="checkbox"/></li> </ul>
<p><b>G – Representative</b></p> <p><i>An item is important in demonstrating the principal characteristics of a class of NSWs (or the local area's):</i></p> <ul style="list-style-type: none"> <li>▪ <i>cultural or natural places; or</i></li> <li>▪ <i>cultural or natural environments.</i></li> </ul>	<p>The subject site was constructed c1865 with as a modest timber weatherboard cottage. The cottage would once have been a good representative example of its type, however, due to the derelict and hazardous condition and intactness of the dwelling, it no longer is able to demonstrate the characteristics of its type. Overall it is considered that alterations and additions and the poor condition of remnant fabric have resulted in the degradation of the representative or contributory character of the place as a mid-19<sup>th</sup> century cottage.</p> <p>Similarly, the cottage no longer contributes to the streetscape character of the Balmain East HCA.</p> <p>The subject site does not meet the threshold for heritage listing under this criterion.</p>
<p><u>Guidelines for Inclusion</u></p> <ul style="list-style-type: none"> <li>▪ is a fine example of its type <input type="checkbox"/></li> <li>▪ has the principal characteristics of an important class or group of items <input type="checkbox"/></li> <li>▪ has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity <input type="checkbox"/></li> <li>▪ is a significant variation to a class of items <input type="checkbox"/></li> </ul>	<p><u>Guidelines for Exclusion</u></p> <ul style="list-style-type: none"> <li>▪ is a poor example of its type <input type="checkbox"/></li> <li>▪ does not include or has lost the range of characteristics of a type <input checked="" type="checkbox"/></li> <li>▪ does not represent well the characteristics that make up a significant variation of a type <input type="checkbox"/></li> </ul>

<ul style="list-style-type: none"> <li>▪ is part of a group which collectively illustrates a representative type <input type="checkbox"/></li> <li>▪ is outstanding because of its setting, condition or size <input type="checkbox"/></li> <li>▪ is outstanding because of its integrity or the esteem in which it is held <input type="checkbox"/></li> </ul>	
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### 4.3. STATEMENTS OF SIGNIFICANCE

#### 4.3.1. 18 Johnston Street, East Balmain

The remnant cottage does not meet criteria for heritage listing under any criteria.

The subject site was constructed c1865 as a characteristic modest timber weatherboard cottage. The subject site reflects the early subdivision of Balmain East during the mid-nineteenth century. Purchased by Joshua Rose in 1841, and constructed by his son William Henry Rose, the subject site reflects the development of small cottages on the peninsula and was associated with boat building uses and waterfront activities, along the northern shores of Johnstons Bay. It continued to be occupied in this capacity until the early 20<sup>th</sup> century. Despite remnants of the original cottage remaining on the site, other properties located throughout Balmain East, and directly in the vicinity of the site better convey the historical development of the area due to their integrity and intactness.

The site is associated with the Rose family who were the first free settler family to come to Sydney in 1793. The family moved out of the cottage in 1888 although it remained in Rose's ownership until his death in 1906, upon which time it passed to his Estate. The sites ability to communicate this association is considered to be degraded by the substantial changes to the cottage over its history, and it's extremely degraded condition. It is noted that the adjoining residence (although modified) better represents this association as an intact residence.

The cottage has undergone substantial modifications throughout its history, removing its original roof and chimney and modifying/ extending original verandahs. Its condition is derelict with partial retention of only one external wall and one window (western façade). Internally, all walls and ceilings have been stripped of their lath and plaster, with only remnant laths surviving.

Overall, it is considered that alterations and additions and the poor condition of remnant fabric have resulted in the degradation of the sites individual or contributory heritage character as a mid-19th century cottage. The extent of remnant original fabric is minimal, and its physical condition is so poor that any contribution to the Balmain East Heritage Conservation Area is considered to have been rendered negligible.

#### 4.3.2. Balmain East Heritage Conservation Area

The following statement of significance for the Balmain East HCA has been extracted from the Inner West Council website:

*One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.*

*Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.*

*Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.*

*Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.*

*Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb — marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.*

*Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.*

*It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.<sup>10</sup>*

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<sup>10</sup> Inner West Council Website, information sheet for 'Balmain East C3' accessed via <https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>



## 5. IMPACT ASSESSMENT

Below, the potential impact of the proposal is assessed against the applicable heritage-related statutory and non-statutory planning controls which relate to the site and the proposed development.

### 5.1. HERITAGE LISTING

The subject property is not listed as a heritage item; however it is located within the Balmain East Heritage Conservation Area (C3) listed under Part 2 of Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013. The subject site is also located in proximity to a number of heritage items, as shown in the heritage map below including:

- House, including interiors, 18 William Street (item no. I496);
- Semi-detached house, including interiors, 25 William Street (item no. I497);
- Semi-detached house, including interiors, 27 William Street (item no. I498);
- Semi-detached house, including interiors, 29 William Street (item no. I499); and
- Semi-detached house, including interiors, 31 William Street (item no. I500).

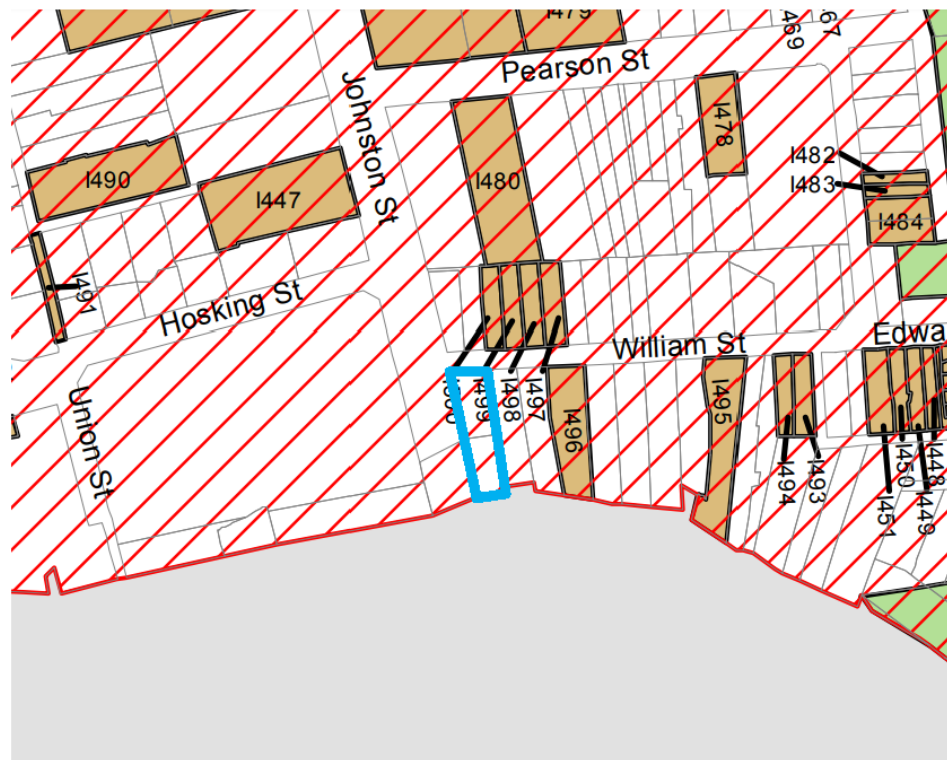


Figure 60 – Excerpt of heritage map, with the subject site outlined in blue.

