

INNER WEST

DEVELOPMENT ASSESSMENT REPORT

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| Application No. | DA/2023/0819 |
| Address | 110 Ferris Street ANNANDALE |
| Proposal | Ground, first and second floor alterations and additions to existing semi-detached dwelling |
| Date of Lodgement | 11 October 2023 |
| Applicant | Mr Hugh P Harricks |
| Owner | Mr Hugh P Harricks Mrs Nicola A Harricks |
| Number of Submissions | Nil |
| Value of works | \$719,708.00 |
| Reason for determination at Planning Panel | Section 4.6 variation to Floor Space Ratio exceeds 10% |
| Main Issues | FSR variation |
| Recommendation | Approved with Conditions |
| Attachment A | Recommended conditions of consent |
| Attachment B | Plans of proposed development |
| Attachment C | Section 4.6 Exception to Development Standards |
| Attachment D | Statement of Heritage Significance |



LOCALITY MAP

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|---------------|---|------------|---|-----|
| Subject Site |  | Objectors |  | ↑ N |
| Notified Area |  | Supporters |  | |

1. Executive Summary

This report assesses the application submitted to the Council for ground, first, and second-floor alterations and additions to the existing semi-detached dwelling at 110 Ferris Street, Annandale.

The application was notified to surrounding properties and no submissions were received in response to notification.

The primary issue arising from the application is the variation to the FSR Development Standard. The proposed variation is deemed acceptable, as the additional FSR does not generate undue adverse impacts on the adjoining properties and aligns with the objectives of the zone and development standard.

Subject to the imposition of appropriate terms and conditions, the application is considered suitable for approval.

2. Proposal

The proposed development seeks consent for ground, first, and second-floor alterations and additions to the existing semi-detached dwelling. Specifically, the proposal consists of the following:

- Relocation of the front entry doorway.
- Removal of two (unauthorised) existing skylights at the front roof.
- Construction of a new glazed door to the ground floor casual living room.
- Reconfiguration of the ground floor kitchen, laundry, bathroom, and living room, as well as the stair to access the first floor.
- Alterations to the deck area and construction of a pergola.
- Reconfiguration and extension to the existing first floor to accommodate a new bedroom, bathroom, ensuite, and a balcony and rooftop garden.
- Construction of a new stair and dormer window on the east elevation, and enlargement of the existing attic room to accommodate an attic/bed.

3. Site Description

The subject site is situated on the western side of Ferris Street, between Ferris Street and Whites Creek Lane. It comprises a single allotment and is generally rectangular in shape, with a total area of approximately 215.6 sqm.

The property features a semi-detached dwelling that is part of a row of terraces. When viewed from Ferris Street, the subject site appears as two storeys. Surrounding properties consist of a mix of single, two, and three-storey dwellings.

The site is not heritage listed, however is located within the Annandale Heritage Conservation Area.

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|------------|---|----------------------|
| M/2017/185 | Modification to Development Consent D/2017/61 which approved alterations and additions to residence. Modification seeks: reduction in the width of two windows and changes to external finishes and materials. | Approved, 22/11/2017 |
| M/2018/175 | Modification to Development Consent D/2017/61 which approved alterations and additions to residence seeking approval for painting of the existing front facade brickwork, timber front door, timber windows, timber balcony doors, balcony roof and metal balustrade and fence as set out in the accompanying Schedule of Front Materials and Finishes submitted as part of documentation for M/2017/185. | Approved, 22/11/2018 |
| M/2019/16 | Modification of Development Consent D/2017/61. Consent is sought to the confirm and seek approval for the locations of the air conditioning unit and hot water systems. | Approved, 29/05/2019 |

4(b) Application history

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

| Date | Discussion / Letter / Additional Information |
|------------|--|
| 21/11/2023 | <p>A Request for Further Information (RFI) letter was sent to the applicant, outlining the following requirements:</p> <ul style="list-style-type: none"> • Removal of the proposed arched dormer addition. • Alignment of the new front doorway opening with the first-floor window opening directly above. The new front door must be a traditional solid timber four-panel door to ensure compatibility with the elevational character and appearance of the existing residence. • Amendment of the skillion dormer proposed to the rear roof in accordance with the following criteria to ensure compliance with Appendix B of the DCP • Unless it can be demonstrated that the existing skylights in the front roof plane have been approved under a previous development consent granted by the Council, these skylights are required to be removed, with details shown on plans relating to the restoration of the existing front roof form to facilitate this change. • Provide an updated materials and finishes schedule addressing the following: <ul style="list-style-type: none"> ○ Vertical cladding (Cl=L.01) must be laid horizontally. ○ Greys and blacks are not acceptable and must be avoided. Light, warm, earthy tones are to be used. ○ The metal zinc roofing (MD.01) must be replaced with pre-coloured traditional corrugated steel, finished in a color equivalent to Colorbond colours "Windspray" or "Wallaby." • Additionally, the following revisions are required: <ul style="list-style-type: none"> ○ Redesign of the first-floor balcony to demonstrate compliance with privacy control under the LDCP 2013. |

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|------------|--|
| | <ul style="list-style-type: none"> ○ Submission of an updated shadow diagram to reflect accurate overshadowing impacts from the proposal. ○ Revision of the stormwater drainage plan to demonstrate compliance with the site drainage and stormwater controls. |
| 15/01/2024 | <p>Updated plans were received in response to Council’s RFI letter, carrying out the following changes and providing the following additional information:</p> <ul style="list-style-type: none"> ● Amended architectural plans carrying out the following changes: <ul style="list-style-type: none"> ○ Removal of proposed arched dormer window, and deletion of skylights in front roof form and restoration of roof; ○ Front door location amended to align with first floor window; ○ Rear dormer window changes involving amendment of cladding so that the cladding is laid horizontally and amendment to fenestration to rear elevation; ○ Reduce the size of the first floor rear balcony and extend the planter around its perimeter; ● Updated BASIX Certificate; and ● Written response to stormwater requirements. <p>The amendments carried out result in a reduced or lesser development and have been carried out in response to concerns raised by Council, and result in no additional or discernible impacts on adjoining properties, and hence, renotification of the amended plans was not required in accordance with Council’s Community Engagement Framework.</p> <p>The amended plans and supporting documentation form the basis of the assessment of this report.</p> |

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 (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Inner West Local Environmental Plan 2022*

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council’s records. The land will be suitable for the proposed use as there is no indication of contamination.

5(a)(ii) 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 has been referred to Ausgrid for comment for 21 days. No objections were raised to the proposal proceeding, with Ausgrid’s requirements being recommended to be imposed as an Advisory condition as part of any consent granted.

5(a)(iii) State Environmental Planning Policy (Sustainable Buildings) 2022

The amended plans were accompanied by a BASIX Certificate in compliance with the *EP&A Regulation 2021*.

5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition Requires Development Consent
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor Space Ratio
- Section 4.5 – Calculation of Floor Space Ratio and Site Area
- Section 4.6 – Exceptions to Development Standards
- Section 5.4 – Controls Relating to Miscellaneous Permissible Uses
- Section 5.10 – Heritage Conservation
- Section 6.1 – Acid Sulfate Soils

- Section 6.2 – Earthworks
- Section 6.3 – Stormwater Management

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 - General Residential under the *IWLEP 2022*. The *IWLEP 2022* defines the development as alterations and additions to a *dwelling house* which is permissible with consent in the zone.

The objectives of the R1 zone are as follows:

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

The development will continue to provide for a variety of housing types and for the housing needs of the community within a low-density residential environment. Further, the proposal will provide residential development that maintains the character of built and natural features in the surrounding area.

Given the above, the proposal, as conditioned, is considered to be consistent with the relevant zone objectives.

Section 4 – Principle Development Standards

| Standard | Proposal | Non compliance | Complies |
|---|--------------------|---------------------|----------|
| Landscape Area <i>Minimum permissible: 15% or 17.25 sqm</i> | 26.11% or 56.3sqm | N/A | Yes |
| Site Coverage Maximum permissible: 60% or 129.36 sqm | 57.61% or 124sqm | N/A | Yes |
| Floor Space Ratio Maximum permissible: 1:1 or 115sqm | 0.8:1 or 172.48sqm | 18.27% or 31.52 sqm | No |

Section 4.6 Exceptions to Development Standards

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

- Section 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio (FSR) development standard by 18.27%.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is reproduced as follows:

- Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal is consistent with the desired character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls.
- The proposal maintains the site's existing use a single attached dwelling, which is permissible in the R1 Zone and consistent with the surrounding context. Therefore, the density of development, built form and land use intensity will remain appropriate.
- The development density as a single residence is maintained and reflects the predominant character of development in the locality.
- The proposal maintains an appropriate transition in heights and scale along Ferris Street.
- The proposal is considered to have a minimal adverse impact on local amenity with careful incorporation the following designed elements:
 - The proposed upper-level extensions are located with increased southern side and rear setbacks;
 - The proposed first floor and attic additions will not result in adverse privacy concerns.
 - The proposed development would not result in adverse acoustic concerns;
 - The proposed development would not cast additional shadows to the neighbouring private open space or primary living areas. As the additional overshadowing will be cast on the roof plane of No.108 Ferris Street.
 - The proposal does not impact on the public domain, view, bulk and scale of the building. The streetscape and roofscape presentation are retained.
- The proposal does not seek to alter the landscaped area and remains compliant with the landscaped area development control under the *IWLEP 2022*.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential Zone, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposed development improves the amenity of the dwelling and results in an overall development which provides for the housing needs of the occupants.
- The proposed additions will contribute to providing a variety of housing density.
- The proposed works are sited in a manner that provides for a residential development that maintains the character of built and natural features in the surrounding area.

The objectives of the Floor Space ratio development standard are as follows:

- To establish a maximum floor space ratio to enable appropriate development density;
- To ensure development density reflects its locality;
- To provide an appropriate transition between development of different densities;

- To minimise adverse impacts on local amenity; and
- To increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

It is considered the development is in the public interest because it is consistent with the objectives of the FSR development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The development provides for an appropriate development density in light of the site constraints (i.e small lot area, narrow site, HCA) and is reflective of that in the locality.
- The numerical departure does not contribute to any undue adverse bulk and scale and amenity impacts to neighbouring properties, with particular regard for solar access, view sharing, visual and acoustic privacy.
- The development maintains a rear landscape corridor between adjoining properties.
- The development maintains connectivity of internal living areas of the dwelling and rear private open space by virtue of the ground floor.
- The proposal will not remove any existing canopy trees or significant vegetation to accommodate the additions.
- The proposed development promotes the desired character of the distinctive neighbourhood.
- The proposal, as reinforced by design change conditions (see below), results in appropriate and positive streetscape impacts.

The proposal thereby accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor space ratio, landscaped area and site coverage development standard and it is recommended the Section 4.6 exception be granted.

5.10 Heritage Conservation

The subject property at 110 Ferris Street, Annandale, is a contributory dwelling located within the Annandale Heritage Conservation Area (C31 in Schedule 5 of the *IWLEP 2022*). The site is not heritage listed, nor are there any items of environmental heritage in the vicinity that will be adversely impacted by the proposal.

The proposal has been considered against the streetscape and heritage controls of this part of the LEP and those contained in the Leichhardt Development Control Plan 2013 and following is noted:

- The proposed dormer to front elevation has been deleted. The doorway opening has been realigned with the window above and is a four-panel door which is a positive outcome.
- The height of the ridgeline and the window design does not comply with the C5 of Section 7 Appendix B of the LDCP 2013. It is recommended the following design change condition be included in the consent to ensure the skillion dormer is sympathetic to the character of the HCA and the main building form as it will be visible from the public domain:

2. Design Change

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

- a. *The windows in the west elevation of the skillion dormer (W2.02) must be redesigned so they are vertically proportioned, employing traditional sash design and materials (timber frame).*
- The west elevation and the long section demonstrate the roof form of the rear addition will sit below the eave and gutter of the main roof form, which is acceptable.
- The proposed addition will sit approximately 440mm further to the west than the approved for the first-floor addition at No. 114 Ferris Street. This is acceptable in this instance because it is considered a minor variation and is still consistent with the rear setbacks of other first floor additions in the vicinity, such as at No. 120 Ferris Street.
- The two skylights to the front roof form have been removed, which is a positive heritage outcome. The original layout within the main building form, including the original timber staircase, has not been retained. Though not a positive heritage outcome, the changes are acceptable in this instance as they are internal and will not impact on the significance of the Annandale HCA.
- Cladding now proposed to be laid horizontally. Colours and materials proposed in the DA Materials and Finishes Schedule are acceptable.

With consideration of the above, the proposal, as amended and conditioned, is acceptable from a heritage perspective as it will not detract from the heritage significance of the Annandale Heritage Conservation Area and will accord with Section 5.10 of the *IWLEP 2022* and the relevant objectives and controls in the LDCP 2013.

Section 6.2 Earthworks

Any proposed earthworks will be minor and are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.

Section 6.3 Stormwater Management

The development maximises the use of permeable surfaces, and subject to standard site drainage and stormwater control conditions, which are included in the recommendation of this report, would not result in any significant or undue adverse stormwater runoff or adverse water damage to adjoining properties or the environment.

5(b) Development Control Plans

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

| LDCP2013 | Compliance |
|--|-------------------|
| Part A: Introductions | |
| Section 3 – Notification of Applications | Yes |
| | |
| Part B: Connections | |
| B1.1 Connections – Objectives | Yes |

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| | |
| Part C | |
| C1.0 General Provisions | Yes |
| C1.1 Site and Context Analysis | Yes |
| C1.2 Demolition | Yes |
| C1.3 Alterations and additions | Yes, as conditioned – see discussion |
| C1.4 Heritage Conservation Areas and Heritage Items | Yes, as conditioned – see discussion under Part 5(a)(iii)- Section 5.10 – Heritage Conservation |
| C1.7 Site Facilities | Yes |
| C1.8 Contamination | Yes |
| C1.12 Landscaping | Yes |
| C1.14 Tree Management | Yes |
| C1.21 Green Roofs and Green Living Walls | No – see discussion |
| | |
| Part C: Place – Section 2 Urban Character | |
| C2.2.1.1 Young Street Distinctive Neighbourhood | Yes - see discussion |
| | |
| Part C: Place – Section 3 – Residential Provisions | |
| C3.1 Residential General Provisions | Yes , as conditioned |
| C3.2 Site Layout and Building Design | Yes and no– see discussion |
| C3.3 Elevation and Materials | Yes |
| C3.4 Dormer Windows | Yes – see discussion |
| C3.5 Front Gardens and Dwelling Entries | Yes |
| C3.7 Environmental Performance | Yes |
| C3.8 Private Open Space | Yes |
| C3.9 Solar Access | Yes – see discussion |
| C3.11 Visual Privacy | Yes – see discussion |
| | |
| Part D: Energy | |
| Section 1 – Energy Management | Yes |
| Section 2 – Resource Recovery and Waste Management | |
| D2.1 General Requirements | Yes |
| D2.2 Demolition and Construction of All Development | Yes |
| D2.3 Residential Development | Yes |
| | |
| Part E: Water | |
| 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, as conditioned |
| E1.1.4 Flood Risk Management Report | Yes |
| E1.2 Water Management | Yes |
| E1.2.1 Water Conservation | Yes |
| E1.2.2 Managing Stormwater within the Site | Yes, as conditioned |
| E1.2.3 On-Site Detention of Stormwater | Yes |
| E1.2.4 Stormwater Treatment | Yes, as conditioned |
| E1.2.5 Water Disposal | Yes |
| E1.2.7 Wastewater Management | Yes |
| E1.3.1 Flood Risk Management | Yes |

The following provides discussion of the relevant issues:

C1.3 Alterations and Additions, C1.4 Heritage Conservation and Heritage Items, C.2.2.2.6: Birchgrove Distinctive Neighbourhood, and Appendix B Building Typologies

The proposed alterations and additions to the existing dwelling meet the objectives and requirements of these parts of the DCP as it is considered the proposed development:

- Subject to a design change condition to ensure an appropriate window design to the dormer at the rear, the proposal is of an appropriate form, size, scale, design, materials and finishes and design and appearance that will complement the existing residence and will not detract from the streetscape or Heritage Conservation Area and will meet desired future character and Building Typology Statement controls.
- Is compatible with neighbourhood character, including prevailing site layout.
- Protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to surrounding dwellings.

