STATEMENT OF ENVIRONMENTAL EFFECTS

ALTERATIONS TO AN EXISTING DWELLING HOUSE AT
145 BROUGHAM STREET, WOOLLOOMOOLLOO

prepared by
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1. INTRODUCTION

This Statement of Environmental Effects accompanies an application to carry out alterations and additions to the existing dwelling at 145 Brougham Street, Woolloomooloo. It should be read in conjunction with the following documents that accompany the application:

- Survey 27/8/2019
- Architectural plans
- Shadow diagrams
- Heritage Impact Statement
- BASIX certificate
- Cost summary

2. LOCALITY AND SITE

The site comprises lot 3 in DP 1194367. It has a frontage of 5.405m and an area of 122.9m².

The site contains a heritage listed, three storey terrace house. The dwelling is one of a group of three attached dwelling houses at 141-145 Brougham Street. The details of the building are set out in the Heritage Impact Statement (HIS). The significance of the buildings is described as:

This is a handsome and intact row built for middle class occupation stylistically Italianate and Filigree Victorian boom period. Unusually for this period it was tuck pointed brick rather than stucco. While its principal form and character is intact, there has been some re-styling of the principal rooms and service areas with modern ceilings. Otherwise the original layout and character can be discerned. The back service wing is later, has lower intactness and less significance. The principal form and character should be conserved.

The title has recently been converted from strata title with the houses at 141 and 143 Brougham Street to Torrens Title.

The other buildings in this part of Brougham Street comprise 2-3 storey terrace houses interspersed with 3-4 storey residential flat buildings. A number of terrace houses have large dormer windows facing the street.
3. **PROPOSAL**

The works involve a rear addition at the lower floor of 10.3m². There will be internal changes and the existing and proposed layouts are listed below.

<table>
<thead>
<tr>
<th>Floor</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower floor</td>
<td>Bedroom 1, rumpus room, kitchen, pantry</td>
<td>Addition of 10m², bedroom 1, new bathroom, open plan rumpus/kitchen, pantry</td>
</tr>
<tr>
<td>Ground floor</td>
<td>Open plan living/dining, bathroom, bedroom 2, balcony</td>
<td>Open plan living/dining, balcony</td>
</tr>
<tr>
<td>First floor</td>
<td>Bedroom 4, office, bathroom, bedroom 3</td>
<td>Bedroom 2, walk in robe, ensuite, bathroom, bedroom 3</td>
</tr>
<tr>
<td>Attic level</td>
<td>Roof void</td>
<td>Attic storage/office with rear dormer (19m²)</td>
</tr>
</tbody>
</table>

The works and internal alterations will comprise:

**Lower floor:**- remove section of rear wall to rumpus room, trim pantry wall, replace stair, install bathroom with stud wall, construct addition of 10m², new rear doors, roof over addition with skylights, replace and enlarge rear window  
**Ground floor:**- remove internal bathroom walls, new windows (W07, W08), enlarge rear window (W06), remove existing bathroom windows, replace stair  
**First floor:**- convert office to walk-in-robe and en-suite, replace stair, relocate door to front bedroom.  
**Attic floor:**- install stair to attic, install rear dormer window, install floor, install wall and ceiling lining.  

The stair is currently steep with winders. It is proposed to re-build the stair to a gentler pitch and extend it to the attic. The HIS says this is compatible subject to a replication of its details and character.

The main external finishes will be:

- Timber framed windows and doors
- Rendered external wall
- Dormer window - timber frames window and corrugated roof sheeting

There are no changes to the street elevation
4. STATUTORY CONTROLS

4.1 Sydney Local Environmental Plan 2012

<table>
<thead>
<tr>
<th>Sydney LEP 2012</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>R1 Residential</td>
</tr>
<tr>
<td>Floor space ratio</td>
<td>1.5:1</td>
</tr>
<tr>
<td>Height of buildings</td>
<td>15m</td>
</tr>
<tr>
<td>Special Character/Retail area</td>
<td>No</td>
</tr>
<tr>
<td>Reservation/acquisition</td>
<td>No</td>
</tr>
<tr>
<td>Heritage item/conservation area</td>
<td>Yes/Yes I2127 local</td>
</tr>
<tr>
<td>Acid Sulphate soils</td>
<td>Class 5</td>
</tr>
<tr>
<td>Locality and site identification</td>
<td>No</td>
</tr>
<tr>
<td>Foreshore building line</td>
<td>No</td>
</tr>
<tr>
<td>Affordable housing levy</td>
<td>No</td>
</tr>
<tr>
<td>Public Transport and accessibility</td>
<td>Category F</td>
</tr>
<tr>
<td>Land use and transport integration</td>
<td>Category B</td>
</tr>
</tbody>
</table>

Clause 2.3 requires the consent authority to have regard to the objectives for development in the zone.