Source: Leichhardt LEP 2013, Heritage Map\_011.

## 5.2. STATUTORY CONTROLS

### 5.2.1. Leichhardt Local Environmental Plan 2013

The table below provides an assessment of the proposal against the relevant provision for heritage conservation as found in the *Leichhardt LEP 2013*.

Table 4 Assessment against the Leichhardt Local Environmental Plan 2013

Clause	Response
<p><b>(1) Objectives</b></p> <p><i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to conserve the environmental heritage of Leichhardt,</i></p> <p>(b) <i>to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i></p> <p>(c) <i>to conserve archaeological sites,</i></p> <p>(d) <i>to conserve Aboriginal objects and Aboriginal places of heritage significance</i></p>	<p>The proposed works are in line with the objectives set out in the Leichhardt LEP 2013, as discussed below.</p> <p>The extent of remaining original fabric of the former cottage is minimal and what does remain is in such a dilapidated state that its overall contribution is considered to have been rendered negligible. Therefore, the proposed demolition is supported and arguably enhances the streetscape by allowing for sympathetic redevelopment. The proposed cottage has responded to the HCA in terms of form, scale and materiality, including the western façade which references the traditional 19<sup>th</sup> century symmetrical cottage characteristic of the HCA.</p>
<p><b>(2) Requirement for consent</b></p>	<p>The subject site is not identified as a heritage item, however it is located within the Balmain East HCA and is in vicinity of a number of heritage items. Therefore, consent is sought from Inner West Council for the proposed demolition and development of the site.</p>
<p><b>(4) Effect of proposed development on heritage significance</b></p> <p><i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</i></p>	<p>This heritage impact statement has been prepared to assess the proposal with regard to its potential impact on the subject site, the Balmain East HCA and the proximity heritage items. This heritage impact statement has been prepared to assist the Inner West Council with their determination.</p> <p>Located on the site is the shell of a small timber-framed weatherboard cottage originally constructed c1865. The cottage has been unoccupied since the mid-2000s. Prior to becoming vacant the cottage had been subject to extensive modifications. Over the years the remnant fabric has become severely degraded. The overall condition of the cottage, whilst retaining some early fabric, is beyond repair. The proposed demolition of the remnant cottage is therefore supported given the extent of the loss of fabric and the derelict condition of the remaining fabric.</p>
<p><b>(5) Heritage assessment</b></p> <p><i>The consent authority may, before granting consent to any development:</i></p> <p>(a) <i>on land on which a heritage item is located, or</i></p> <p>(b) <i>on land that is within a heritage conservation area, or</i></p> <p>(c) <i>on land that is within the vicinity of land referred to in paragraph (a) or (b),</i></p>	<p>The proposed two storey plus basement dwelling is considered sympathetic in form, scale, and materiality, adopting a traditional gabled form, with the first floor reading as rooms in the roof form. The western façade also references the traditional 19<sup>th</sup> century cottages</p>

Clause	Response
<p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>characteristic of the HCA, incorporating a symmetrical masonry façade with central door and flanking windows, with traditional proportions.</p> <p>Refer to Sections 5.1.2, 5.1.3 and 5.2 for a detailed assessment of the proposal.</p>

### 5.2.2. Leichhardt Development Control Plan 2013

The table below assesses the proposal against the relevant objective and provisions for heritage conservation as found in the *Leichhardt DCP 2013*.

Table 5 Assessment against the Leichhardt Development Control Plan 2013

Provision	Response
<p><b>C1.2 Demolition</b></p> <p><i>C1 Council will not approve a development application for the demolition of:</i></p> <ul style="list-style-type: none"> <li><i>a. a Heritage Item; or</i></li> <li><i>b. a building in a Heritage Conservation Area that contributes positively to the conservation area; or</i></li> <li><i>c. a building that makes a positive contribution to the desired future character of the area. Unless:</i> <ul style="list-style-type: none"> <li><i>i. the existing building is found to be structurally unsafe; and</i></li> <li><i>ii. cannot be reasonably repaired; and</i></li> <li><i>iii. the proposed replacement building is consistent with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan; and</i></li> <li><i>iv. the quality of the proposed replacement building will be compatible with the Heritage Conservation Area or streetscape in terms of scale, materials, details, design style and impact on streetscape</i></li> </ul> </li> </ul>	<p>The proposal includes the demolition of the existing remnant cottage located on the subject site. It is noted that the cottage in its considerably dilapidated state makes no positive contribution to the Balmain East HCA. Further, alterations and additions that have been undertaken throughout the cottage’s history, as well as the poor condition of remnant fabric has significantly compromised the integrity of the cottage and its contribution as a mid-19<sup>th</sup> century cottage. The extent of remaining original fabric is minimal, and what does remain is in such poor and unstable condition that any contribution to the Balmain East HCA that the cottage may have once had is now negligible and the dwelling is regarded as neutral or even detracting from the HCA.</p> <p>Retention and reinstatement of the original cottage would require full reconstruction due to the dilapidated structural condition of the cottage which was documented in the Structural Engineer report prepared by R. Balas Consulting (dated 03.06.19). Full reconstruction is not considered an appropriate approach to heritage conservation. It is noted that only limited photographic documentary evidence is available of the original cottage form, therefore a true reconstruction is not achievable.</p> <p>In consideration of the above, it is proposed to demolish the existing cottage and construct a new dwelling on the site that is contemporary in design while complementing and referencing the architectural style characteristic of the Balmain East HCA and streetscape in terms of its scale, materiality, details, design and style. The proposal aims to sit comfortably</p>

Provision	Response
<b>Heritage Items or building in Heritage Conservation Areas</b>	
<p><i>C2 A development application for the demolition of a Heritage Item or building in a Heritage Conservation Area must be lodged with Council and be accompanied by the following information:</i></p> <p>a. <i>statement of significance of the item (significance of the item itself and the significance of the Heritage Conservation Area in which it is located (if applicable));</i></p> <p>b. <i>a report or statement which identifies and explains the current structural condition of the building. The report is to be prepared by a qualified structural engineer or building surveyor and is to address:</i></p> <p>i. <i>structural adequacy of the building;</i></p> <p>ii. <i>options for the building to be made structurally safe through rectification/remediation works;</i></p> <p>iii. <i>options for the conservation of the building;</i></p> <p>c. <i>details of the proposed replacement building, including the proposed elevations, materials, detail, design style and compliance with the development controls contained in the Leichhardt Local Environmental Plan 2013 and this Development Control Plan.</i></p>	<p>within the HCA context ensuring that it will have no negligible impact on the HCA and streetscape.</p> <p>a. This HIS has been prepared to accompany the development application for the proposed demolition of the cottage located at the subject site. Section 4.3 provides an assessment of the site's heritage significance that concludes that the subject site does not meet the criteria for individual heritage listing, nor is it considered to make a positive contribution to the Balmain East HCA in its current degraded and derelict state (the building has been vacant and derelict since at least the mid-2000s). There is insufficient original remnant fabric to enable a meaningful reconstruction. Demolition is therefore supported.</p> <p>b. A structural report accompanies the DA, prepared by R. Balas Consulting P/L (dated 03.06.19) and should be referred to for detail. The structural report addresses the structural adequacy of the building and provides options for the building to be made structurally safe through remediation and conservation works. The structural report supports the demolition of the existing building due to its considerable compromised structural integrity and the very real possibility that the building could collapse during remedial and construction works posing significant risk to tradespeople.</p> <p>c. The proposed replacement building has been designed by Coso Architecture and documentation includes the proposed elevations, materials, detail, design style and compliance with the statutory development controls contained in the Leichhardt LEP 2013 and Leichhardt DCP 2013. This HIS assesses the proposal with reference to controls applicable to heritage.</p>
<i>C3 In determining development applications for the demolition of a Heritage Item or a building in a Heritage Conservation Area, Council will consider the following:</i>	