C1.21 Green Roofs and Green Living Walls

The proposed green roof for the first-floor rooftop falls short of meeting the prescribed objectives and controls outlined in this section. This deficiency arises from the inadequacy of information and documentation provided to substantiate the viability and compliance of the green roof, including lack of a green roof maintenance plan. Additionally, concerns arise regarding the potential conversion of the green roof space into a balcony, creating a non-compliance issue with the C3.11 Visual Privacy as well as the unnecessary additional bulk created by the pergola over and privacy screening adjacent to the planter bed. Therefore, it is recommended that the following design change conditions be imposed as part of any consent granted:

“2. Design Change

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

- ...b. The planter box and associated pergola proposed to the first-floor rooftop are to be deleted and the planter bed replaced with roof i.e. a continuation of the existing skillion roof over the ground floor living room.*
- c. The privacy screening to the northern and southern ends of the planter box that is required to be deleted in accordance with Condition 2(b) above is to be relocated to the northern and southern ends of the first floor rear balcony. This privacy screening shall be fixed in place, be of timber or metal finishes, have a height of 1.6m above floor level of the balcony and have a minimum obscenity of 75%.”*

C3.2 Site Layout and Building Design

This part of the DCP contains Building Location Zone (BLZ) and Side Setback controls which aim to control, inter-alia, bulk and scale and overshadowing impacts, as well as ensure that the pattern of development in the street is not adversely affected. The proposal complies with both the rear BLZ and side setback controls summarised in the following:

Building Envelope

The proposed additions are appropriately sited at the rear and will not breach the building envelope of the existing dwelling.

Building Location Zone

The proposed seeks to establish a new first-floor and attic level building location zone to the rear of the existing dwelling.

In accordance with Control C6 of this part of the DCP, where a proposal seeks a variation to the BLZ control, or the establishment of a new BLZ, such as in this instance, various tests need to be met. The proposed first-floor and attic level BLZ are considered to meet these tests as discussed in further detail below:

- Amenity impacts are acceptable (solar access; privacy; and views)

Comment: The development is satisfactory with respect to solar access and privacy controls and will not result in any obstruction of significant view corridors.

- The proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development

Comment: As discussed previously the development will result in acceptable streetscape impacts and will appropriately respond to desired future character controls and scale of surrounding properties.

- The proposal is compatible in terms of size, dimensions privacy and solar access of private open space (POS), outdoor recreation and landscaping

Comment: Acceptable. The development complies with applicable POS controls and this POS is compatible in terms of size and dimension with adjoining properties and is of an adequate size to provide appropriate outdoor amenity to the subject site in terms of solar access, privacy and landscaping.

- Retention of existing significant vegetation and opportunities for new significant vegetation is maximised

Comment: Acceptable. The proposal complies with Landscaped Area controls and does not impact existing vegetation.

- The height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties

Comment: As previously noted, the proposal is recommended to be conditioned to delete the rear planter bed and associated pergola and screening to reduce unnecessary additional bulk at the rear created by these elements. Subject to these design change conditions, the dwelling additions are considered to be acceptable with respect to height, bulk and scale impacts and the visual impacts when viewed from adjoining properties and meets the requirements of this test for the following reasons:

- The dwelling house additions at first floor are contained within a low pitched skillion roof form sloping / stepping down to the rear following the slope of the land which falls from front to rear, at heights that are not out of character with existing and adjoining buildings;

- The dwelling additions have been designed to respond to the topography of the land;
- The dwelling additions will be located immediately adjacent to adjoining built forms; and
- The addition will maintain a setback from the southern boundary consistent with the existing house.

In light of the above, subject to conditions, the proposed BLZ at first and attic levels are deemed to be acceptable.

Accordingly, the proposal complies with the BLZ controls and objectives.

Side Setbacks

The following is a compliance table assesses the proposal against the Side Boundary Setbacks Graph prescribed in Part C3.2 of the LDCP 2013:

| Elevation | Wall height (m) | Required setback (m) | Proposed setback (m) | Complies |
|---------------|-----------------|----------------------|----------------------|----------|
| North (FF) | 6.2 – 6.3 | 1.96 – 2.02 | 0.9-1.8 | No |
| South (FF) | 6.5 | 2.13 | 0 | No |
| North (Attic) | 8.5 - 8.6 | 3.29 – 3.35 | 0.6 | No |
| South (Attic) | 8.5 - 8.6 | 3.29 – 3.35 | 1.65 | No |

As noted in the table above, the proposed rear first-floor and attic level additions will not comply with the Side Boundary Setback Graph to the northern and southern boundaries as prescribed in this Part:

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation to the Side Boundary Setbacks Graph, various tests need to be met. These tests are assessed below:

- The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of the Leichhardt DCP 2013 and complies with streetscape and desired future character controls.

Comment: As discussed previously, the proposal, as conditioned, will be compatible with the existing and adjoining dwellings and the streetscape and comply with the Building typology Statements and desired future character controls of the LDCP 2013

- The pattern of development is not adversely compromised.

Comment: The proposed rear addition works are sited at the rear where additions are generally permitted to be carried out in accordance with relevant streetscape and heritage controls, and will have wall heights and setbacks that will be compatible with the existing dwelling and nearby two storey development. This test is therefore deemed to be met.

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

Comment: For reasons discussed in the BLZ assessment above, the proposal, as conditioned, is considered to be of an acceptable and reasonable bulk and scale

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

Comment: The proposal will not result in any significant or undue adverse solar access, privacy or view loss impacts to the adjoining neighbouring properties. As such, the proposal will meet this test.

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

Comment: The proposed development will not result in any obstruction of any lightweight walls at adjoining properties, and hence, will not result in any maintenance issues for any neighbours.

In light of the above, subject to conditions, the proposed side wall heights and setbacks at first and attic levels are deemed to be acceptable.

In light of the above, and in consideration of the development's impact upon the streetscape and amenity impacts for adjoining properties, the proposal, subject to conditions is considered to be satisfactory with respect to the provisions and objectives of Part C3.2 of the LDCP 2013.

C3.4 Dormer Windows

The amended skillion dormer window is not considered to be sympathetic to the character of the Heritage Conservation Area, and the main building form, and this has been discussed previously section 5(a)(iv). Therefore, a design change condition is included in the recommendation to ensure the proposed skillion dormer at the rear roof plane would align with DCP controls ensuring consistency in the HCA.

C3.9 Solar Access

The following Solar Access controls of Part C3.9 of the LDCP 2013 apply with regard to neighbouring properties:

Living Room Glazing

- *C12 - Where the surrounding allotments are orientated east/west, main living room glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice.*
- *C15 - Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Private Open Space

- *C18 - Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*
- *C19 - Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Solar access diagrams in plan have been provided for mid-winter at hourly intervals between 9am and 3pm. The proposed extension to the rear is limited to the first floor and the rear skillion dormer only, thus the new shadows cast are minimal, as the majority of the shadow are cast on the roof plane of No.108 Ferris Street, and generally reflect that of the existing development.

Additional shadows are cast from the ground floor pergola, first-floor addition and skillion dormer, however, maintains solar access between 9am and 12pm to the private open space of No. 108 Ferris Street before both properties are self-shadowed by existing development.

Between 9am-10am, additional shadows are cast as result of the minor expansion of the ground floor open pergola and the first- floor rear extension to the southern adjoining properties rear (north facing) POS located at No. 108 and 106 Ferris Street, however this impact is negligible, reflective of the minor extension and will not result in non-compliance where a minimum of two and a half hours of unobstructed solar access will be retained.

Accordingly, the proposal is acceptable with respect to the objectives and requirements of this Part.

C3.11 Visual Privacy

The following Visual Privacy controls of Part C3.11 of the LDCP 2013 apply with regard to neighbouring properties:

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

The proposal, as amended, satisfies the provisions and objectives of this part of the DCP and has been designed to mitigate any undue adverse view lines for the following reasons:

The new window opening to the western elevation at first floor level as identified as W1.05 is associated with a bedroom and it is not within the sight lines of 9m and 45 degrees between the living room or private open space of neighbouring properties.

The proposed first floor balcony has been reduced under the amended scheme, and it is considered to be consistent with the controls under this section. The proposed development would not result in adverse privacy impact to the neighbouring properties.

Furthermore, external louvre/blinds (adjustable) are proposed to the skillion dormer window to the attic level to mitigate visual privacy to neighbouring properties.

Accordingly, the proposal is acceptable with respect to the objectives and requirements of this Part.

5(c) 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(d) 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(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

No submissions were received in response to the initial notification.

5(f) The Public Interest

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

The proposal is 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.

- Development Engineering
- Heritage

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Ausgrid

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 \$7,197.00 would be required for the development under the Inner West Local Infrastructure Contribution Plan 2023. 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 *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to Section (insert relevant section) of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Floor Space Ratio standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0819 for ground, first and second floor alterations and additions to existing semi-detached dwelling at 110 Ferris Street, ANNANDALE 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 Document, Revision and Issue No. | Plan / Document Name | Date Issued | Prepared by |
|---------------------------------------|---|-------------|-------------|
| A000 Rev.P9 | Cover Sheet | 11.01.2024 | GWA |
| A200 Rev.P9 | Site Analysis | 11.01.2024 | GWA |
| A300 Rev.P9 | Site Plan, Landscape Plan & Management Plan | 11.01.2024 | GWA |
| A050 Rev.P9 | Ex Ground Floor Plan | 11.01.2024 | GWA |
| A051 Rev.P9 | Ex First Floor Plan | 11.01.2024 | GWA |
| A052 Rev.P9 | Ex Attic Floor Plan | 11.01.2024 | GWA |
| A053 Rev.P9 | Ex Roof Plan | 11.01.2024 | GWA |
| A054 Rev.P9 | Ex Elevation - East and West | 11.01.2024 | GWA |
| A055 Rev.P9 | Ex Elevation - North | 11.01.2024 | GWA |
| A056 Rev.P9 | Ex Elevation - South | 11.01.2024 | GWA |
| A057 Rev.P9 | Ex Section | 11.01.2024 | GWA |
| A100 Rev.P9 | Ground Floor Plan | 11.01.2024 | GWA |
| A101 Rev.P9 | First Floor Plan | 11.01.2024 | GWA |
| A102 Rev.P9 | Attic Floor Plan | 11.01.2024 | GWA |
| A103 Rev.P9 | Roof Plan | 11.01.2024 | GWA |
| A200 Rev.P9 | Elevations - East and West | 11.01.2024 | GWA |
| A201 Rev.P9 | Elevation - North | 11.01.2024 | GWA |
| A202 Rev.P9 | Elevation - South | 11.01.2024 | GWA |
| A300 Rev.P9 | Section - Long | 11.01.2024 | GWA |
| DA001 Rev.P9 | DA Materials and Finishes Schedule | 11.01.2024 | GWA |

| | | | |
|-------------------|----------------------------|------------|--|
| BASIX Certificate | BASIX Certificate A1732295 | 12.01.2024 | The trustee for Georgina Wilson Architect Unit Trust |
|-------------------|----------------------------|------------|--|

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

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

- a. The windows in the west elevation of the skillion dormer (W2.02) must be redesigned so they are vertically proportioned, employing traditional sash design and materials (timber frame).
- b. The planter box and associated pergola proposed to the first-floor rooftop are to be deleted and the planter bed replaced with roof i.e. a continuation of the existing skillion roof over the ground floor living room.
- c. The privacy screening to the northern and southern ends of the planter box that is required to be deleted in accordance with Condition 2(b) above is to be relocated to the northern and southern ends of the first-floor rear balcony. This privacy screening shall be fixed in place, be of timber or metal finishes, have a height of 1.6m above floor level of the balcony and have a minimum obscenity of 75%.

FEES

3. Security Deposit - Custom

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

| | |
|-------------------|------------|
| Security Deposit: | \$5,992.00 |
| Inspection Fee: | \$374.50 |

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.

4. 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.

5. Section 7.12 Development Contribution Payments

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$7,197.00** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

- C_{payment} = is the contribution at time of payment
- C_{consent} = is the contribution at the time of consent, as shown above

- CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 134 for the 25th October 2023.
- CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

GENERAL CONDITIONS

6. 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.

7. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

8. 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.

9. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION**10. 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.

11. 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.

12. Construction Fencing

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

13. 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 dwellings at Nos. 108 and 112 Ferris Street, Annandale, 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.

PRIOR TO CONSTRUCTION CERTIFICATE

14. Dilapidation Report – Pre-Development – Minor

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

15. 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:

1) The Stormwater Drainage Concept plan on Drawing No. 2122-139 version (1) prepared by H & M Consultancy and dated 6 October 2023 is not supported. ***The pump-out stormwater drainage systems is not permitted***, the plans must be amended to comply with the following:

- a. Stormwater runoff from all roof 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 the kerb and gutter of a public road. Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the street may be drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design

- of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer;
- 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 other than to drain downpipes to the rainwater tank(s);
 - 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. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
 - h. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
 - i. 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;
 - j. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
 - k. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
 - l. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
 - m. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
 - n. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated; and
 - o. No impact to street tree(s).

16. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

17. 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

18. Party Walls

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

DURING DEMOLITION AND CONSTRUCTION**19. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

20. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**21. 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.

22. Protect Sandstone Kerb

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

ON-GOING**23. Bin Storage**

All bins are to be stored within the site.

ADVISORY NOTES**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.

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.

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.