Objectives of zone

The objectives of the R1 zone are:
- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain the existing land use pattern of predominately residential uses.

The proposal maintains the form and heritage character of the existing dwelling. The attic room is within the existing roof structure. The proposal is consistent with these objectives.

Development Standards

<table>
<thead>
<tr>
<th>Control</th>
<th>Permitted</th>
<th>Existing</th>
<th>Proposed</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building height (maximum)</td>
<td>15m</td>
<td>13.1m</td>
<td>13.1m (existing)</td>
<td>YES</td>
</tr>
<tr>
<td>Floor space ratio (maximum)</td>
<td>1.5:1</td>
<td>1.42:1</td>
<td>1.67:1</td>
<td>NO</td>
</tr>
<tr>
<td>Parking spaces (maximum)</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>YES</td>
</tr>
</tbody>
</table>
Submission under clause 4.6 of Sydney LEP 2012 regarding floor space ratio.

A submission under clause 4.6 of Sydney LEP is provided because the increase in gross floor area (GFA) of the lower level addition of about 10m² and the new attic floor area of 19.3m² exceeds the 1.5:1 FSR standard.

Note that the lower level addition of 10.3m² will increase the GFA to 184.7m², which is a FSR of 1.5:1.

The additional floor area in the attic will then exceed the FSR of 1.5:1.

Clause 4.6 allows consent to be granted for development that would contravene a development standard if

- the applicant has made a written request seeking to justify the contravention and

- the consent authority is satisfied that the written request has adequately addressed the matters required to be addressed by subclause (3); that is

  (3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

  (b) that there are sufficient environmental planning grounds to justify contravening the development standard and

- the consent authority is satisfied that

  (4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

- the concurrence of the Director-General has been obtained

The FSR control in clause 4.4 is a development standard that is not subject to any of the specified exclusions from the operation of clause 4.6.

In accordance with the guidelines provided by decisions of the Land and Environment Court and in particular the judgments in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386 and *Moskovich v Waverley Council*
[2016] NSWLEC 1015, the submission in this Statement addresses the requirements of clause 4.6 in turn.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these ways are equally applicable under the clause 4.6 regime. The 5 matters to consider are whether:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
2. The objective is not relevant to the development.
3. The objective would be defeated or thwarted if compliance was required.
4. The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard.
5. The zoning of the land is unreasonable or inappropriate.

These 5 matters are discussed below.

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

The objectives of the FSR development standard are

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

These objectives are achieved despite the non-compliance with the numerical control because:

- The additional floor area will cater for the anticipated needs of the current owners/occupants (objective (a))
- The renovations will change the house from a 4 bedroom dwelling to a 3 bedroom dwelling. Existing bedroom 2, which is very small at only 2.8mx 2.85m, will be removed. There will be an increase in living area. However, the population capacity of
the house will not change significantly. It will continue to be occupied by the current occupants. Hence there is no significant increase in land use intensity and vehicle and pedestrian traffic (objective (b))

- The additional floor area is an existing roof space in the case of the attic and located at the lower ground floor. Neither will increase the perceived building bulk of the house. (objective (b))
- The additional floor area will not increase the demand for infrastructure (objective (c))
- The additional floor space does not result in any significant change to the character of the building (objective (d))
- There are no adverse impacts on the adjoining property as indicated by the shadow diagrams. The addition does not have any significant presentation to the public domain. (objective (d))

2. **The objective is not relevant to the development.**
   This contention is not relied upon.

3. **The objective would be defeated or thwarted if compliance was required.**
   This contention is not relied upon.

4. **The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard.**
   This contention is not relied upon.