Provision	Response
<p>a. <i>heritage status of the building and its context as outlined in:</i></p> <p>i. <i>the Statement of Significance of the Heritage Item or building in a Heritage Conservation Area as outlined in the relevant Council heritage study or expert opinion;</i></p> <p>b. <i>the contribution that the existing Heritage Item or building in a Heritage Conservation Area makes to the heritage significance of the Conservation Area by virtue of its age, scale, materials, details, design style or intactness;</i></p> <p>c. <i>the structural adequacy of the existing building;</i></p> <p>d. <i>options for the conservation of the existing building under current controls;</i></p>	<p>a. Section 4 of this report provides a detailed heritage assessment and statement of significance pertaining to the existing cottage. Overall, the cottage does not meet the criteria for heritage listing as an individual heritage item due to substantial modifications throughout its history, as well as the irreparable degraded and derelict condition of the cottage.</p> <p>b. The contribution of the subject site to the Balmain East HCA has also been assessed in Section 4.3 and concludes that the subject site provides negligible contribution to the Balmain East HCA due to its heavily degraded state. While the cottage at the subject site dates to the early development of the suburb, c1865, and retains a small portion of original material, what does remain is in such poor condition that it would either need to be replaced or significantly repaired, resulting in limited original material being capable of being retained. The details and design style of the cottage have been substantially diminished (such that a full reconstruction is not feasible). The cottage cannot be considered as an intact representation of a mid-19<sup>th</sup> century cottage in its significantly degraded condition that has impacted not just the original fabric of the cottage, but also its overall structural integrity. Therefore, the building is considered neutral, rather than contributory in the context of the HCA, and could even be considered detracting as a derelict site, which has been unoccupied for almost 20 years.</p> <p>c. As discussed above, the structural adequacy of the cottage has been assessed in the structural report prepared by R. Balas Consulting P/L which concluded that the building was not able to be reasonably repaired and should be demolished. Reference should be made to the submitted report.</p> <p>d. Options for the conservation of the existing building are outlined in the structural report prepared by R. Balas Consulting P/L.</p> <p>In addition, it is noted that very little original fabric of the cottage remains and the potential to reuse any is extremely limited due to condition. It is technically possible to reinstate a weatherboard cottage; the footprint and layout are discernible (although the original roof pitch has been altered), weatherboards survive on the western façade, as does a single window and a single remnant section of the window architrave. Remnants of the timber ceiling beams also survive, along with remnant tongue and groove timber</p>



Provision	Response
<p><i>e. consistency of the proposed replacement building with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan, including those relating to amenity impacts on surrounding properties;</i></p>	<p>floorboards and stone foundations. It is therefore feasible to extrapolate a reasonable composite of the former cottage; however, this is not considered an appropriate or reasonable approach given that the resultant cottage would be almost entirely a reconstruction and would not be based on indisputable documentation. The demolition of the cottage is supported from a heritage perspective as well as from a safety viewpoint as outlined in the structural report.</p> <p>e. The consistency of the proposed replacement building with the development controls of the Leichhardt LEP and DCP 2013, including potential impacts relating to amenity of surrounding properties have been addressed below and in the accompanying documentation for the development application.</p> <p>The proposal has been carefully designed to respond directly to the existing topography and slope of the site. The proposal mitigates potential impacts of water views from proximate residential dwellings by reducing the overall bulk and height of the proposed building. The new dwelling has been designed to fit into the slope of the site thereby reducing the buildings overall bulk and height. The first floor of the new dwelling is partially retained within the roof form to ensure that the proposed new development remains as low scale as possible. The rear setback is located behind the rear setback of the adjacent property to the north-east of the subject site ensuring the continuation of shared views towards the harbour.</p> <p>The proposal is referential to the extant cottage and the conservation area in the use of traditional materiality including timber cladding, stone wall cladding and corrugated iron roofing. The proposed roof form directly responds to the traditional pitched roof form that is characteristic of the Balmain East HCA, albeit in a contemporary form. The western façade directly references traditional 19<sup>th</sup> century symmetrical cottage façades, which central entrance, flanking windows and traditional proportions to fenestration.</p> <p>The proposed dwelling is a relatively modest design that will complement and sit comfortably within the overall context of the Balmain East HCA and streetscape along both Johnston Street and William Streets.</p>

Provision	Response
<p><i>f. the quality of the proposed replacement building and its fit with the Heritage Conservation Area in terms of scale, materials, details, design style and impact on streetscape.</i></p>	<p>f. The quality of the proposed replacement building and how it fits within the overall context of the Balmain East HCA is described below and in the discussion at part 'e' directly above.</p>
<p><b>C1.4 Heritage Conservation Areas and Heritage Items</b></p>	
<p><b>General</b></p>	
<p><i>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</i></p> <p><i>a. retention of original detail and finishes such as:</i></p> <p><i>i. original face brick which should not be painted over or rendered;</i></p> <p><i>ii. original decorative joinery and iron work which is not to be removed;</i></p> <p><i>b. conservation of original elements;</i></p> <p><i>c. reconstruction or restoration of original elements where deemed appropriate;</i></p> <p><i>d. retention of the original cladding material of original roofs where viable;</i></p> <p><i>e. consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group.</i></p>	<p>C2) (a) –(e) As discussed above the proposal includes the full demolition of the existing cottage due to its limited remaining original fabric, substantial degraded condition and structural instability.</p> <p>It is recommended that the remains of the existing sandstone fireplace, sandstone footings and retaining walls be salvaged and reused where considered to be appropriate. There is an opportunity to use remnant sandstone elements as part of the landscape works and as part of the construction of the proposed repositioned sea wall. Alternatively, any salvageable fabric that is in reasonable condition is to be transferred to an established second-hand building material dealer for recycling.</p> <p>The proposal includes repair and conservation works to the side boundary sandstone retaining walls, which is considered a positive heritage impact. As well, the sea wall towards the rear of the property is proposed to be relocated forward towards the foreshore to provide improved amenity. The sea wall will be carefully deconstructed and constructed in its new position from salvaged sandstone blocks thereby mitigating any potential heritage impact.</p> <p>The existing remnant cottage contains no decorative joinery or iron work. As well, the original roof does not survive.</p> <p>The refined palette of materials is proposed for the new dwelling includes masonry walls and corrugated iron roofing is considered suitable and respectful of the extant cottage it is replacing and the surrounding context that includes nearby 19<sup>th</sup> century structures.</p>
<p><i>C3 Development of dwellings within Heritage Conservation Areas must:</i></p> <p><i>a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;</i></p>	<p>a. As discussed above, the existing remnant cottage located on the subject site is proposed to be demolished due to the substantial degraded condition of the building</p>