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 www.basix.nsw.gov.au |
| Department of Fair Trading | 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance. |
| Dial Prior to You Dig | 1100 www.dialprior toyoudig.com.au |
| Landcom | 9841 8660 To purchase copies of Volume One of "Soils and Construction" |
| Long Service Corporation | Payments 131441 www.lspc.nsw.gov.au |
| NSW Food Authority | 1300 552 406 www.foodnotify.nsw.gov.au |
| NSW Government | www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices. |
| NSW Office of Environment and Heritage | 131 555 www.environment.nsw.gov.au |
| Sydney Water | 13 20 92 www.sydneywater.com.au |

Waste Service - SITA 1300 651 116
Environmental Solutions www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Ausgrid Underground Cables are in the vicinity of the development

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

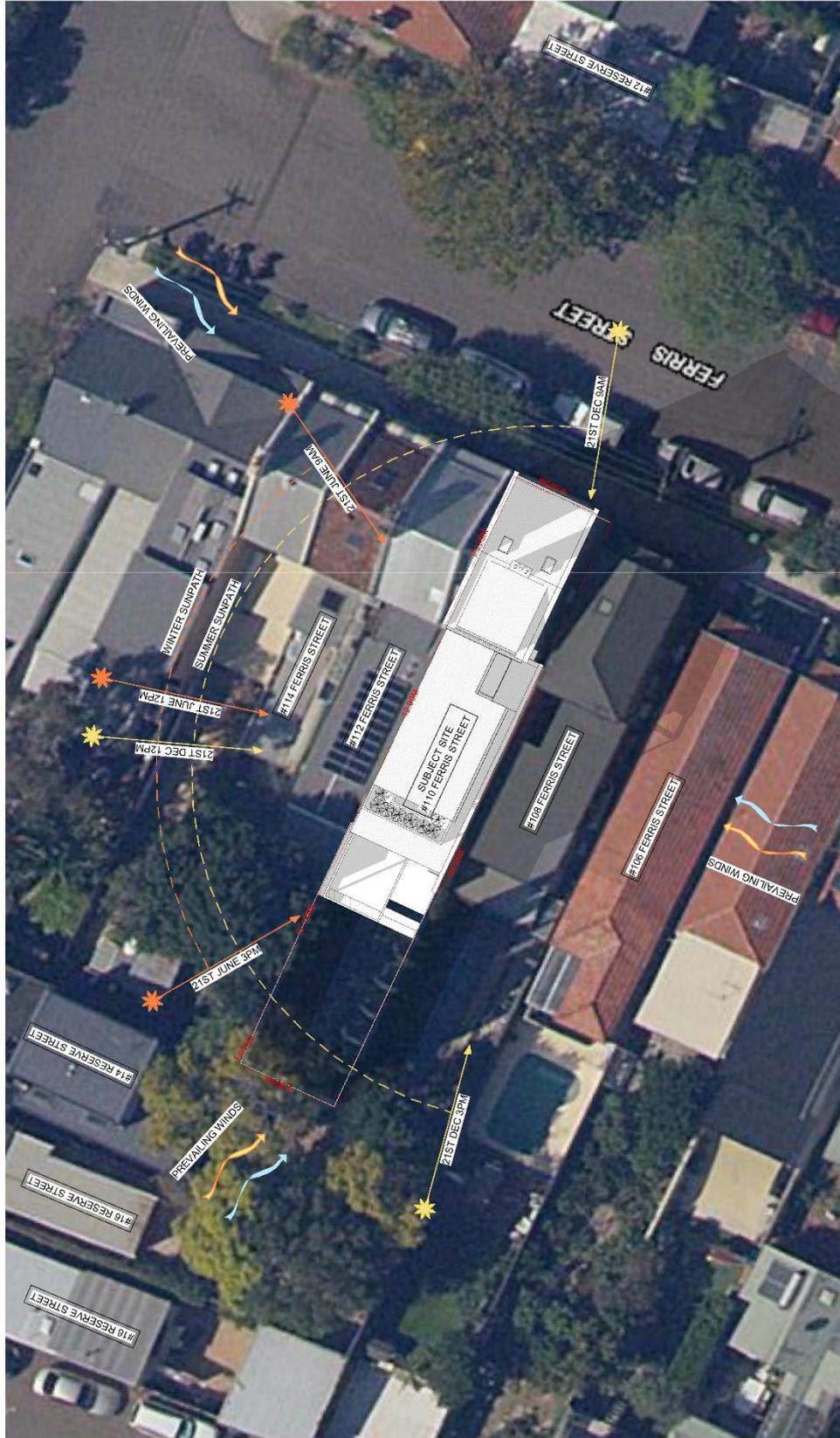
Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries.

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>



1 SITE ANALYSIS - PROPOSED
SCALE 1:200

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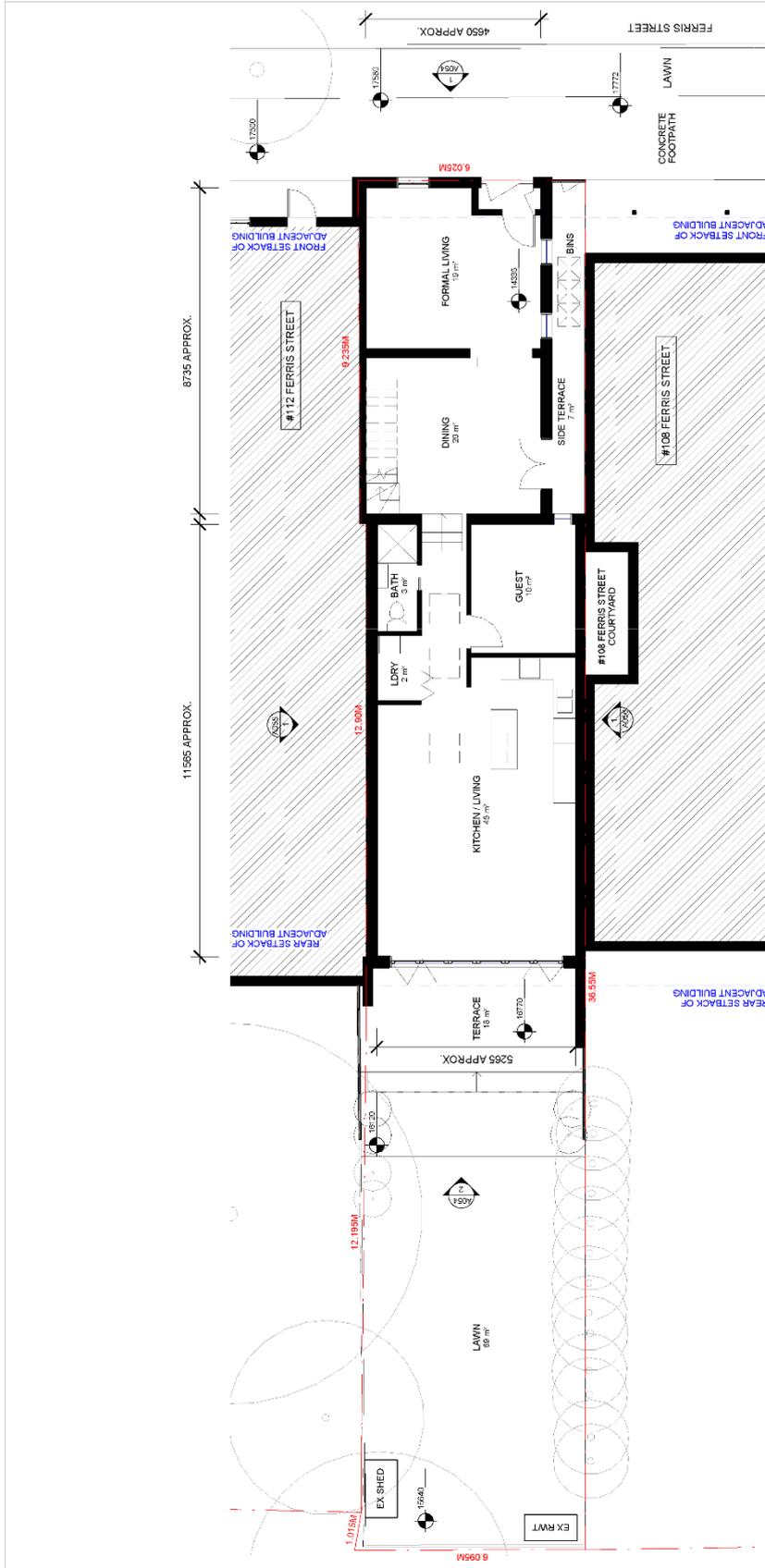
WEEDEN CONSULTANTS ON THE BEHALF OF THE ARCHITECTURE OF WORK, CHIEF OF
ENGINEERING, CIVIL ENGINEERING, ELECTRICAL ENGINEERING, MECHANICAL ENGINEERING,
COMMUNITY PLANNING, ENVIRONMENTAL PLANNING, SURVEYING, AND
LANDSCAPE ARCHITECTURE. CONSULTANTS: GWA WILLSON ASSOCIATES
STANDARDS FOR PRACTICE AND CONDUCT WITH PRACTICE ACT 2013 (NSW)
FROM 2019/01/01 TO 2024/03/25 (NSW) (NSW) (NSW) (NSW)

REV NO. 01
REV DATE 25/03/2024
REV BY DA-SMART/POW/CONSULTANTS
REV BY DA-SMART/POW/CONSULTANTS
REV BY DA-SMART/POW/CONSULTANTS

PROJECT: HARRICKS RESIDENCE
PROJECT NO: 1903
CLIENT: HUGH AND NICOLA HARRICKS
ADDRESS: 110 FERRISS STREET, ANNANDALE NSW 2038

DRAWING TITLE: SITE ANALYSIS
DRAWN BY: PS JY KL
CHECKED BY: GW
SCALE: 1:200
DRAWING NO: A020
REVISION: P9





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| BY | DA SMARTFOR CONSULTANTS | CHECKED | GW |
| BY | DA SMARTFOR CONSULTANTS | SCALE | 1:100 |
| BY | DA SMARTFOR CONSULTANTS | REVISION | P9 |
| BY | DA SMARTFOR CONSULTANTS | DRAWING NO | A050 |

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| PROJECTING | HUGH AND NICOLA HARRICKS |
| CLIENT | HUGH AND NICOLA HARRICKS |
| ADDRESS | 110 FERRISS STREET, ANNANDALE NSW 2038 |

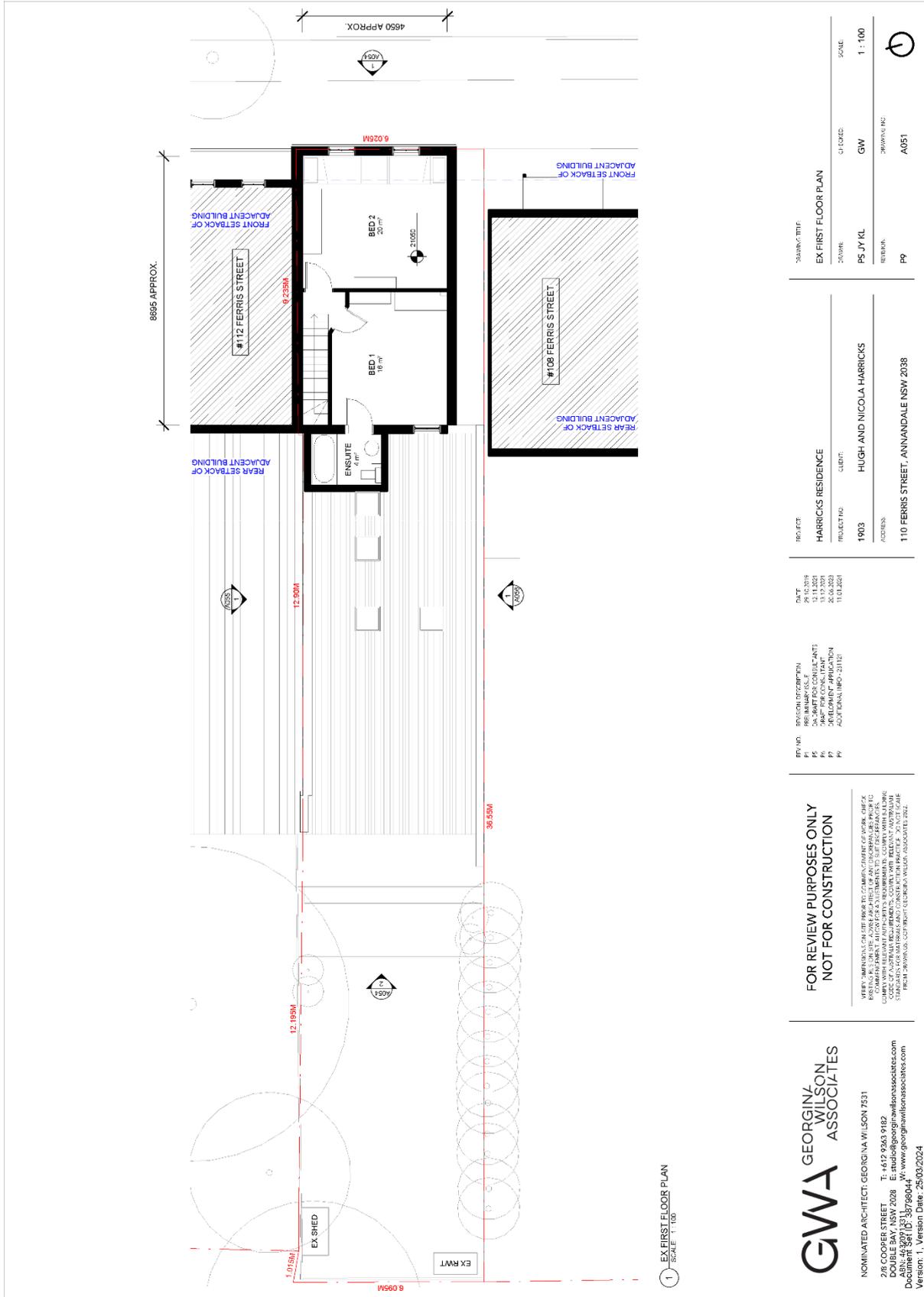
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| DATE | 26.10.2019 |
| DATE | 11.11.2020 |
| DATE | 24.03.2023 |
| DATE | 11.01.2024 |

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1 EX FIRST FLOOR PLAN
SCALE: 1:100

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| DATE | 26.10.2019 | ISSUED FOR | EX FIRST FLOOR PLAN |
| DATE | 11.11.2020 | ISSUED FOR | GW |
| DATE | 24.03.2023 | ISSUED FOR | SCALE 1:100 |
| DATE | 11.01.2024 | ISSUED FOR | A051 |

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| PROJECT NO. | 1903 | ADDRESS | 110 FERRISS STREET, ANNANDALE NSW 2038 |