5. **The zoning of the land is unreasonable or inappropriate.**
   This contention is not relied upon.

**Compliance with the development standard is unreasonable and unnecessary in the circumstances because**

The prevailing FSR standard for nearby properties is S1 (1.5:1) and S2 (1.75:1). There would appear to be numerous buildings nearby that have a FSR in excess of 1.5:1 and 1.75:1 (147-151, 96 and 100 Brougham Street). Given the limited increase in the building bulk of the proposal it would be unreasonable to strictly apply the FSR standard.
**Are there sufficient environmental planning grounds to justify contravening the development standard?**

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:

- There will be no significant change in the intensity of use of the property.
- There will be no significant change in the built form of the house
- The built form will maintain the traditional character of this group of heritage items.
- The lower floor addition is a modest addition that has no public presentation and no amenity impacts
- The attic addition is mostly contained within the existing roof space.

**Will the proposed development be in the public interest because it is consistent with the objectives of the development standard?**

The objectives for the development standard have been addressed above. The development is considered to be consistent with the objectives.

**Will the proposed development be in the public interest because it is consistent with the objectives of the zone?**

The objectives for development within the R1 General Residential zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain the existing land use pattern of predominantly residential uses

The proposal is consistent with these objectives because:

- The renovations will provide for the accommodation needs of the current owners/occupants,
- The proposal maintains the mix of large terrace houses and old style residential flats that are characteristic of the area
- The “other land use” objective is not relevant
- The proposal maintains the existing land use pattern
Concurrence of the Director-General
The concurrence of the Director-General may be assumed by Council.

Council must also consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning
(b) the public benefit of maintaining the development standard

Any matter of significance for State or regional environmental planning
There are no matters of significance for State or regional environmental planning.

Public interest
The proposal is considered to be neutral in terms of the public interest.

Car parking
The site is shown as Category B Use and Transport Integration Map, in which the total number of car parking spaces provided on site is not to exceed 2 spaces. The proposal does not provide any on-site parking and complies with the control.

Heritage conservation
Heritage considerations are addressed in the Heritage Impact Statement.

Design excellence
Clause 6.21 requires Council to consider whether a proposed new building or external alterations to an existing building exhibits design excellence, having regard to –

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved

The external presentation to the street does not change. The lower level addition is a conventional modest increase in the building footprint that has no public presentation.

The key matter is the rear facing dormer window. The applicants would like Council to give this serious consideration as it has no significant public presentation and there are numerous large dormer windows that actually face the street on other terrace houses in Brougham Street (see photo on next page).

Whilst the area is a conservation area, it is characterized by a diversity of building types which reflect the diverse history of Woolloomooloo.
Terrace houses opposite the site with large dormer windows facing the street.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain

The proposal is neutral with regards to the public domain.

(c) whether the proposed development detrimentally impacts on view corridors

No view corridors will be affected.

(d) how the proposed development addresses the following matters:
   (i) the suitability of the land for development

   The proposal complies with the land-use and planning controls

   (ii) the existing and proposed uses and use mix

   The proposal does not change the land use mix

   (iii) any heritage issues and streetscape constraints

   The external presentation to the street does not change.
(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form

No tower is proposed.

(v) the bulk, massing and modulation of buildings

The bulk and form of the existing terrace house is essentially retained.

(vi) street frontage heights

The street external presentation to the street does not change.

(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity

There are no amenity impacts.

(viii) the achievement of the principles of ecologically sustainable development

The application includes a BASIX certificate

(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network

Not applicable

(x) the impact on, and any proposed improvements to, the public domain

No such impacts

(xi) the impact on any special character area

It is not a special character area.

(xii) achieving appropriate interfaces at ground level between the building and the public domain

The interface with the street does not change.

(xiii) excellence and integration of landscape design

The landscape setting does not change.
5. POLICY CONTROLS

5.1 Sydney Development Control Plan 2012

Sydney Development Control Plan 2012 (the DCP) supplements the LEP and sets out objectives and provisions for a number of elements relating to the locality, environment, design and type of development. The provisions relevant to the proposed development are addressed below.