Provision	Response
<p><i>b. retain the major form, scale and materials of the existing structure as described in (a);</i></p> <p><i>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</i></p> <p><i>d. retain significant, established gardens and plantings including early fences.</i></p>	<p>and significant structural instability, as well as the extremely limited amount of original fabric remaining. The building is a very altered shell of the original cottage in poor and unsafe structural condition. As outlined in section 2, While part of the wall framing is original with a mortice and tenon jointing system, the greater part is replacement timber framing. All the wall framing is in very poor condition due to termite activity and rot. There is an opportunity to salvage stone from the remnant stone chimney for reuse.</p> <p>b. The extant dwelling is in a derelict state and is not able to be retained. Whilst apparent as contemporary, the form of the new building has been influenced by the simple built forms and pitched roofs that are predominant within the Balmain East HCA.</p> <p>c. The proposed new building has been designed to have minimal impact on both the streetscape of Johnston Street and William Street. The proposed new building is a modest and well-mannered contemporary two-storey cottage that partially retains the first floor within the pitched roof form ensuring that its overall form does not dominate views and maintains a scale and relationship to the street reminiscent of the extant cottage that it is replacing.</p> <p>d) The subject site contains no identified significant garden nor plantings. However, the site does contain some significant features within the rear external area, including a natural rockface, the side sandstone retaining walls and a sandstone sea wall. The proposal includes retaining the rockface below the proposed rear timber deck and repair and conservation of the side boundary retaining walls using salvaged materials found on site. The sea wall is proposed to be repositioned further towards the water to allow for better amenity in the rear garden, any impact of repositioning the sea wall is mitigated by constructing the new wall from salvaged material sourced from the existing wall and other sandstone blocks located on the site. No early fences were identified bounding the subject property. New landscape works and timber paling fences are proposed at the rear and front of the property, thereby improving the existing visual amenity of the property when viewed from both William Street and Johnston Street.</p>
<p><i>C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C</i></p>	<p>Response to this provision has been provided above. The dwelling is not considered 'contributory' having</p>

Provision	Response
<p><i>Section 1.2 – Demolition within this Development Control Plan.</i></p>	<p>regard for its derelict and altered state and limited extant original fabric.</p>
<p><b>Roof Forms and Materials</b></p>	
<p><i>C5 Consideration of roofing materials for additions should have regard for compatibility with the original roof, as well as for the context of the setting (such as if a dwelling is part of a group of similar dwellings).</i></p>	<p>The roof materials of buildings located within the Balmain East HCA are varying and include slate, metal roofing, terracotta roof tiles and concrete roof tiles. The site is located within a streetscape that features varied and inconsistent roofing materials. The proposed new development will utilise a corrugated metal roof, which is considered appropriate and referential to the roof materials used in the area and streetscape.</p>
<p><i>C6 Within Heritage Conservation Areas, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in scale, form, location and materials). Changes to the form of the existing roof or extension of the ridge cannot be supported.</i></p>	<p>As the cottage is proposed to be demolished, the roof form will not be retained. However, the proposed new building responds to the predominant pitched roof forms of the streetscape and broader HCA by incorporating a contemporary gabled roof form.</p>
<p><b>New Buildings</b></p>	
<p><i>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, scale and siting of the immediate area.</i></p>	<p>The proposed new dwelling does not seek to replicate period details from early buildings within the Balmain East HCA. Instead, the proposed design references the form, scale, siting and materiality of the extant cottage, as well as the immediate area, and aims to complement the characteristic typology of simple workers cottages throughout the area, albeit in a contemporary form. The form of the building reflects the single storey form of early workers cottages located along William Street, and adopts the same orientation with the rear orientated towards the bay and carparking and entrance onto William Street. The proposal also addresses Johnston Street with a frontage on the street boundary which references tradition cottage form and proportions. The building also steps into the slope of the site, as do the neighbouring dwellings located along William Street, thereby mitigating potential scale of the two storey dwelling and excavated basement. Potential scale is also further mitigated by partially containing the proposed first floor level within the roof form. The proposal adopts a pitched and gabled roof form in direct response to early cottages located within the Balmain East HCA, which also serves to mitigate potential view impacts from neighbouring development.</p> <p>The proposed new dwelling will be constructed from a simple palette of materials that includes masonry, sandstone cladding and metal roofing, and is</p>

Provision	Response
	<p>considered appropriate to the materials of buildings located within the area and in particular the Balmain East HCA.</p> <p>Overall, the proposed new dwelling is considered to be a well-mannered new development that is considerate of the Balmain East HCA, in which it is located, the streetscape and the former cottage that it is replacing.</p>

### 5.2.3. Balmain East Conservation Area – Management of Heritage Values

The proposed works are addressed in the table below in relation to the relevant provisions contained in the information sheet for the Balmain East HCA<sup>11</sup>

Table 6 – Balmain East Conservation Area – Management of Heritage Values<sup>3</sup>

Provision	Discussion
<p><b>Generally</b></p> <p><i>This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.</i></p>	<p>As previously discussed, the existing cottage located on the subject site, although dating to the early development of Balmain East, is in an extensively dilapidated condition and is structurally unsound. It is a derelict and altered shell of the former dwelling that has been unoccupied for approximately 20 years. Owing to its condition, the cottage no longer contributes to the streetscape or broader Balmain East HCA and could be argued to be detracting as a derelict site. Of the minimal original fabric that remains, most is in a poor condition and to repair the structure would require large-scale reconstruction which is not considered to be an appropriate heritage outcome. Instead, it is proposed to demolish the existing cottage and replace it with a contemporary dwelling that is sympathetic and responds to the Balmain East HCA as detailed above.</p>
<p><b>Retain</b></p> <ul style="list-style-type: none"> <li>▪ <i>All residential or commercial structures pre-1939 belonging to the period of the growth of East Balmain.</i></li> <li>▪ <i>All weatherboard buildings — now rare but typical of early development.</i></li> <li>▪ <i>All sandstone structures and cuttings — cottages and villas, schools, wharves/slipways, curbs and gutters, walls, bases to fences, steps.</i></li> <li>▪ <i>Unpainted face brick walls.</i></li> <li>▪ <i>All original architectural detail, and encourage replacement of lost elements, but only where evidence is available.</i></li> </ul>	<p>The existing remnant of the weatherboard cottage dates to c1865 and is proposed to be demolished, as previously discussed. The condition and the fact that there is minimal surviving original fabric has degraded the contribution of the dwelling, which is considered to be negligible. It is acknowledged that in its original form, it is a rare survivor as a weatherboard building, however only the western façade survives and only in part. It is not considered reasonable to retain the building or appropriate to fully reconstruct. Whilst the proposed new building is constructed from masonry it adopts a traditional form that respects the extant weatherboard cottage and the broader HCA.</p>

<sup>11</sup> Inner West Council Website, information sheet for ‘Balmain East C3’ accessed via <https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>