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| NO. | DESCRIPTION | DATE |
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| P2 | PERMITS APPLICATION | 11.11.2020 |
| P3 | DEVELOPMENT APPLICATION | 24.03.2023 |
| P4 | ADDITIONAL INFO 231121 | 11.01.2024 |

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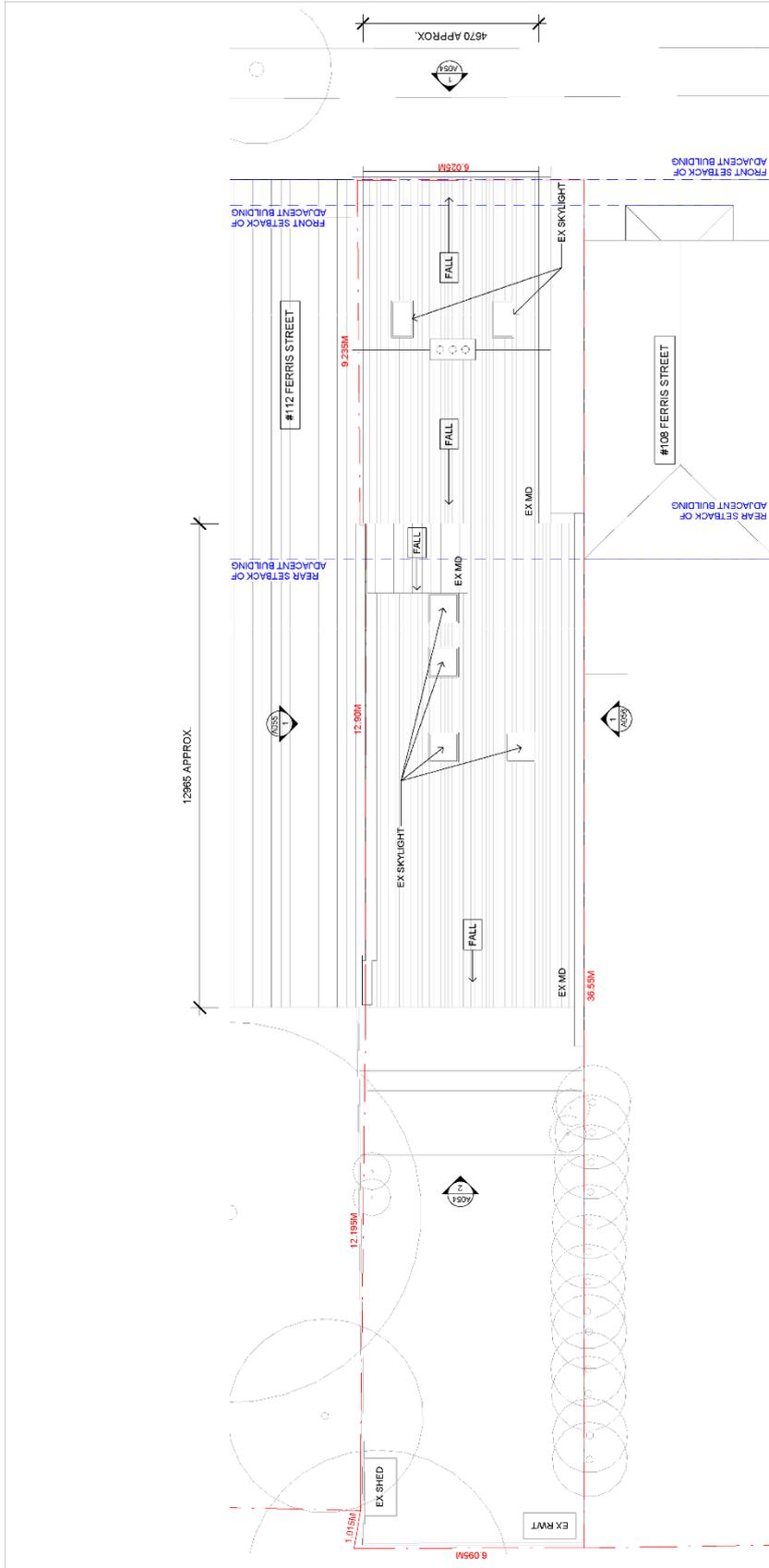
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1 EX ROOF PLAN
SCALE: 1:100

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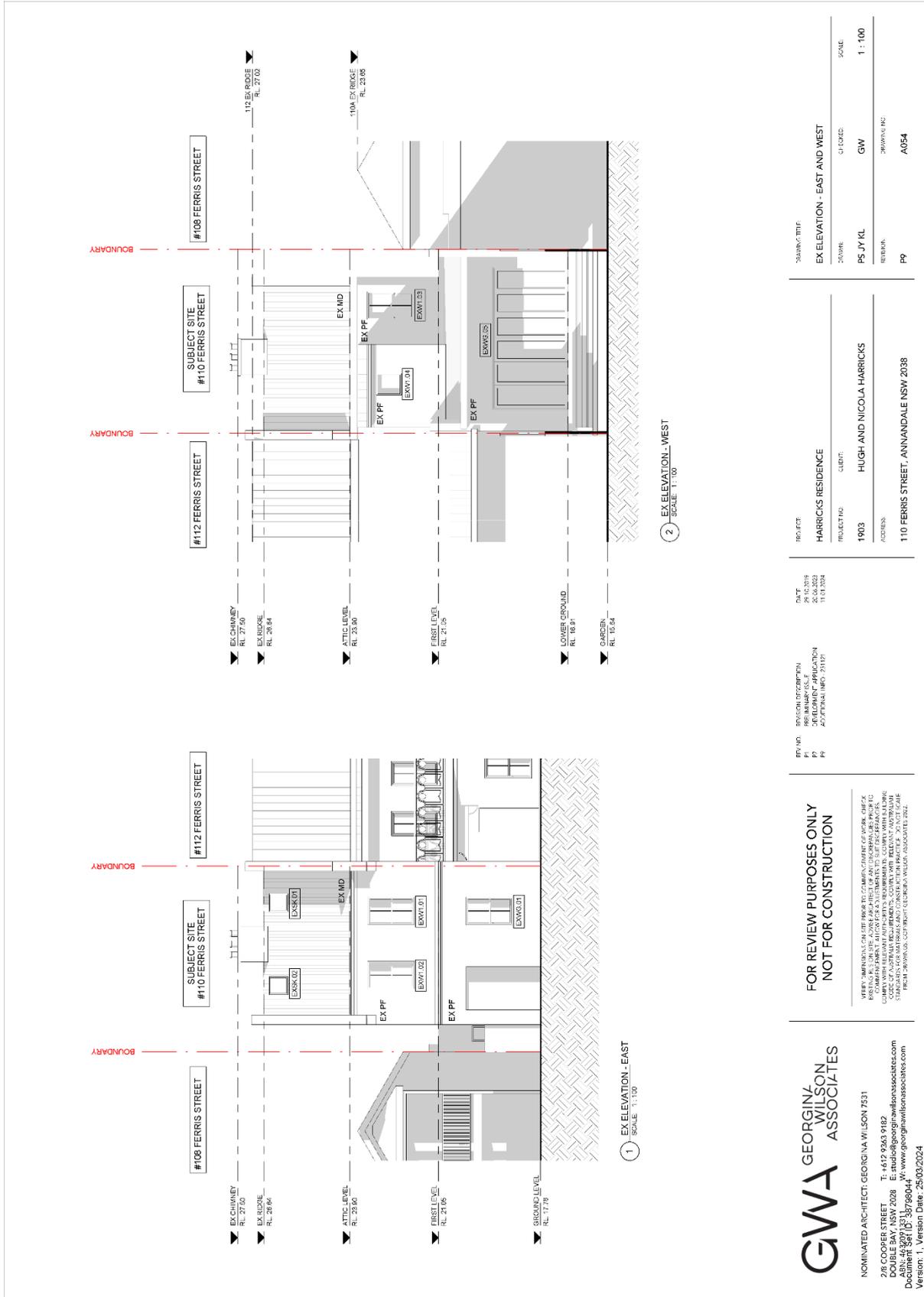
NOMINATED ARCHITECT, GEORGINA WILSON 7331
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 Document: 387 (D) 38790044 W: www.georginawilsonassociates.com
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| PROJECT: | HARRICKS RESIDENCE |
| PROJECTING: | 1903 |
| CLIENT: | HUGH AND NICOLA HARRICKS |
| ADDRESS: | 110 FERRISS STREET, ANNANDALE NSW 2038 |

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|-------|------------|
| DATE: | 25.03.2024 |
| DATE: | 11.11.2023 |
| DATE: | 25.03.2023 |
| DATE: | 11.01.2024 |

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| DESCRIPTION: | EXISTING ROOF PLAN |
| PREPARED BY: | DA SMART FOR CONSULTANTS |
| CHECKED BY: | DA SMART FOR CONSULTANTS |
| DATE: | 25/03/2024 |
| ADDITIONAL INFO: | 23/1/24 |

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| PROJECT TITLE: | EX ROOF PLAN |
| DRAWN BY: | PS JY KL |
| CHECKED BY: | GW |
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| REVISION: | P9 |
| DRAWING NO: | A053 |



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| DATE | 26.02.2019 |
| DESCRIPTION | REVISIONS |
| BY | DATE |
| PP | 26.02.2019 |
| PP | 11.03.2024 |
| PP | |

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| PROJECT NO. | 1903 |
| CLIENT | HUGH AND NICOLA HARRICKS |
| ADDRESS | 110 FERRISS STREET, ANNANDALE NSW 2038 |

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| DRAWING TITLE | EX ELEVATION - EAST AND WEST |
| DESIGNER | PS JY KL |
| CHECKED | GW |
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| REVISION | P9 |

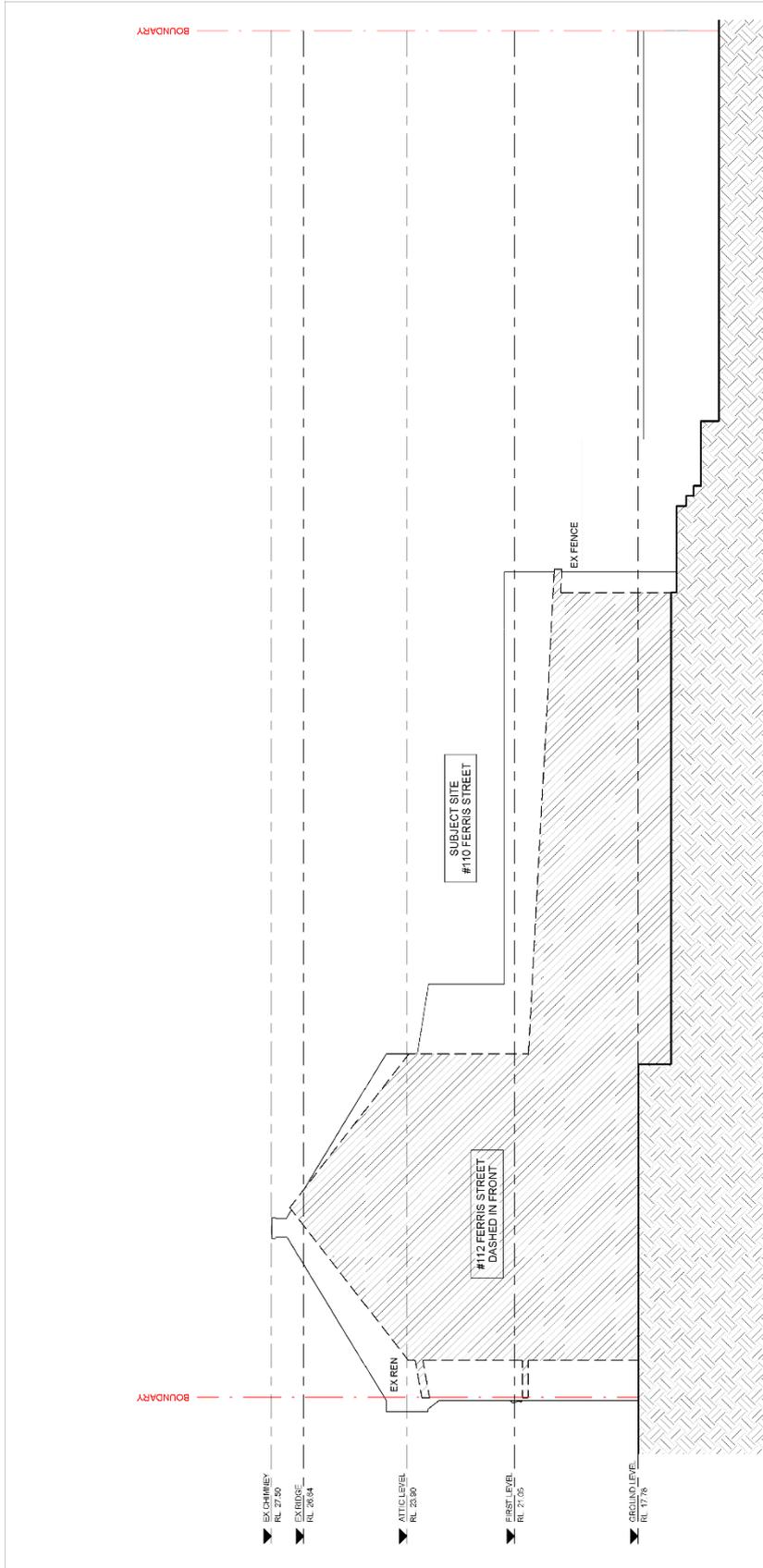
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1 EX ELEVATION - NORTH
SCALE: 1:100