<table>
<thead>
<tr>
<th>Provision</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active Frontages</td>
<td>No</td>
</tr>
<tr>
<td>Building contributions</td>
<td>Contributory</td>
</tr>
<tr>
<td>Building height in storeys</td>
<td>4</td>
</tr>
<tr>
<td>Building setback and alignment</td>
<td>None</td>
</tr>
<tr>
<td>Building street frontage height stories</td>
<td>2</td>
</tr>
<tr>
<td>Footpath, awnings and colonnades</td>
<td>No</td>
</tr>
<tr>
<td>Late night trading</td>
<td>Excluded</td>
</tr>
<tr>
<td>Pedestrian priority</td>
<td>None</td>
</tr>
<tr>
<td>Proposed open space</td>
<td>No</td>
</tr>
<tr>
<td>Signage precincts</td>
<td>No</td>
</tr>
<tr>
<td>Stormwater management</td>
<td>No</td>
</tr>
<tr>
<td>Street and lanes</td>
<td>No</td>
</tr>
<tr>
<td>Through site links</td>
<td>No</td>
</tr>
</tbody>
</table>

Locality statement

The site is located in the Woolloomooloo locality. The locality statement is:

This locality is bounded by Cowper Wharf Road to the north, Palmer Street to the west, the Victoria Street/Brougham Street cliff edge to the east, and the rear of lots along William Street to the south. The area is to maintain its low scale residential character below the tree canopy to maintain district views between the Domain and Kings Cross. Bourke Street will become a mixed use corridor with street activity. Heritage buildings are to be respected by maintaining the predominant street wall height along Bourke Street. The mix of building types and heights in the area south of Cathedral Street acknowledge the mix of small and large lots, protect the built heritage and form a transition to the commercial spine on William Street. The Cowper Wharf Road centre is to evolve as a significant tourism, entertainment and dining district. The carpark at the intersection of Cathedral and Bourke Streets provides an opportunity for high quality development and uses including local (amenity) shops. Integration of the rail viaduct lands in this location is encouraged. Plunkett Street Public School and Sydney Distance Education High School provide landscaped areas that contribute to the vegetation and semi-publicly accessible open space in a densely built area and should be maintained.
<table>
<thead>
<tr>
<th>Principle</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Development must achieve and satisfy the outcomes expressed in the character statement and supporting principles.</td>
<td>The low scale character of the existing house is maintained</td>
</tr>
<tr>
<td>(b) Development is to respond to and complement heritage items and contributory buildings within heritage conservation areas, including streetscapes and lanes.</td>
<td>Refer to HIS</td>
</tr>
<tr>
<td>(c) Maintain district views over Woolloomooloo from high ground of the Domain and Art Gallery to Kings Cross.</td>
<td>This district view is not interrupted</td>
</tr>
<tr>
<td>(d) Maintain the low scale residential uses and school in the centre.</td>
<td>Complied with to the extent applicable</td>
</tr>
<tr>
<td>(e) Encourage the redevelopment of the medium scale buildings (6 storeys) along Palmer Street and the Eastern Distributor to shape this an important vehicular entry into eastern Sydney.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(f) Encourage development along Bourke Street with new uses, street activity and improvements along the rail viaduct. The street wall is to define the street edge consistent with existing heritage.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(g) Continue the mix of building types and heights south of Cathedral Street to reflect the mix of small and large lots, protect its heritage and create a transition to the commercial spine on William Street.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(h) Encourage built form that relates to the topography of the neighbourhood. Maintain taller buildings along the ridges and the lower scale built form in the centre of the neighbourhood.</td>
<td>The low scale character of the existing house is maintained</td>
</tr>
<tr>
<td>(i) Encourage high quality redevelopment of vacant lands along Palmer Street.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(j) Encourage the western side of Bourke Street as a mixed use corridor connecting the existing centre at Cowper Wharf Road and the emerging centre at Cathedral Street.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(k) Encourage a mix of uses south of Cathedral Street and active uses along Bourke and Forbes Street to improve pedestrian amenity and activity between William Street and Woolloomooloo.</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

6. CONCLUSION

The works retain the heritage significance of the building as set out in the Heritage Impact Statement. The key matter is the rear facing dormer window. The applicants would like Council to give this serious consideration as it has no significant public presentation and there are numerous large dormer windows that actually face the street on other terrace houses in Brougham Street.