Provision	Discussion
<ul style="list-style-type: none"> <li>▪ <i>All sandstone outcrops.</i></li> <li>▪ <i>Views between buildings from public places, especially views to the harbour.</i></li> </ul>	<p>The sandstone rockface located on the site will be retained in-situ below the proposed rear deck. The proposed works includes conservation and repair as necessary the side boundary sandstone retaining walls using sandstone located on site to make any necessary repairs. The proposal repositions the existing sandstone sea wall in order to provide better amenity to the rear yard space, reusing the existing sandstone and potentially incorporating other stone salvaged on site. Any impact of re-locating the sea wall is mitigated by utilising salvaged sandstone blocks from the carefully de-constructed sea wall and other sandstone located on the subject site. The proposal enhanced amenity by modestly increasing the available landscaped area.</p> <p>A portion of sandstone kerbing will be affected by the proposed driveway crossing. 2 metres of sandstone kerbing (approximately 4 blocks) and 1.2 metres of concrete will be removed. There is potential for the sandstone kerbing to be removed to be relocated to the corner of William and Johnston Street where there is existing concrete kerbing to mitigate this impact (subject to council approval as this area is not part of the subject site).</p> <p>Views between buildings from public places will not be unreasonably impacted. Due to the existing height of the cottage, views over the roof toward the harbour are present. The proposed new two-storey dwelling is slightly higher than the existing cottage, however its potential impact to views from neighbouring properties has been carefully considered by designing the new building to follow the topography of the land, as well as partially containing the first-floor level within the roof form. The characteristic hipped and gabled roof form also serves to minimise scale and allows slot views between development. The increased height is permissible and reasonable. It is noted that extant views south along Johnston Street, which terminates at the harbour are not significantly impacted by the two storey form and this view offers open water vistas rather than limited views over the extant cottage. Extant fences also limit views.</p>
<p><b>Avoid</b></p> <ul style="list-style-type: none"> <li>▪ <i>Demolition of any pre-1939 building unless the building has been so compromised that it can no longer evidence its history.</i></li> <li>▪ <i>Alteration to the form (shape) of these buildings, especially wall height or alterations to the roof over the main part of the house. Second-storey additions.</i></li> <li>▪ <i>Removal of plaster to external walls, where part of the original wall finish.</i></li> <li>▪ <i>Painting or plastering of face brick walls.</i></li> </ul>	<p>As discussed previously, the c1865 cottage located on the subject site is proposed to be demolished. It is considered that it has been so compromised through both historical modification and dereliction. The cottage has been vacant since the mid-2000s. The cottage has been assessed by a structural engineer and determined to be structurally unsound and unsafe. Its demolition is supported.</p> <p>No high front brick/stone fences or new iron palisades on high brick bases are proposed on the site. Instead, a timber paling fence is proposed along the William Street boundary and part of the Johnston Street boundary to the south east of the site. The remaining portion of the boundary along</p>

Provision	Discussion
<ul style="list-style-type: none"> <li>▪ <i>Additional architectural detail for which there is no evidence, especially the addition of verandahs, and post-supported verandahs.</i></li> <li>▪ <i>Inappropriate high front brick/stone fences or walls, or new iron palisades on high brick bases.</i></li> <li>▪ <i>Interruption to the remaining sandstone kerbs and gutter.</i></li> <li>▪ <i>Development that detrimentally affects views from the harbour, Harbour Bridge and the city to East Balmain, or disrupts its skyline when viewed from those places.</i></li> </ul>	<p>Johnston Street will be defined by the western side of the proposed dwelling which is proposed to be constructed of rendered masonry on the ground floor and metal roofing/cladding material on the first floor level. This is consistent with the HCA.</p> <p>A portion of the existing sandstone kerb along William Street will be interrupted due to the proposed new driveway crossing, however, to mitigate this impact, it is suggested that the removed sandstone blocks are utilised near the corner of William and Johnston Streets to replace the existing concrete kerbing. Salvaged sandstone kerbing should be offered to Inner West Council for use elsewhere in the HCA (condition permitting and subject to Council approval).</p> <p>Views from the harbour, Harbour Bridge and the city to Balmain East will not be significantly affected by the proposed development. It is noted that the extant remnant dwelling does not present as a contributory dwelling from the water (owing to its derelict state) and also sits within a modified context. This is demonstrated by proximate contemporary or late 20th century development, including the terrace development opposite the site on the western side of Johnston Street and also the varied modifications to the water front façades of contributory dwellings in the immediate vicinity, including the neighbouring stone dwelling to the east of the subject site, which presents a fibro infill to the water frontage. Development along the waterfrontage includes dwellings that present as 2-3 storeys owing to the site fall and excavated basements/ lower ground levels.</p>

### 5.3. HERITAGE NSW GUIDELINES

The proposed works are addressed in relation to relevant questions posed in Heritage NSW's (former Heritage Office/Heritage Division) 'Statement of Heritage Impact' guidelines.

Table 7 Heritage NSW Guidelines

Clause	Discussion
<p>The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:</p>	<p>Proposed demolition of the extant cottage has been addressed above.</p> <p>The proposed demolition of the existing cottage and the construction of a new two storey dwelling with basement, will respect the Balmain East HCA. The proposed new dwelling and associated landscaping works, have been designed to complement the character of the HCA in terms of its height, form, bulk, scale and materiality.</p> <p>The overall height, scale, bulk and form of the dwelling has been designed to complement the immediate area. The</p>

Clause	Discussion
	<p>new dwelling has been designed to fit into the slope of the site reducing the buildings overall bulk and height. The first floor level of the new dwelling is setback from the adjacent property to the east ensuring that sufficient separation between the neighbouring property is provided and allowing a continuation of shared views towards the harbour. Impact to the adjacent dwellings views is further mitigated by the proposed rear setback which is in-line with the existing setback and allows for view sharing. The scale and bulk of the proposed new dwelling is further mitigated by partially containing the first floor level within the roof form thereby minimising the overall form of the proposed first floor level.</p> <p>Whilst the new proposed development is contemporary in its architectural form, it adopts traditional simple forms, such as the gabled roof form that is reminiscent of the characteristic dwellings throughout the Balmain East HCA.</p> <p>The proposed new development adopts a simple palette of materials such as rendered masonry, stone cladding and metal roofing that is complementary to the context of materials used throughout the Balmain East HCA.</p> <p>Overall, the proposal has been designed as a well-mannered infill development that utilises both form and materiality that is respectful and considerate of both the extant cottage that it replaces, as well as the context of the Balmain East HCA and streetscape which is dominated by modestly scaled workers housing.</p> <p>The proposal will conserve and repair as necessary the rear side sandstone retaining walls. The existing sandstone sea wall to the rear will be repositioned in order to provide for improved amenity in the rear garden. The potential impact of re-locating the sandstone sea wall is mitigated by constructing the new wall from salvaged materials on the site. Any sandstone that is removed from site, should either be reused on site, or salvaged (condition permitting).</p> <p>Overall, the proposed development, while contemporary in design, will respect and enhance the streetscape character of the Balmain East HCA due to its sympathetic height, form, bulk, scale and materiality.</p>
<p>The following aspects of the proposal could detrimentally impact on heritage significance.</p> <p>The reasons are explained as well as the measures to be taken to minimise impacts:</p>	<p>Demolition of contributory cottages has the potential to detrimentally impact the heritage significance of the Balmain East HCA as a characteristic 19<sup>th</sup> century dwelling. However, the site is occupied by a derelict structure with only remnants of the original cottage, limited</p>