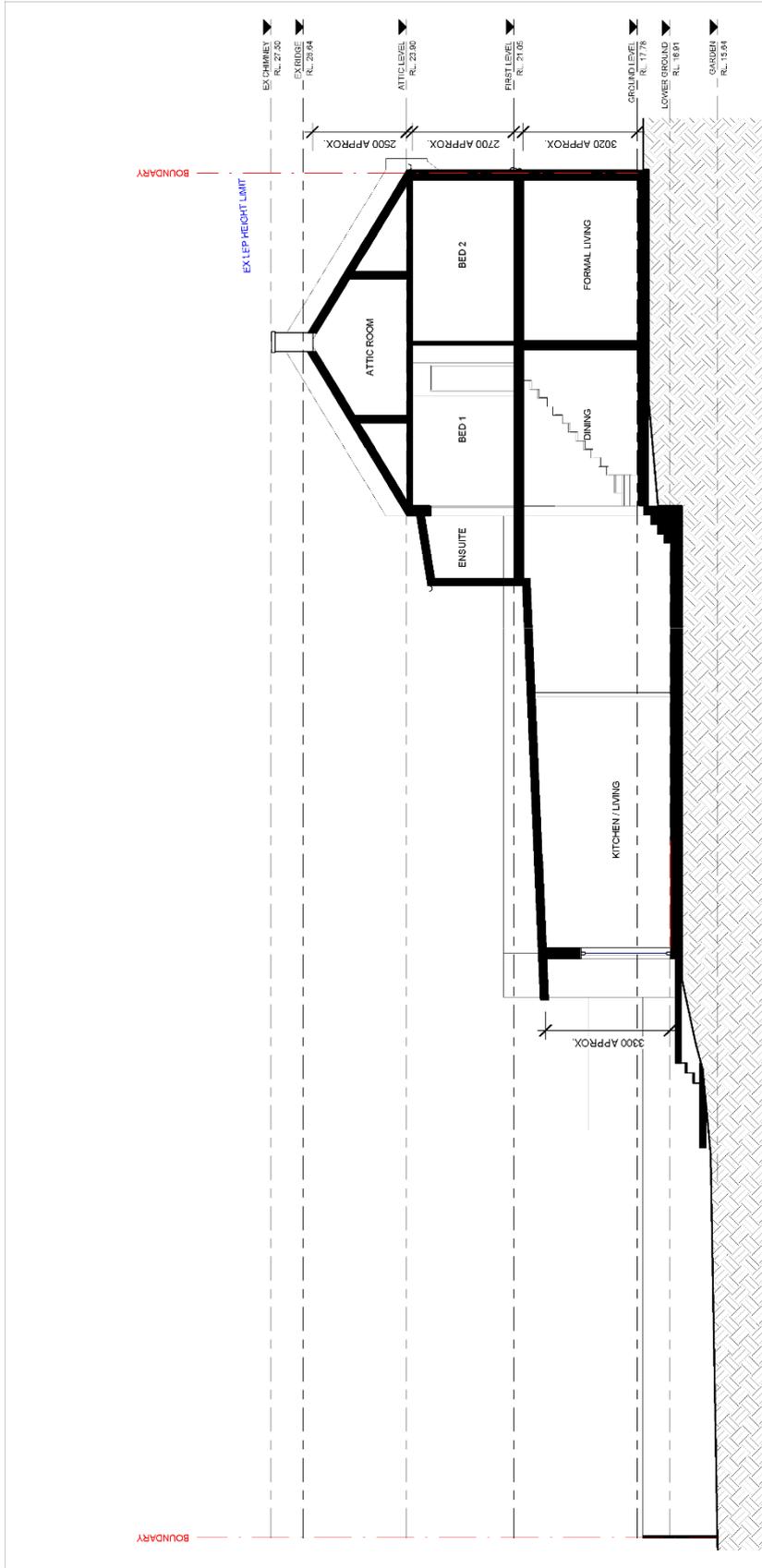
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| PROJECT | HARRICKS RESIDENCE | CLIENT | HUGH AND NICOLA HARRICKS |
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| EX ELEVATION - NORTH | | EX ELEVATION - NORTH | |

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1 EX SECTION
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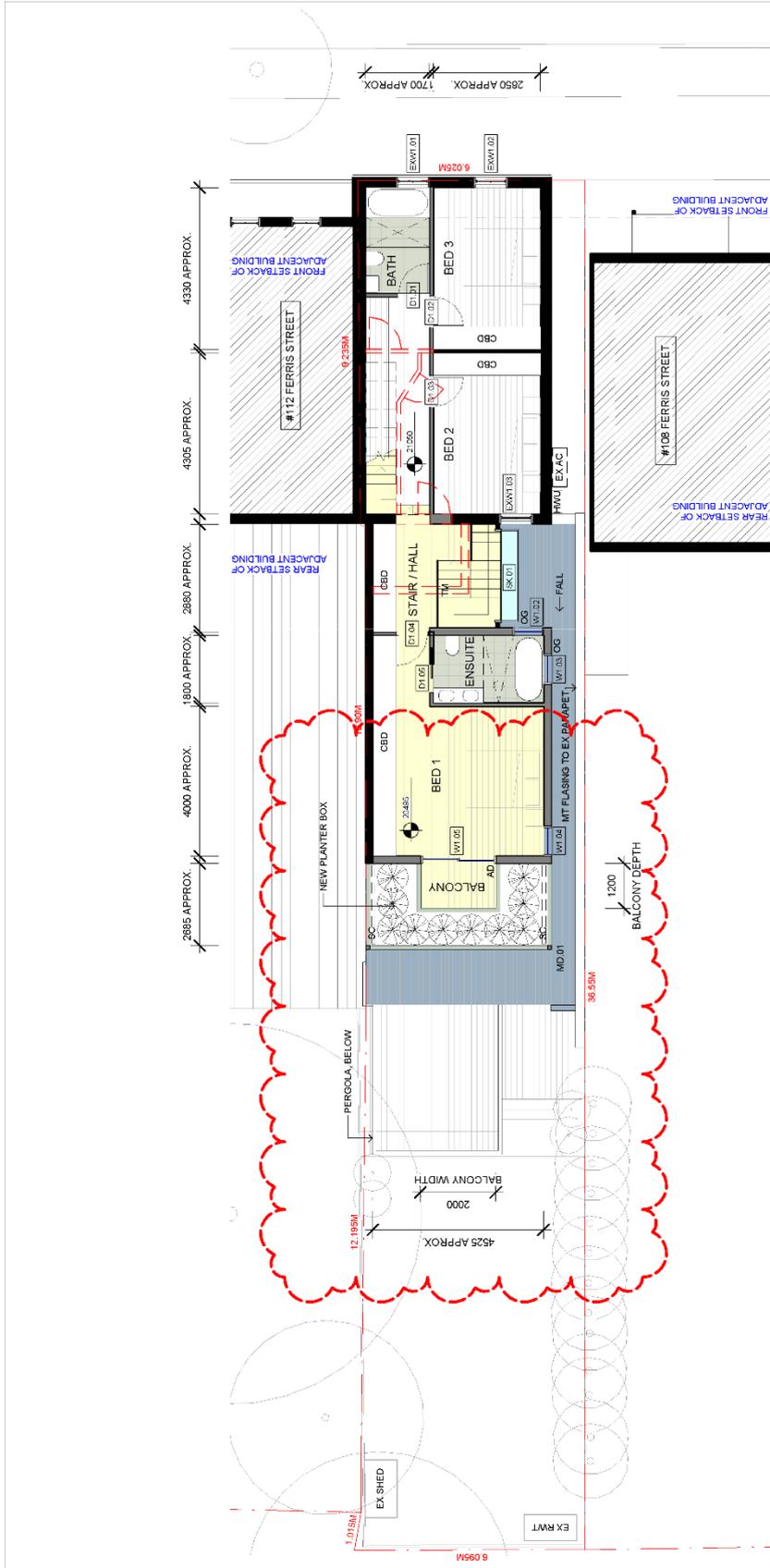
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| DESIGNER | GEORGINA WILSON ARCHITECTS | CLIENT | HUGH AND NICOLA HARRICKS |
| DESIGNER | REB HARRICKS | DRAWN | PS JY KL |
| DESIGNER | ADDITIONAL INFO: 251197 | CHECKED | GW |
| SCALE | | SCALE | 1:100 |
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1 FIRST FLOOR PLAN
SCALE: 1:100

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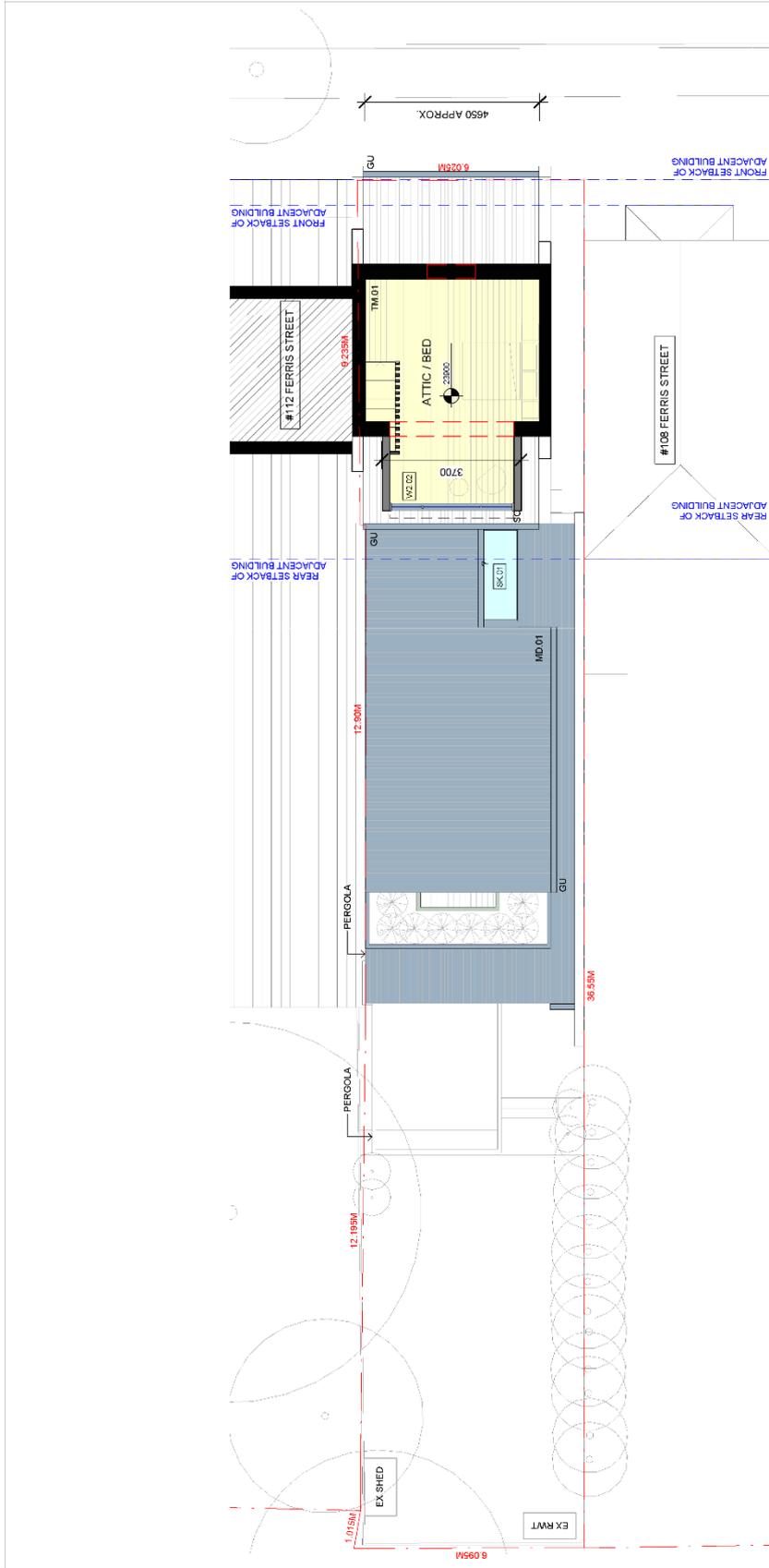
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1 ATTIC FLOOR PLAN
SCALE: 1:100

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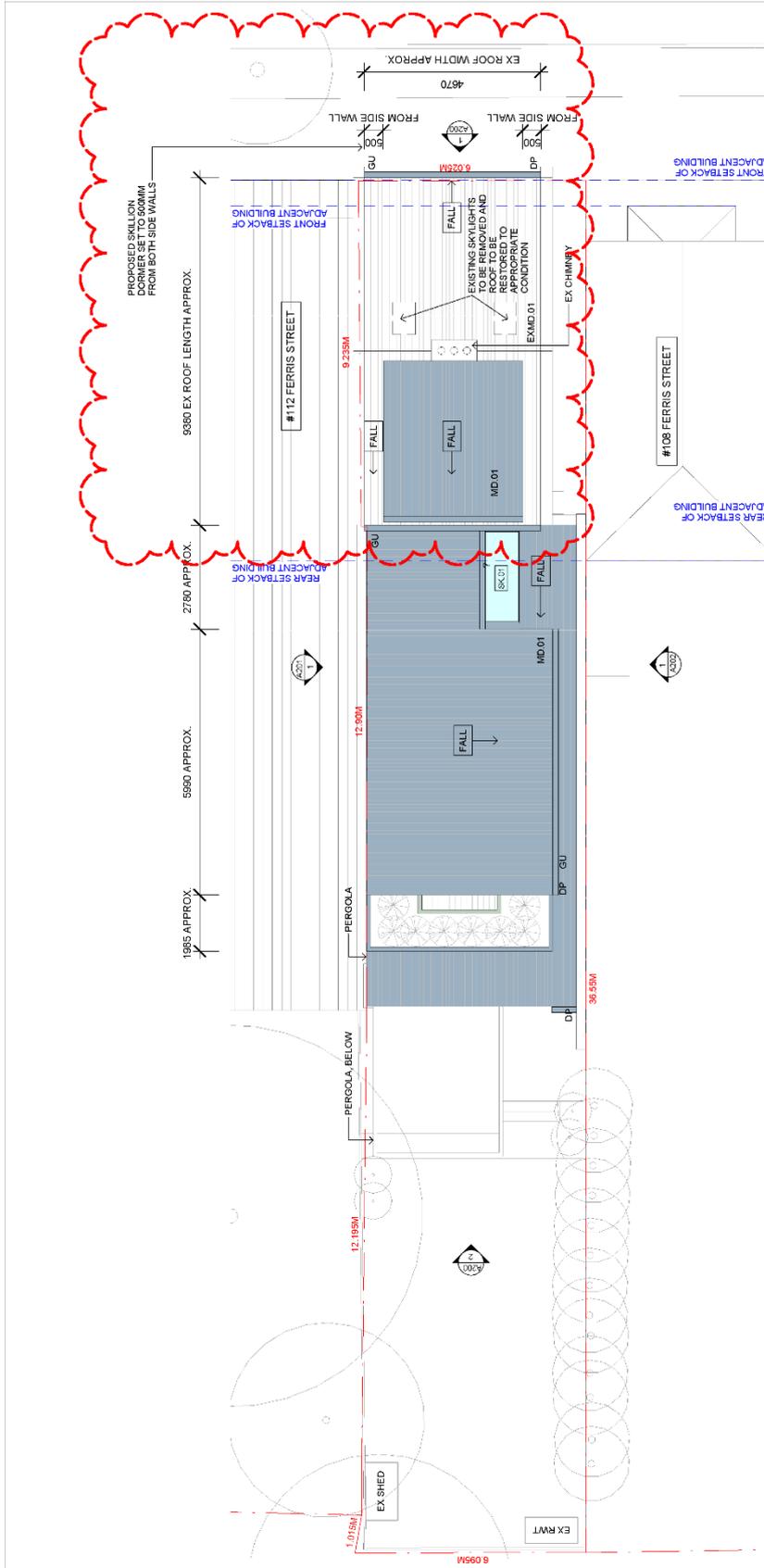
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PROJECT: HARRICKS RESIDENCE
 PROJECTING: HUGH AND NICOLA HARRICKS
 CLIENT: HUGH AND NICOLA HARRICKS
 ADDRESS: 110 FERRISS STREET, ANNANDALE NSW 2038