Clause	Discussion
	<p>to the western façade and the internal stone fireplace. Due to the derelict condition and general lack of integrity of the cottage, it is considered that the cottage in its current form does not provide a positive contribution to the streetscape and broader HCA. The poor condition of the fabric is such that the dwelling would need to be reconstructed almost entirely of new fabric (were it to be rebuilt) and this is not considered an appropriate heritage outcome. In this context it is considered reasonable to allow for a sympathetic redevelopment and it is proposed to demolish the existing remnant structure and to construct a new dwelling which is sympathetic to the Balmain East HCA and proximate heritage items.</p> <p>A portion of sandstone kerbing will be affected by the proposed driveway crossing. 2 metres of sandstone kerbing (approximately 4 blocks) and 1.2 metres of concrete will be removed. There is potential for the sandstone kerbing to be removed to be relocated to the corner of William and Johnston Street where there is existing concrete kerbing to mitigate this impact.</p> <p>The proposed demolition of the remaining sections of the cottage and any impacts are able to be mitigated by the following:</p> <ul style="list-style-type: none"> <li>• It is recommended that an archival recording is undertaken of the subject site and cottage prior to commencement of any works to the site. The recording should include provision of measured drawings to record original profiles, details such as architraves etc.</li> <li>• Consideration should be given to the reuse of any historic building fabric in a reasonably good condition (as is proposed with the sandstone fireplace/ chimney breast) and the salvage of building materials surplus to the project</li> </ul>
<p>The following sympathetic solutions have been considered and discounted for the following reasons:</p>	<p>Options to retain the existing cottage were considered, however due to the very poor condition of the remaining fabric (which limits the extent of fabric available for reuse) and the lack of documentary evidence (which would preclude a true reconstruction), it was not considered appropriate to retain, repair and reconstruct the cottage. As well, the existing structure of the cottage has been determined to be structurally unsound to an extent that it poses a safety risk to tradespeople implementing remedial works and construction, this is further supported by the structural engineer assessment completed by R. Balas Consulting P/L. Of the minimal original fabric that remains,</p>

Clause	Discussion
	<p>and most in a poor condition, to repair the structure would require complete reconstruction which is not considered to be an appropriate heritage outcome.</p> <p>Instead, a sympathetic solution was developed in the form of a new infill development on the site that is complementary to the Balmain East HCA and which deliberately seeks to respond to the traditional forms and materiality characteristic of the HCA while allowing a modest increase in the scale of development.</p>
<p><b>Demolition of a building or structure</b></p> <p>Have all options for retention and adaptive re-use been explored?</p> <p>Can all of the significant elements of the heritage item be kept and any new development be located elsewhere on the site?</p> <p>Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible?</p> <p>Has the advice of a heritage consultant been sought? Have the consultant’s recommendations been implemented? If not, why not?</p>	<p>Options for the retention and adaptive reuse of the building were explored, however, due to the very poor condition of the remaining fabric, complete dismantling and reconstruction in mostly new materials would be required to achieve structural stability and NCC compliance.</p> <p>There is an opportunity to deconstruct the existing sandstone chimney reuse the sandstone blocks within the proposed new chimneys if appropriate. There are further opportunities to incorporate any salvaged sandstone located on site provided it is determined to be appropriate, as part of the newly constructed sea wall and for the repair and conservation of the side boundary retaining walls.</p> <p>Due to the condition of the existing cottage, it will only continue to deteriorate and become less viable, making salvage of remnant materials more difficult. Further delay will not make the cottages retention and conservation more feasible.</p> <p>The advice of heritage consultants from Urbis Heritage has been sought throughout the project. Recommendations of Urbis Heritage have been incorporated into proposed redevelopment.</p>
<p><b>New development adjacent to a heritage item</b></p> <p>How does the new development affect views to, and from, the heritage item?</p> <p>What has been done to minimise negative effects?</p> <p>How is the impact of the new development on the heritage significance of the item or area to be minimised?</p> <p>Why is the new development required to be adjacent to a heritage item?</p> <p>How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?</p>	<p>The subject site is in the vicinity of heritage items, as identified in section 5.1 above, and including a row of semi detached houses opposite the site to the northeast, on the northern side of William Street.</p> <ul style="list-style-type: none"> <li>• House, including interiors, 18 William Street (item no. 1496);</li> <li>• Semi-detached house, including interiors, 25 William Street (item no. 1497);</li> <li>• Semi-detached house, including interiors, 27 William Street (item no. 1498);</li> </ul>



Clause	Discussion
<p>Is the development sited on any known, or potentially significant archaeological deposits?</p> <p>If so, have alternative sites been considered? Why were they rejected?</p> <p>Is the new development sympathetic to the heritage item?</p> <p>In what way (e.g. form, siting, proportions, design)?</p> <p>Will the additions visually dominate the heritage item?</p> <p>How has this been minimised?</p> <p>Will the public, and users of the item, still be able to view and appreciate its significance?</p>	<ul style="list-style-type: none"> <li>• Semi-detached house, including interiors, 29 William Street (item no. I499); and</li> <li>• Semi-detached house, including interiors, 31 William Street (item no. I500).</li> </ul> <p>The proposal has no impact on significant views to and from the vicinity heritage items. Principal views towards these items will be retained and conserved. Potential impact on views from the heritage items are mitigated by the low scale and hipped roof form of the proposed dwelling which reduces overall bulk and scale.</p> <p>The potential impact of the proposed development has been negated by a considered design response that respects the vicinity heritage items and their amenity, whilst also respecting the streetscape and setting of the subject site and broader HCA. The proposed development is a modest two storey structure that is considered appropriate to the overall context in terms of its bulk, scale, form and materiality, and façade treatment as previously discussed.</p> <p>The proposed development is located within an area that is a mixture of both contemporary and traditional dwellings. Adjacent to the west is a circa-1980s estate development and opposite the site on William Street are contemporary two storey residential dwellings. Redevelopment must therefore have regard for and respond to the HCA while remaining apparent as contemporary. The subject proposal achieves this.</p> <p>The curtilage of the vicinity heritage items is defined by the respective lot boundaries and is not impacted by the proposal.</p> <p>Historical research suggests that the subject property is the only structure that has been constructed on the subject site. Notwithstanding, it is beyond the scope of this report to assess the archaeological potential of the place.</p>
<p><b>New landscape works (including car parking and fences)</b></p> <p>How has the impact of the new work on the heritage significance of the existing landscape been minimised?</p> <p>Has evidence (archival and physical) of previous landscape work been investigated? Are previous works being reinstated?</p>	<p>The proposal includes repair and conservation works to the side boundary sandstone retaining walls, which is considered a positive heritage impact. As well, the sea wall towards the rear of the property is proposed to be relocated forward towards the foreshore to provide improved amenity. The sea wall will be carefully deconstructed and constructed in its new position from salvaged sandstone blocks thereby mitigating any potential heritage impact.</p>

Clause	Discussion
<p>Has the advice of a consultant skilled in the conservation of heritage landscapes been sought? If so, have their recommendations been implemented?</p> <p>Are any known or potential archaeological deposits affected by the landscape works? If so, what alternatives have been considered?</p> <p>How does the work impact on views to, and from, adjacent heritage items?</p>	<p>The existing boundary fencing along Johnston Street and William Street is a mixture of steel bar and colorbond style fencing. The proposal includes new boundary fencing along Johnston Street and a new front fence that is consistent and appropriate to the surrounding area and streetscape.</p> <p>The subject site contains no identified significant vegetation. The proposal includes new planting both at the front and rear of the new development that includes a mixture of both native and non-native species. The proposed new planting scheme will enhance the views towards the proposed development from both the streetscape and waterside.</p> <p>It is beyond the scope of this report to assess archaeological matters.</p> <p>For the reasons stated above, the proposed landscaping works are compatible</p>

### 5.4. COMPARABLE CASELAW

The following table was provided as part of the previous HIS prepared by Urbis (dated August 2019) and provides commentary on comparable case law examples and their relevance to the proposed works at the subject site.

Table 8 – Comparable Caselaw

Caselaw	Relation to Proposed DA
<p><i>Harbour Port Constructions Pty Ltd v Woollahra Municipal Council [2004] NSWLEC 283</i></p> <p>development application to demolish contributory item in heritage conservation area – erection of replacement dwelling – impact of proposal on heritage significance</p>	<p>In the case of <i>Harbour Port Constructions Pty Ltd v Woollahra Municipal Council</i>, the application sought the consent of Council to demolish an existing dwelling house on the property known as 54 Fletcher Street, Woollahra and for the construction of a replacement two storey dwelling-house.</p> <p>It was established that the subject site was a contributory item within a heritage conservation area as a good example of a Victorian weatherboard cottage. The main issue highlighted in the case was namely the relevance of the economic implications of the heritage conservation objectives of the LEP in seeking to retain the existing cottage as a significant contributory item to the relevant HCA and in particular to the Fletcher Street Precinct.</p> <p>While it was noted in this case that the cottage did require works to be able to restore it, the Applicant did not establish any imperative based upon building structural and safety considerations. The appeal was dismissed, and the development consent refused.</p> <p>Unlike the cottage at 18 Johnston Street, Balmain East, the cottage at 54 Fletcher Street had retained its intactness, despite some alterations and additions and general maintenance being required. The state of the cottage of 18 Johnston Street, however, is such that only remnants of the ruined cottage remain and makes only a negligible contribution to the Balmain East HCA. Of the elements that do remain, they are in a very poor condition and would</p>

	<p>warrant wholesale replacement. The 'restoration' of the cottage is not considered to be a viable option and is not considered appropriate, as discussed previously. Therefore, the demolition in this case is considered appropriate and is not comparable to conclusions drawn in <i>Harbour Port Constructions Pty Ltd v Woollahra Municipal Council</i> due to the lack of contribution of the subject site to the Balmain East HCA and to the very poor condition and intactness of the ruined cottage.</p>
<p><i>In and Out Pty Ltd v Woollahra Municipal Council [2005] NSWLEC 299</i></p> <p>development application to demolish an existing dwelling and construct a two-storey dwelling within a Heritage Conservation Area (HCA) – impact of demolition and infill development on the heritage significance of the HCA – impact on residential amenity</p>	<p>In the case of <i>In and Out Pty Ltd v Woollahra Municipal Council</i>, the application sought the consent of Council to demolish the existing single-storey house and construct a new two-storey house at 38 Spicer Street, Woollahra.</p> <p>The dwelling was located within the Woollahra Conservation Area and was agreed to be a contributory item. A detailed assessment of the condition of the building was undertaken and concluded that 59% of the original fabric was already lost or unsalvageable. It was agreed by the court appointed expert and the heritage consultant for the applicant that the retention of the existing cottage was not a meaningful conservation option. It was their opinion that due to the extent of structural damage to the building, that if it was retained, it would effectively need to be dismantled and rebuilt utilising what original fabric could be salvaged. This would result in essentially a replica building. This was not considered an ideal conservation outcome. It was concluded that although it was regrettable that a contributory item in a conservation area should be demolished, that this results from its structural condition and the demolition itself would not have an adverse impact on the significance of the conservation area. The appeal was upheld, and the DA was granted development consent, subject to conditions.</p> <p>Similar to this case, the remains of the ruined cottage at 18 Johnston Street, Balmain East are such that the 'restoration' of the cottage would essentially result in a replica of the cottage. Further coupled with the lack of documentary evidence (which would preclude a true reconstruction), it is not considered appropriate to retain, repair and reconstruct the cottage. The conclusions of <i>In and Out Pty Ltd v Woollahra Municipal Council</i> are thereby considered comparable to the existing proposed DA for 18 Johnston Street, Balmain.</p>
<p><i>Helou v Strathfield Municipal Council [2006] NSWLEC 66</i></p> <p>development application to demolish contributory item in heritage conservation area – whether demolition should be allowed – relevant principles</p>	<p>In the case of <i>Helou v Strathfield Municipal Council</i>, the application sought the consent of Council to demolish an existing single storey dwelling together with a number of trees at 79 Abbotsford Road, Strathfield. The application also sought consent to replace the existing dwelling with a new two storey rendered brick dwelling with a three car garage.</p> <p>It was established that the subject site was a contributory item within the Abbotsford Road Precinct Conservation Area. The issue that was determinative in the appeal was not the heritage value of the dwelling, but the cost of repairs to rectify the structure that was so uneconomic that the demolition should be permitted.</p> <p>The case posed a number of planning principles that set out a series of questions which should be considered when assessing any application for such demolition. These questions are answered below in relation to 18 Johnston Street, East Balmain:</p> <p><i>1. What is the heritage significance of the conservation area?</i></p> <p>The significance of the Balmain East HCA is outlined in Section 4.3.2 of this report.</p>

*2. What contribution does the individual building make to the significance of the conservation area?*

As established in Section 4.3.1 of this report, due to the alterations and additions and poor condition of the remnant fabric of the cottage, this has resulted in the degradation of the site's individual or contributory heritage character as a mid-19th century cottage. The extent of remnant original fabric is minimal, and its physical condition is so poor that any contribution to the Balmain East Heritage Conservation Area is considered to have been rendered negligible.

*3. Is the building structurally unsafe?*

As detailed in Section 2.2 of this report, that due to the current condition of the cottage, it is structurally unsafe and dangerous and beyond reasonable repair.

*4. If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*

The cottage has been determined to be structurally unsafe. Of the remains of the cottage that exist, only very little original fabric remains and the potential for reuse of any fabric is extremely limited, having regard to its very poor condition. As noted previously, reconstruction is appropriate only where there is sufficient evidence to reproduce an earlier state of the fabric. Such a reconstruction also risks detracting from the conservation area by appearing as a 19th century dwelling rather than a contemporary approximation of almost entirely new fabric and construction. Good heritage practice as set out in the Burra Charter typically does not endorse reconstruction of an entire building, except where there are exceptional social or cultural motives that are related to the identity of the entire community. This is not the case with the subject cottage. The proposed demolition of the existing dwelling and the construction of a sympathetic infill development is considered to be a better heritage outcome than the latter. The proposed infill development will respect and enhance the streetscape character of the Balmain East HCA due to its sympathetic height, form, bulk, scale and materiality.

*5. Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?*

An estimate of the costs associated to restore the existing dwelling was prepared by the previous owner, John Muscat which determined that a minimum of \$821,003.00 was needed to restore the building, this solution is not considered to be appropriate, as noted in response to Q. 4. Consideration of this question is also redundant as the building is structurally unsafe as determined in Question 3.