DATE: 10.11.2023
 13.12.2023
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DRAWING TITLE: ATTIC FLOOR PLAN
 DRAWN: PS JY KL
 CHECKED: GW
 SCALE: 1:100
 DRAWING NO: A102
 REVISION: P9



1 ROOF PLAN
SCALE: 1:100

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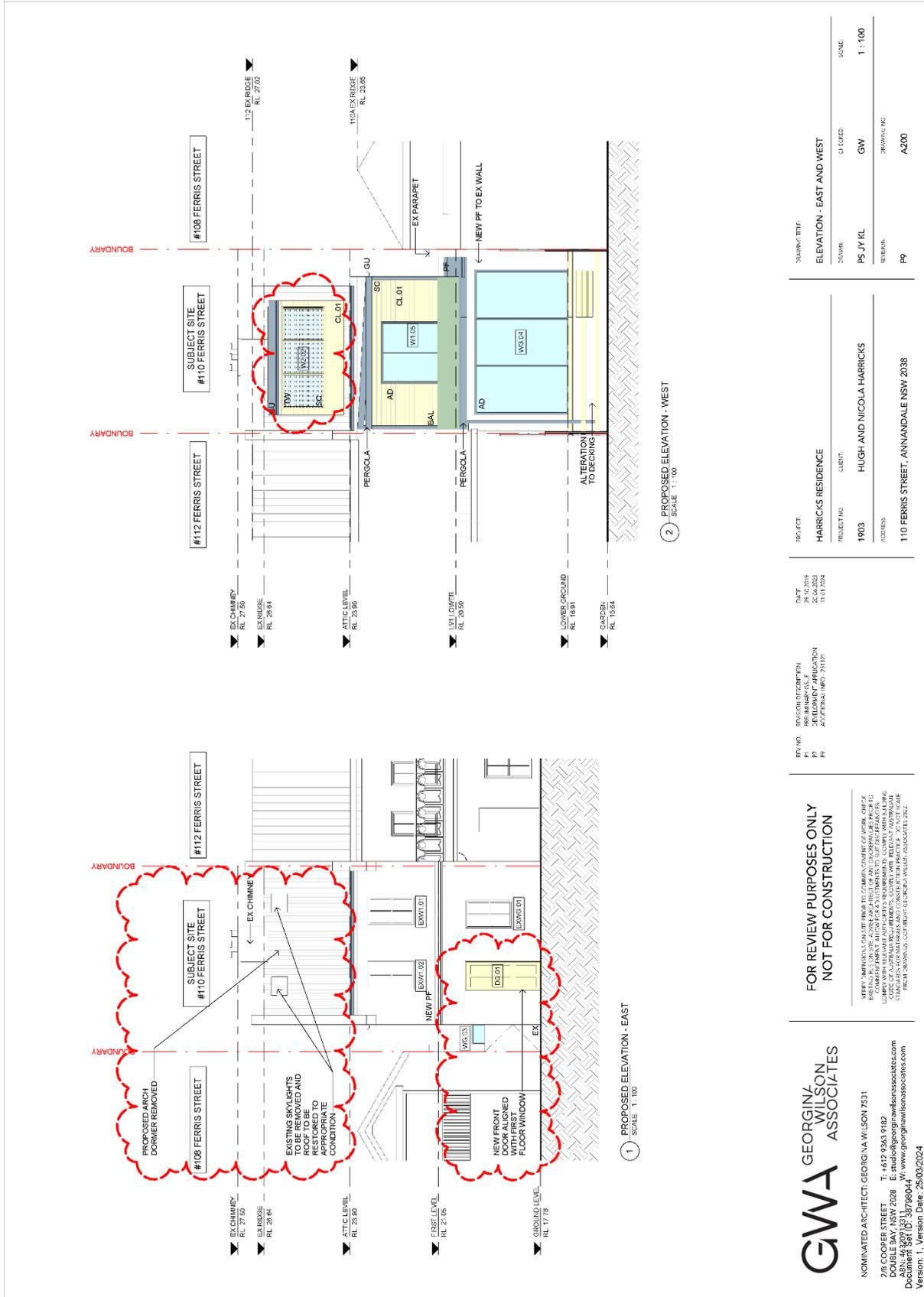
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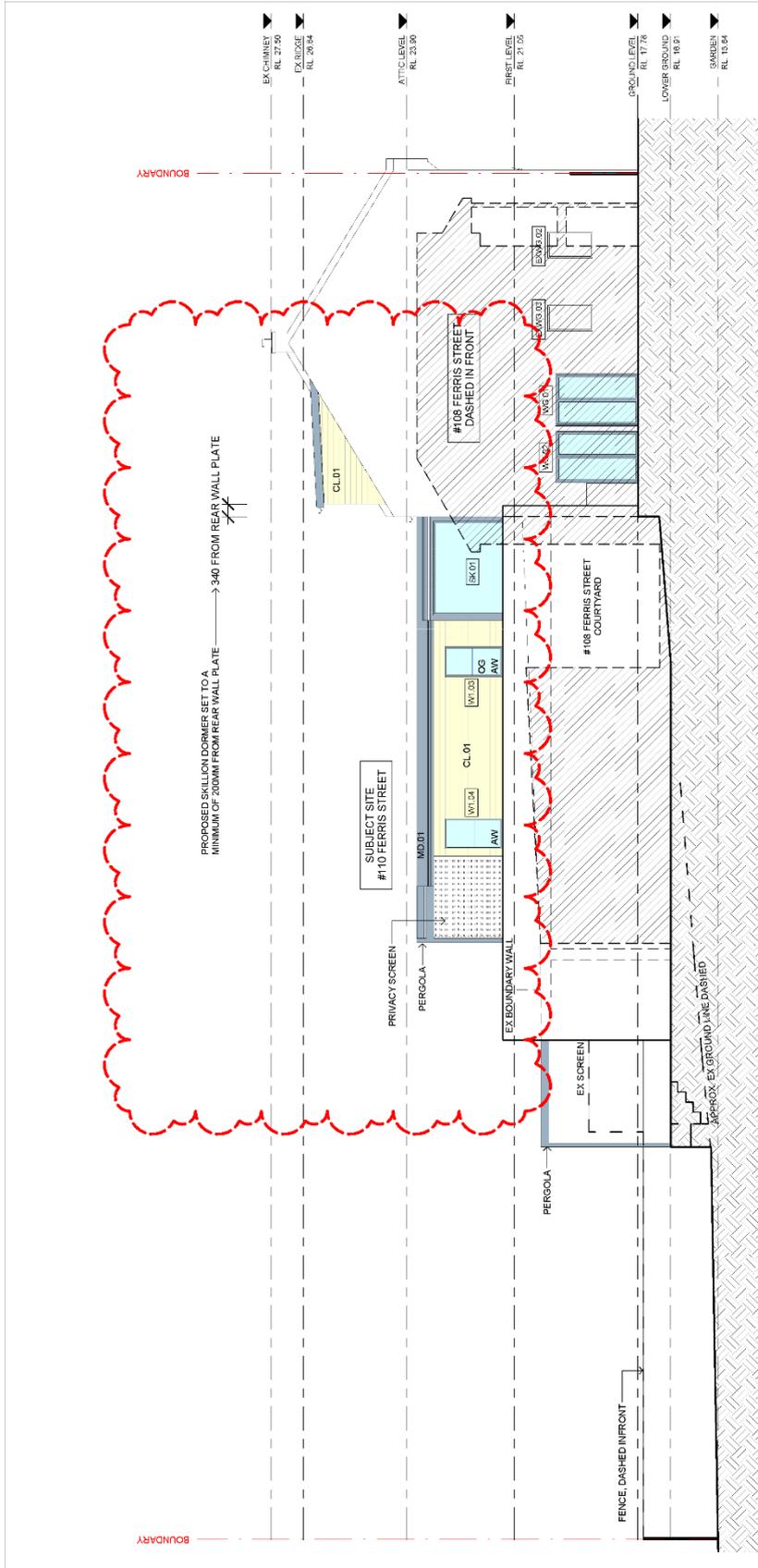
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1 PROPOSED ELEVATION - SOUTH
SCALE: 1 : 100

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| DATE: 25.03.2024 11.01.2024 | PROJECT: HARRICKS RESIDENCE | DRAWING TITLE: ELEVATION - SOUTH |
| DESIGN RESPONSIBILITY: DEPARTMENT APPLICATION ADDITIONAL INFO: 231121 | PROJECTS: 1903 | DESIGNER: PS JY KL |
| CLIENT: HUGH AND NICOLA HARRICKS | ADDRESS: 110 FERRIS STREET, ANNANDALE NSW 2038 | CHECKED: GW |
| | | SCALE: 1 : 100 |
| | | DRAWING NO: A202 |

Attachment C- Section 4.6 Exception to Development Standards



**Inner West LEP 2022
Clause 4.6 Exceptions
to Development
Standards – Floor
Space Ratio (FSR)**

Alterations and Additions to an Existing Terrace at

**No. 110 Ferris Street,
Annandale**

Prepared for:

Dr Nicola and Dr Hugh Harricks

C/- Georgina Wilson Associates

2/8 Cooper Street

Double Bay NSW 2028

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners

(A.B.N 89 643 660 628)

95 Paddington Street, Paddington NSW 2021

p: 02 9362 3364

e: info@gsaplanning.com.au

JOB NO. 21696

June 2023

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**INNER WEST LOCAL ENVIRONMENTAL PLAN (LEP) 2022
 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: Dr Nicola and Dr Hugh Harricks

SITE ADDRESS: No. 110 Ferris Street, Annandale

PROPOSAL: Alterations and additions to the existing terrace

1. (i) Name of the applicable planning instrument which specifies the development standard:

Inner West Local Environmental Plan (LEP) 2022

(ii) The land is zoned:

R1 – General Residential. The objectives of the R1 Zone are as stated:

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

(iii) The number of the relevant clause therein:

Clause 4.4 – Floor Space Ratio which is stated as follows:

(1) The objectives of this clause are as follows—

- (a) to establish a maximum floor space ratio to enable appropriate development density,
- (b) to ensure development density reflects its locality,
- (c) to provide an appropriate transition between development of different densities,
- (d) to minimise adverse impacts on local amenity,
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

...

(2B) The maximum floor space ratio for development for the purposes of residential accommodation is as follows—

(a) on land shown edged black or pink on the Floor Space Ratio Map—

| Site area | Maximum floor space ratio |
|---|---------------------------|
| < 150m ² | 0.9:1 |
| ≥ 150 < 300m ² | 0.8:1 |
| ≥ 300m ² < 450m ² | 0.7:1 |
| ≥ 450m ² | 0.6:1 |

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4 of the LEP – Floor Space Ratio. This Clause operates in conjunction with the FSR Map which indicates a maximum 0.8:1 FSR applies to land shown edged black with an area between 150m² and 300m², which includes the subject site. Clause 4.4 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

Based on the site area of 214.5m², the maximum gross floor area (GFA) is 171.6m². The proposal has a GFA of 201m², which represents a 29.4m² (17.1%) variation (see **Figure 1**).

The proposed works will be contained within the existing building footprint and predominantly at the rear of this site, to limit visibility from the street. When viewed in the streetscape, the existing bulk and scale will largely be the same as the existing situation, with the exception of the new front dormer and relocated front door. The maximum ridge height will remain as existing and the proposal will maintain compliant levels of solar access and privacy for the neighbouring properties.



Source: Georgina Wilson Associates

Figure 1: Diagram Showing GFA Calculations

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the FSR development standard to the proposed development in the circumstance of this case. In our opinion, the proposed additional FSR is considered appropriate, as the additional GFA will not be readily visible from the public domain and the amenity of neighbouring properties will be maintained.

The new works at the upper levels will be below the existing ridge line, contained entirely within the existing building footprint and will be recessed from the southern side and rear boundaries. This will minimise the perceived bulk and scale when viewed from neighbouring properties. As such, the proposal will remain consistent with the character of the site and the surrounding area.

Accordingly, the proposal provides an improved planning outcome both for and from the development and flexibility should be afforded in this instance.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

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

Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal is consistent with the desired character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed

(a) to establish a maximum floor space ratio to enable appropriate development density,

The proposal maintains the site's existing use a single attached dwelling, which is permissible in the R1 Zone and consistent with the surrounding context. Therefore, the density of development, built form and land use intensity will remain appropriate.

(b) to ensure development density reflects its locality,

The development density as a single residence is maintained and reflects the predominant character of development in the locality.

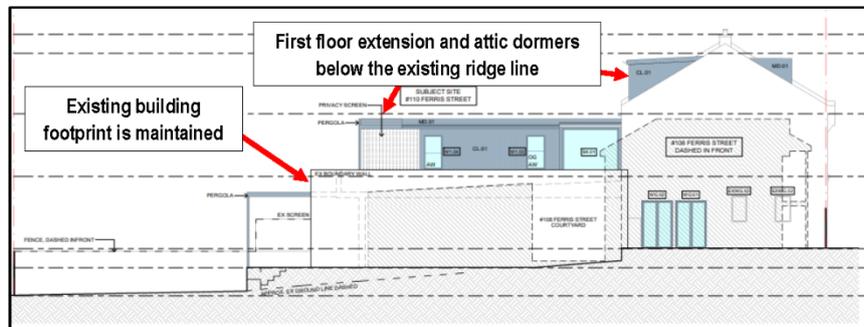
(c) to provide an appropriate transition between development of different densities,

The subject site is not located near a zone boundary or near an area with different FSR controls. Notwithstanding this, the proposal maintains an appropriate transition in heights and scale along Ferris Street.

(d) to minimise adverse impacts on local amenity,

The proposal has bulk and scale which minimises adverse impacts on local amenity. The upper level extensions are carefully designed and located with increased southern side and rear setbacks. The first floor extension is sited below the existing ridge line and has a low profile skillion roof. The attic dormers do not extend beyond the existing gutter line (see **Figure 2**).

This minimises the perceived bulk and scale of the development, when viewed from neighbouring properties.



Source: Georgina Wilson Associates

Figure 2: South Elevation Showing New Works in Colour

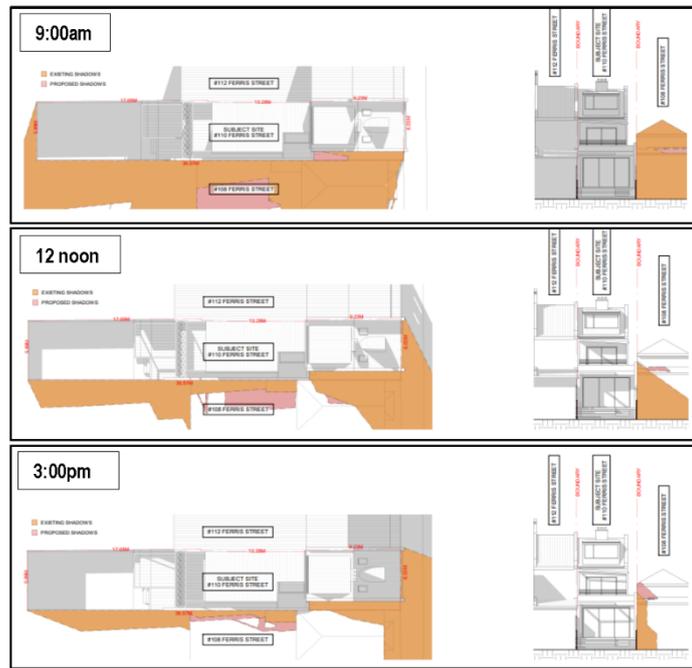
Furthermore, the additional GFA will have no impact on the amenity of neighbouring properties. In respect of privacy, no windows are proposed at the northern side elevation. At the southern side elevation, two windows are associated with non-habitable areas, being the stairwell and ensuite. One window is associated with Bed 1 and is located to prevent direct views to the neighbour's windows and open space. Views from the southern side elevation are also likely to be obscured by the high existing boundary wall along the boundary (see **Photograph 1**).

The extent of the existing ground floor living areas will be retained, without alteration. The additional GFA is limited to bedrooms, bathrooms and the stairwell at the first floor and attic levels. Therefore, there will not be any significant noise generation associated with the FSR variation.



Photograph 1: The subject site, as viewed from the rear

Plan and elevational shadow diagrams have been prepared by Georgina Wilson Associates for 9:00am, 12 noon and 3:00pm on the winter solstice. These demonstrate that the proposal complies with the DCP controls for solar access. In fact, the proposal has no additional impact on the private open space or main living room windows of the adjacent properties. Additional shadows are confined to within the subject site, and the roof form and negligible area of the western elevation of No. 108 Ferris Street (see **Figure 3**). This demonstrates that the impact of the additional GFA has been minimised.



Source: Georgina Wilson Associates
Figure 3: Shadow Diagrams

EXISTING SHADOWS
 PROPOSED SHADOWS

Significant views have not been identified across the subject site or in the surrounding area. As such, the proposal will not have an impact on views.

With the minor exceptions of the front dormer and relocated entry door, the additional GFA is contained at the rear of the site and will not be visible from the public domain. When viewed from the street, the existing bulk and scale of the development will largely remain unchanged. This approach minimises the impact of the building on the streetscape.

In summary, the proposal’s sensitive location and form ensures that adverse impacts on local amenity are minimised.

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

The proposal maintains more than compliant levels of landscaped area and retains compliance with the site coverage development standard under the LEP. This is achieved through retention of the existing building footprint, and ensures a suitable balance between landscaping, open space and built form is provided. The landscaped area consists of a consolidated area at the rear of the site, which complies with the minimum dimensions under the LEP and provides sufficient space to accommodate trees. This will allow opportunities to increase the tree canopy and protect the use and enjoyment of private properties and the public domain.

Accordingly, the proposal satisfies the objectives of the FSR standards under the LEP. Although the proposal has a greater FSR than the standard, this is unlikely to have any significant adverse impacts on neighbouring properties or the public domain.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

There are a number of environmental planning grounds that justify the additional FSR in this particular circumstance. In addition to consistency with the objectives of the zone and the development standard, the environmental planning grounds include contextual and character fit, improved residential amenity, and retention of amenity for surrounding properties.

Contextual Fit and Character

The proposal is permissible in the R1 General Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established in *Wehbe*.

The proposal will retain the existing terrace. The existing streetscape presentation will largely be unaltered, except for minor refurbishments to the façade, relocated front door and new dormer. The new works are compatible with the surrounding Annandale Heritage Conservation Area, which has been confirmed in the Heritage Report prepared by Zoltan Kovacs Architect. The report concludes, inter alia:

The building on the site is identified as being contributory to the cultural heritage of the local area despite its exceptionally degraded fabric: it is still legible as a Late Victorian style, working class terrace. Although it is solitary, its contributory value is maintained by its being one of a number of similarly scaled terraces in the street.

The streetscape contribution of the existing building will be maintained by the retention of existing setting, form and scale. The proposed works are concentrated in the rear, the interior and within the roof. The existing scale of the streetscape will not be affected. The house will remain unaltered in terms of the streetscape and the removal of the poorly resolved entrance recess will improve its streetscape presentation.

The small new dormer window will generate negligible streetscape impacts.

The rear development reflects the external form and character of the existing building by adopting a simple form. The scale of the second storey addition is kept to a minimum and it remains well below the rear gutter line of the original gable roof. The rear addition is acceptable as there is no historic rear building line due to the chaotic nature of rear extensions. The bulk of the new rear addition is mitigated further by the separating recess to allow for maintaining the integrity of the principal form. The proposed addition has minimal impact on the culturally significant principal form and none on its streetscape presentation.

There is no adverse impact generated for the significant qualities of the heritage conservation area.

...

Having examined the heritage impact of the development on the cultural heritage of the conservation area the following can be concluded:

- *changes to the existing building do not generate a loss of cultural value for the conservation area;*
- *the development does not compromise the setting of the solitary terrace; and*
- *the development, which is concentrated in the rear has neutral impact for the streetscape of Ferris Street.*

The proposed development does not generate negative heritage impacts for the conservation area.

In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42], inter alia:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

The proposed internal changes and rear extensions will enhance the amenity of the site while also maintaining compatibility with existing built form in the area. Many developments in the area include contemporary rear extensions. The proposal will maintain the existing building height and new works will be located below the ridgeline with recessed setbacks. This will minimise the perceived bulk and will ensure the dwelling remains compatible with the surrounding context.

This report demonstrates the proposed alterations and additions will be compatible with nearby developments. The additional GFA is primarily confined to the rear of the site and will not be visible from the public domain. Therefore, it will not impact the streetscape amenity or existing heritage qualities of the area. In respect of the front dormer and repositioned entry, these are supported in the heritage report, which states, inter alia:

There is no impact on the streetscape of Ferris Street apart from the minor alteration of the entrance and the introduction of the new dormer window. These changes generate negligible visual impacts.

By confining the majority of the proposal to the rear, the significant contributory existing form in the Ferris Street streetscape is maintained without adverse impact.

The proposed addition is subservient to the principal form and consistent with surrounding bulk, height and scale.

The FSR variation achieves a built form that meets the needs of the residents, while also maintaining compatibility with the existing and desired future character of the area.

Desired Future Character

The proposed variation achieves a development that is consistent with the desired future character of the area. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63] ('SJD'), Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Accordingly, the desired future character is shaped by the text and context of the LEP and recent approvals in the vicinity. The R1 General Residential zoning envisages a range of uses and built forms. The proposal will contribute to the mix of permissible uses in the R1 zone, by maintaining the existing use as a single dwelling. When viewed in the streetscape, the external profile will be retained with subtle adjustments, and therefore will remain compatible with the character of the locality. The new works are primarily confined to the rear of the site and are set below the existing built form, to minimise the bulk and scale and ensure it remains contextually compatible.

The external envelope is consistent with the evolving scale of development in the area. There are a number of examples of recent developments in Annandale locality, which have been approved with FSR variations. According to Council Clause 4.6 Register, some examples include:

- **No. 114 Ferris Street, Annandale** (DA/2017/61) – 50% variation approved 11 July 2017;
- **No. 38 Breillat Street, Annandale** (MOD/2020/0484) – 8.18% variation approved 5 July 2021;
- **No. 9 Collins Street, Annandale** (DA/2021/0291) – 7.59% variation approved 11 August 2021;
- **No. 219 Trafalgar Street, Annandale** (DA/2021/0366) – 5.86% variation approved 30 July 2021;
- **No. 238 Annandale Street, Annandale** (DA/2021/0660) – 9.67% variation approved 20 December 2021;
- **No. 134 Nelson Street, Annandale** (DA/2021/0774) – 9.87% variation approved 15 February 2022.

While it is acknowledged that each application is assessed on its own merits and each site has unique characteristics, it is still relevant to consider instances where Council have accepted similar breaches to the FSR standard. These recent approvals demonstrate that the proposal is compatible with the area's desired future character as per the Court judgment of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112. In this judgment Clay AC notes at [69]:

The desired future character in my opinion must take into account the form of the buildings to the east which the Council approved under effectively the same controls as present. Those buildings exceed the height and floor space ratio controls. As the Applicant pointed out in submissions, this is not a case where there is an adjacent development approved and constructed many years ago which sits as an anomaly in the street. The developments under construction represent the recently expressed attitude of the Respondent to the controls and what is desired in this part of Cross Street.

This approach was confirmed in the appeal of this case by Preston CJ that the desired future character should be informed by the nearby and future development and not limited by the development standards. The additional GFA is located entirely within the existing footprint and below the existing ridge line. The new works are carefully located to the rear and designed with increased setbacks from the ground floor level. The proposed variation ensures the development is consistent with the desired future character of the area, as shaped by recent approvals.

Amenity

The proposed building footprint will be retained without alteration, with the first floor and attic level extensions not exceeding the existing footprint of the ground floor level. As indicated, the additional GFA is only related to bedroom, bathroom and stairwell areas. This will greatly enhance the functionality and internal amenity of the dwelling for the residents. The new stairwell will provide safer internal circulation areas, which contributes to the accessibility of the dwelling. The attic dormers will improve the amenity and flexibility of this space, by providing necessary solar access and ventilation.

Lack of Environmental Impacts

The proposed works have been skilfully designed to prevent adverse amenity impacts on neighbouring properties. The upper level extensions are recessed from the southern side and rear boundaries, to prevent visual intrusion when viewed from surrounding properties.

The proposal will maintain the environmental amenity of neighbouring properties in respect of solar access, privacy or views, as discussed in the response to Test 1 objective (a)(iii) in this report. In fact, the proposal has no impact on solar access to the adjoining properties' private open space or living room windows, or privacy. In other words, strict compliance with the FSR development standard would serve no benefit for the amenity of neighbouring properties.

The development retains compliance with the landscaped area and site coverage development standards of the LEP, achieved by locating the additional GFA entirely within the existing building footprint. This ensures that the landscaped character of the area is maintained.

Accordingly, in our opinion, the variation will be consistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority’s consideration of this Clause 4.6 variation request. It provides that:

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

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal is consistent with the objectives of the FSR Development Standard, as already demonstrated; and the R1 General Residential Zone, as discussed below:

Objective: *To provide for the housing needs of the community.*
Response: The proposal maintains the site’s existing use as a single dwelling, which contributes to the provision of housing.

Objective: *To provide for a variety of housing types and densities.*
Response: The proposed upgrades to the existing terrace house will contribute to the variety of housing types and densities.

Objective: *To enable other land uses that provide facilities or services to meet the day to day needs of residents*
Response: N/A

Objective: *To provide residential development that maintains the character of built and natural features in the surrounding area.*
Response: The proposal retains and upgrades the existing terrace house. The new works are sympathetic to the existing architectural style and are compatible with the character, style, orientation and pattern of surrounding development. This provides residential development that maintains the character of built and natural features in the area.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The FSR non-compliance will enhance the amenity and functionality of the existing dwelling without significantly, unreasonably or unacceptably impacting neighbouring properties. The proposal will maintain similar bulk and scale when viewed from the streetscape and will maintain the amenity of neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape. Given the location of the additional GFA will largely be contained toward the rear, it will not be visible as additional bulk when viewed in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 1** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives of the R1 General Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4 should be upheld.

Table 1: Compliance Matrix

| Para (Initial Action) | Requirement | Section of this Report | Summary | Satisfied |
|-----------------------|---|------------------------|---|-----------|
| 10 | Is it a development standard (s.1.4) | 1 | Yes | |
| 11 | What is the development standard | 1 | Clause 4.4: FSR | |
| 12 | What is the control | 1 & 2 | 0.8:1 | |
| 14 | First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions: | | Both positive opinions can be formed as detailed below. | YES |
| 15, 25 | 1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement. | 5 | The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations. | YES |
| 16-22 | First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Weilbe</i> . | 5.1 | The proposal satisfies Test 1 of <i>Weilbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard | YES |
| 23-24 | Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. | 5.2 | Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed FSR facilitates a development consistent with the planning objectives of the area and the desired future character of the area; The bulk, scale and character of the dwelling will be compatible with the existing and emerging character of the area; The proposal demonstrates contextual compatibility; The additional GFA improves the internal amenity and functionality of the dwelling; The amenity of neighbouring properties is maintained, particularly in respect of privacy and solar access. | YES |
| 26-27 | 2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. | 6 | The proposed development is consistent with the objectives of the FSR standard as addressed under Test 1 of <i>Weilbe</i> . The proposal is also consistent with the objectives of the R1 General Residential Zone. | YES |

| | | | | |
|-------|--|---|---|-----|
| 28-29 | <p>Second Precondition to Entitling the Power – That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.</p> | 7 | <p>As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.</p> | YES |
|-------|--|---|---|-----|

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Clause 4.6 Exceptions to Development Standards – FSR
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Document Set ID: 38798043
Version: 1, Version Date: 25/03/2024

Attachment D – Statement of Heritage Significance

Heritage Impact Assessment
Report

PROPOSED DEVELOPMENT | 110 FERRIS STREET | ANNANDALE



June 2023

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Document Set ID: 38159678
Version: 1, Version Date: 06/10/2023

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KOVACS ARCHITECT

1 Introduction

1.1 BACKGROUND

The owners of the terrace house located at 110 Ferris Street, Annandale have engaged the author to assess the heritage impact of the proposed development on the cultural significance of the local area. The proposed development is located in the Annandale Heritage Conservation Area involving a degraded Late Victorian terrace. The development consists of alterations and additions.

This report sets out to review the history of the place, examine its fabric, state its cultural significance, assess the heritage impact of the proposed development on the heritage conservation area and propose appropriate actions, if necessary.

1.2 METHODOLOGY

The methodology and terminology used in the preparation of this report has been drawn from the Australian *ICOMOS Burra Charter*, the *NSW Heritage Manual 2001 Update*, and *J. S Kerr's Conservation Plan* (rev. edn National Trust of Australia [NSW], Sydney, 1996). References to architectural styles are based on the identifications used by Apperly, R.; Irving, R. and Reynolds, P *A Pictorial Guide to Identifying Australian Architecture* (Sydney, 1989). This Heritage Impact Assessment has been prepared in accordance with the requirements of the *Inner West LEP 2021*, the *Leichhardt DCP 2013* and the NSW Heritage Guide.

1.3 AUTHORSHIP

This report has been prepared by Zoltan Kovacs, Architect & Heritage Consultant with all the photographs, unless otherwise identified, taken by the author. The author is a conservation architect with over thirty years experience in heritage conservation.

1.4 SOURCES

The documentary sources utilized for the historical background and assessment of significance were provided with the generous assistance of the Local History Centre.