*6. Is the replacement of such quality that it will fit into the conservation area?*

As addressed in Sections 5.1.1, 5.1.2 and 5.1.3 the proposed replacement development is considered to be a well-mannered and respectful to the context of the Balmain East HCA. The proposed replacement dwelling, while contemporary in design, will respect and enhance the streetscape character of the Balmain East HCA due to its sympathetic height, form, bulk, scale and materiality.

	<p>The appeal for 79 Abbotsford Road, Strathfield was dismissed, and the DA refused development consent due to the not meeting the planning principles, namely in regard Questions 3, 4, and 5.</p> <p>However, unlike 79 Abbotsford Road, Strathfield, the subject site is not considered to be a contributory item within the Balmain East HCA. Instead, the extent of remnant original fabric is minimal, and its physical condition is so poor that any contribution to the Balmain East HCA is considered to have been rendered negligible. The proposed demolition of the existing remnants of the cottage and development of a new dwelling meet the planning principles as discussed above. Therefore, the demolition of the dwelling in this case is considered appropriate and is not comparable to conclusions drawn in <i>Helou v Strathfield Municipal Council</i> due to the lack of contribution of the subject site to the Balmain East HCA.</p>
<p><i>Mersonn Pty Ltd v Woollahra Council [2008] NSWLEC 1475</i> development application to demolish an existing dwelling and construct a two-storey dwelling within a Heritage Conservation Area (HCA) – impact of demolition and infill development on the heritage significance of the HCA – impact on residential amenity</p>	<p>In the case of <i>Mersonn Pty Ltd v Woollahra Council</i>, the application sought consent of Council to demolish an existing residential flat building and construct a new residential flat building at 4 Marine Parade, Watsons Bay.</p> <p>The residential flat building was located in the Watsons Bay Conservation Area and was agreed to be a contributory item. The planning principles established within <i>Helou v Strathfield Municipal Council</i> were applied to the case. In relation to Questions 3 and 4, the experts differed in their opinions. A BCA Report submitted with the DA concluded that the building required extensive repairs to bring the building up to a satisfactory condition and that the costs of repairs would be very large. The Council's heritage expert did not agree with these findings, however, due to the Council not providing structural or BCA evidence to dispute these findings, the BCA Report produced was thereby unchallenged. It was concluded that the proposal satisfies the requirements of the DCP and the planning principles in <i>Helou v Strathfield Municipal Council</i>. The appeal was upheld, and the DA was granted development consent.</p> <p>Similarly, the remains of the cottage at 18 Johnston Street, Balmain East are such that they are deemed to be structurally unsafe (Question 3). As the cottage is unsafe, Questions 4 and 5 are redundant. The conclusions of <i>Mersonn Pty Ltd v Woollahra Council</i> are thereby considered comparable to the existing proposed DA for 18 Johnston Street, Balmain.</p>

As demonstrated above, Urbis has tested the demolition and replacement proposal of the subject building against establish cases that have been determined in the Land and Environment Court and comes to the conclusion that the demolition and replacement of the building is acceptable from a heritage perspective.



## 6. CONCLUSION AND RECOMMENDATIONS

A significance assessment of the subject site has been undertaken in Section 4 of this report and concludes that the subject site does not meet the criteria for individual heritage listing and further makes a negligible contribution to the Balmain East HCA, due to the cottages highly modified and derelict state.

A detailed impact assessment of the proposed works has been undertaken in Section 5 of this report. Key aspects of the proposal assessment are listed below:

- While the remnant existing cottage could be argued as contributing to the Balmain East HCA, the extent of remaining original fabric is minimal and what does remain of the original cottage is in such a dilapidated state that its overall contribution is considered to have been rendered negligible.
- Having regard to the poor physical condition of the structure, to retain or reinstate the dwelling would require full reconstruction with the exception of perhaps the sandstone masonry of the chimney.
- The existing cottage demonstrates that very little original fabric remains and the potential for reuse of any fabric is extremely limited, having regard for its very poor condition. In accordance with the Burra Charter, reconstruction is appropriate only where there is sufficient evidence to reproduce an earlier state of the fabric. Such a reconstruction also risks detracting from the conservation area by appearing as a 19th century dwelling rather than a contemporary approximation of almost entirely new fabric and construction. Good heritage practice as set out in the Burra Charter typically does not endorse reconstruction of an entire building, except where there are exceptional social or cultural motives that are related to the identity of the entire community. This is not the case with the subject cottage.
- The existing cottage is considerably dilapidated. Alterations and additions to the remnant cottage form are not considered a viable option as any would significantly compromise the integrity of the built form, both externally and internally. As well, the existing building has been assessed by a structural engineer and determined that it poses significant risk to any tradespersons who would need to undertake remedial works.
- The proposed two-storey dwelling, basement and associated landscape works is considered to be a well-mannered design that respects and complements the character of the HCA in terms of its height, bulk, scale and materiality.
- The proposed new dwelling has been carefully designed to follow the topography of the landform that falls towards the bay ensuring that the mass and scale of the proposed new dwelling is substantially minimised in views towards the site from William Street and Johnston Street to the north-west of the subject site. Further, the proposed first floor level is partially contained within the roof form thereby ensuring that the first-floor level is minimised and includes only a small pop-out from the proposed roof form. The roof form is also characteristic of the HCA. Overall, the proposed new dwelling is considered as sympathetic to the surrounding context of the streetscape and broader Balmain East HCA.
- The landscape works have been designed to have minimal impact on the natural falls towards the water, with the gradient predominantly retained across the site. The existing retaining sea wall is proposed to be carefully deconstructed and repositioned and constructed from materials salvaged from the site. The proposal also includes the conservation and repair of the side boundary sandstone retaining walls.
- Whilst the proposed development is contemporary in architectural style, it references the extant cottage and the traditional architectural forms and materiality that are characteristic of the Balmain East HCA including masonry wall construction, sandstone cladding and corrugated metal roofing. The proposed dwelling adopts a simple form with a gabled roof that is typical of the dwellings within the Balmain East HCA and surrounding local context.
- Overall, the proposed new development, whilst contemporary in design, is a well-mannered proposal that is sympathetic in its height, form, bulk scale and materiality. The proposal respects the streetscape and character of the Balmain East HCA while allowing for the redevelopment of a derelict site.

For the reasons stated above, the proposed works are recommended for approval from a heritage perspective having regard to the proposed recommendations below.

### RECOMMENDATIONS

- Prior to the issue of a Construction Certificate, an archival photographic recording of the subject site should be prepared by a suitably qualified and experienced heritage consultant. The archival recording

should include measured drawings including details of the window, remnant mortice and tenon ceiling, wall framing and weatherboard profiling to record details of the former cottage.

- Consideration should be given to the reuse of any historic building fabric in a reasonably good condition. For instance, there is an opportunity for salvaged sandstone footings to be used to construct the new sea wall. Salvaged building materials surplus to the project may be transferred to an established second-hand building material dealer for recycling. This should include sandstone and remnant weatherboards (condition permitting).

## 7. BIBLIOGRAPHY AND REFERENCES

### 7.1. BOOKS, MONOGRAPHS AND REPORTS

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### 7.2. PRIMARY SOURCES

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