1.5 SITE IDENTIFICATION

The subject site is located on the west side of Ferris Street and it backs onto other residential properties.

Its address listed as 110 Ferris Street, Annandale and it is registered as Lot 16, DP 053687.

2 Historical Outline

2.1 HISTORICAL CONTEXT

2.1.1 Aboriginal history

The original inhabitants of the land, which later formed Annandale, were the Gadigal (Cadigal) clan of the coastal Darug (Eora) language group (see King in Hunter 1793). The initial contact between Europeans and natives was disastrous for Aboriginal people, as they had no immunity to diseases brought by European settlers. Smallpox was particularly virulent and it ravaged local bands in the first two years of contact killing over half of the local population. Weakened by disease the natives disappeared from the area by the 1840's being unable to withstand the effects of the development of the district brought about by European settlement and land clearance.

The subject site has no apparent connection to Aboriginal history and settlement.

2.1.2 European settlement

Annandale as a suburb grew out of the crown grants to Lt. Colonel George Johnston of the New South Wales Corps granted in three parts in 1799. Johnston came to the colony captaining in the First Fleet, where he met and later married one of the convict women, Esther Abrahams, who was transported for stealing some lace. George Johnston's grant eventually totalled 290 acres extending from Parramatta Road to Rozelle Bay. He established a farm near the southern end of his grant where he also built a house named *Annandale Farm* named after his birthplace in Annan, Scotland. Johnston was an enthusiastic and fairly enterprising farmer, who regularly corresponded with his mentor, the Duke of Northumberland, requesting farm animals and seeds, which the Duke dispatched readily. Despite his efforts most of the grant still remained undeveloped at his death in 1823 and there is little evidence that the northern part was even grazed.

George Johnston left his holdings to his son, Robert, who was soon embroiled in a legal battle with his mother, Esther Abrahams, over the inheritance, as she wanted to return to England and sell the estate. Although Robert Johnston managed to have her mother declared legally insane, he did not gain full control of the estate until 1846, further stalling any development. Eventually he leased most of what is now North Annandale to the Sydney Salting Co., which set up a string of abattoirs and tanneries along the Rozelle Bay foreshore. The land was contracted for fourteen years to the company from 1862 and it remained under used despite being valued at £25,000 in 1867.

In the late 1860's Robert Johnston met John Young, who moved to Sydney in 1866. Young was born in Kent, the son of a builder, and he became a building contractor himself after being articulated to an architect as a draftsman. He migrated to Victoria in 1855 and soon prospered. His move to Sydney was prompted by his engagement to construct St. Johns College within the University of Sydney. Young was a visionary developer, who offered George Horatio Johnston (Robert Johnston's son) the sum of £120,966-1-11 for the purchase of the Annandale Estate - an enormous sum for the time. After paying a deposit and taking out various mortgages Young agreed to pay the full amount within ten years. In 1878 Young sold his holdings to the Sydney Freehold Land Building & Investment Company in order

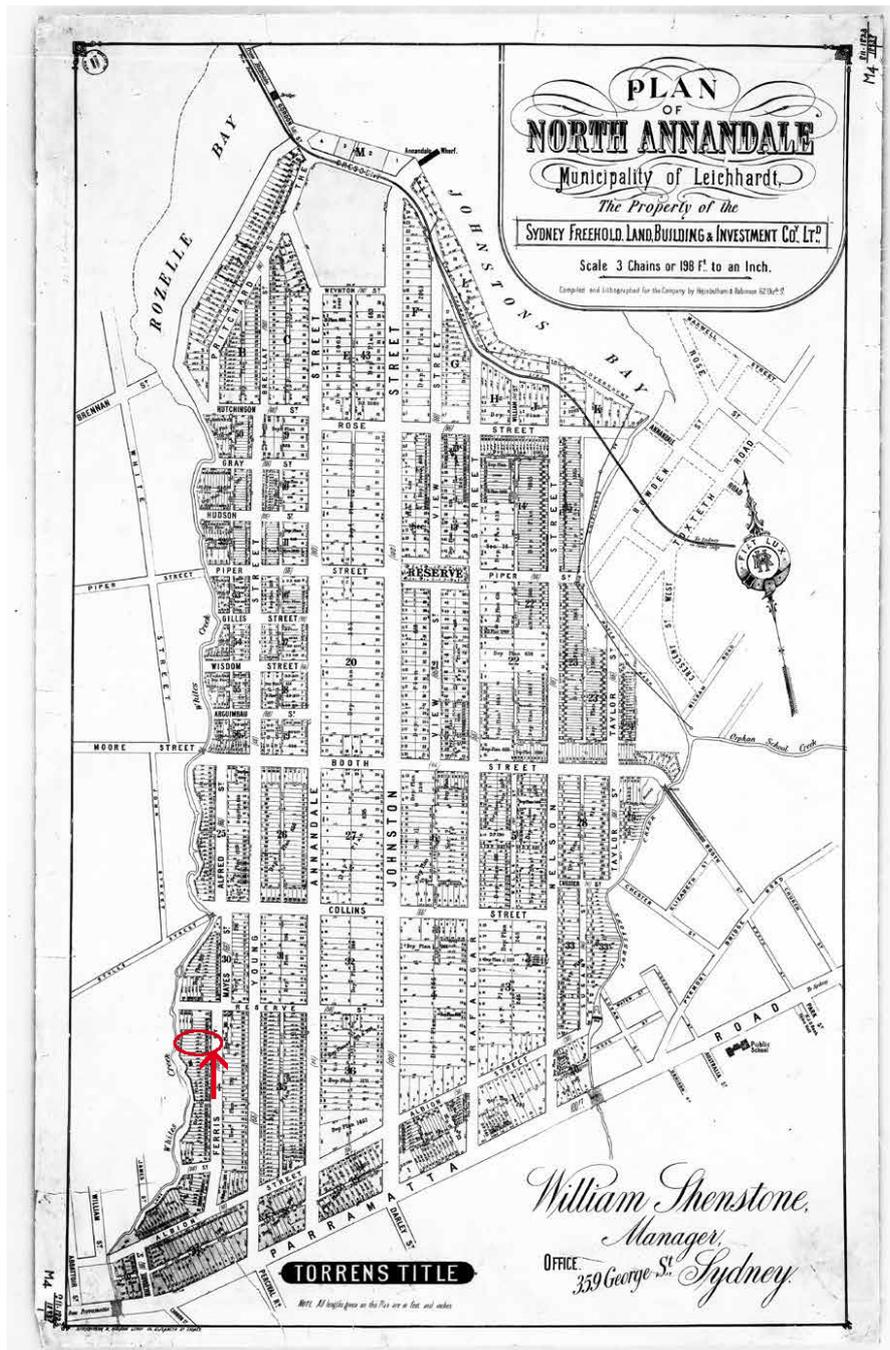


Figure 1 | 1890 Plan of Annandale; the Sydney Freehold Land Building & Investment Company sold most of it by this time (Source: Local History Centre, Leichhardt Library)

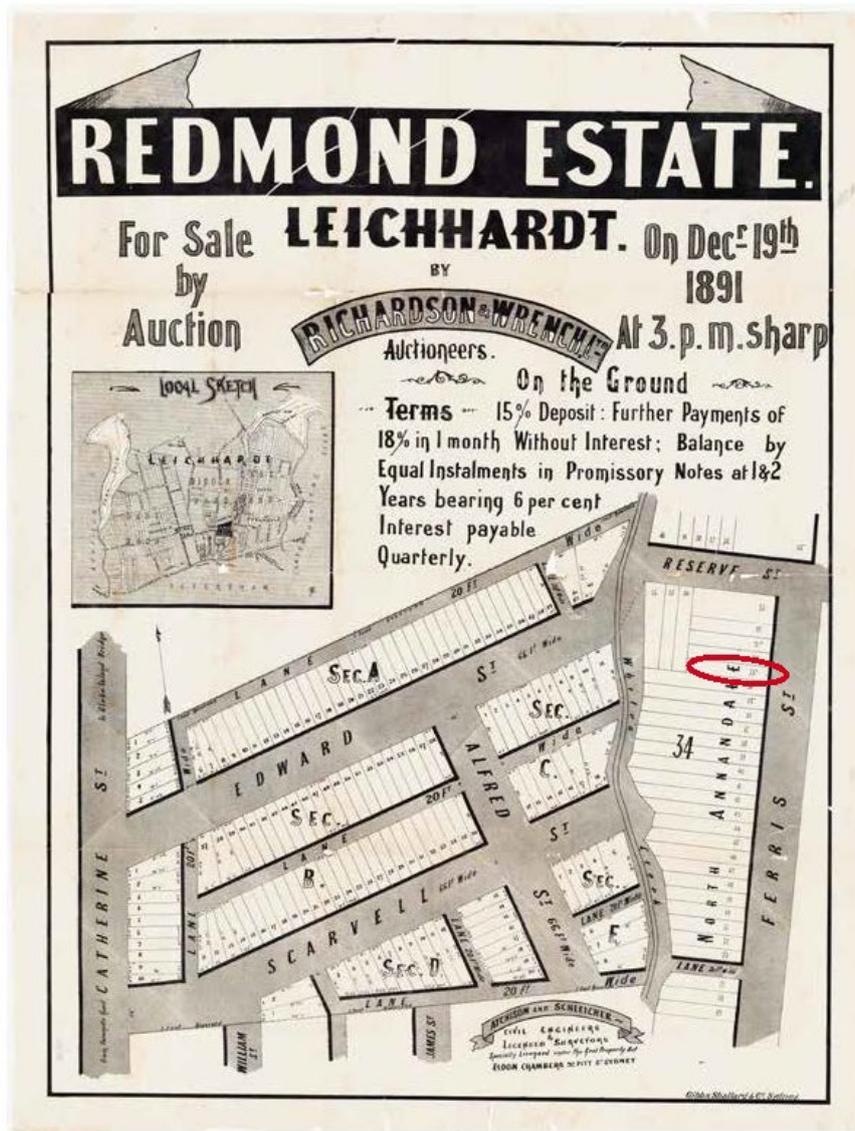


Figure 2 | 1891 Plan of the Redmond Estate subdivision. The subject site was Lot 13 of the subdivision and it is marked by a red oval in this report.
 (Source: State Library of NSW Z/SP/L5/313)

to develop the estate. Young was the Chairman of Directors of the company and one of its major shareholders. Young envisaged an elegant suburb with wide tree lined streets and fine houses attracting a well-heeled middle class clientele. He held a competition for the layout of the suburb, which was won by Ferdinand Reuss, an architect and surveyor. Reuss proposed a 100' wide avenue, then the widest road in Sydney, which became Johnston Street. Although the initial sale releases sold well and the large houses Young built in Johnston Street, such as *The Abbey, Oybin, Rozelle* (now demolished), *Greba, Hockingdon, Highroyd* and *Claremont*, attracted a lot of attention (it was even rumoured that Young took gargoyles from the construction of St. Mary's Cathedral where he was superintendent of works to use on *The Abbey*) sales slowed in the mid-1880's due to the deep recession Australia was experiencing and some of the estate sub-divisions had to be re-subdivided into smaller lots, affordable for working class buyers.

The subject site was in the *Redmond Estate* release offered for sale as Lot 13 in Section 34 in 1891, but like most allotments in that release, at first it failed to sell.



Figure 3 | Extract from Sheet 19 of the Leichhardt Section Metropolitan Detail Series, c. 1893. The terrace has already been built.
 (Source: State Library of NSW M Ser 4 811.17/1)

2.2 OUTLINE HISTORY OF THE PLACE

2.2.1 Owners & Occupants

1799 First land grant in the area was granted to Lt. Colonel George Johnston.

1846 Release of holdings to Robert Johnston.

1876 John Young buys Robert Johnston’s holdings by paying a deposit.

1877 Transfer to Sydney Freehold Land Building & Investment Company Pty. Ltd.

It appears from the surviving records that following the first 1887 subdivision release by the Sydney Freehold Land Building & Investment Company Pty. Ltd., which was unsuccessful, the land was only sold after 1891.

1891 The subject land is offered for sale as Lot 13 in Section 34 in the *Redmond Estate*.

1893 The terrace is shown as built in the Metropolitan Detail Series.

1904-23 The terrace is owned by T. J. D. Havens, senior constable.

1928 The terrace becomes a shop, operated by a butcher, A. Gammel.

1935 The terrace becomes a lending library, operated by Frederick Fiven.

1940-50’s The terrace serves as a mixed business, run by T. Pratt.

After the mid 1950’s the terrace reverts to a residence. A number of unresearched transfers took place before 2005. The property has changed hands three times between 2005 and 2019. Council records show two extensive renovations in 2003 (D/2003/220) and 2004 (D/2004/536)

2019 Transfer to current owners.

The following table is a sample of occupants taken at approximately 5 yearly intervals from the Sands Sydney Directories. (Sands can reflect details that occurred the previous year).

| Year | Name | Occupation | House No./Name |
|--|------------------|------------------|----------------|
| <i>No attributable listing prior to 1904, as the numbering in the street is inconsistent</i> | | | |
| 1904 | Havens, T. J. D. | senior constable | 106* |
| <i>Ferris Street renumbered in 1905 - No. 106 becomes No. 110</i> | | | |
| 1905 | Havens, T. J. D. | senior constable | 110 |
| 1910 | Havens, T. J. D. | constable | 110 |
| 1915 | Havens, T. J. D. | | 110 |
| 1920 | Havens, T. J. D. | | 110 |
| 1925 | Franklin, Edward | | 110 |
| 1930 | Gammel, A. | Ham & beef | 110 |
| 1932-3 | Gammel, A. | Ham & beef | 110 |



Figure 4 | Aerial view of the area in 1943. The subject terrace had an awning over the footpath while it operated as a mixed business. The awning is now lost and no trace of it survives. (Source: NSW SixMaps)

3 Physical Description

3.1 SITE CONTEXT

The lot comprising the study area is located in the south-western part of Annandale on relatively high ground on the east side of the Whites Creek valley. The locality is formed by the undulating topography of the high ground cut by two north facing creek beds, which drain into Rozelle Bay.

The area surrounding the site is characterized by the hierarchical and regular grid pattern of the Annandale Estate's street layout, which is terminated by variations in the topography near its borders. Unlike the typical Victorian inner-city planning tradition, where the street pattern is underlaid by a similar pattern of narrow laneways for night-soil collection, the Annandale Estate largely abandoned laneways in favour of major avenue-like streets running north-south interlaced with secondary narrower streets generally running east-west. Many of the streets are characterised by avenue plantings, which often form continuous canopies.

The built environment is entirely residential with a largely homogeneous Late Victorian and early Federation character consisting of single storey detached and semi-detached houses, the latter sometimes built in rows. Larger and wider allotments with more substantial houses are found along the southern part of the Estate and along Johnston Street with plots becoming smaller and housing more humble along the northern parts and perimeters. The second half of the last century saw intense building activity in the area and the built environment is now transformed by late 20th Century infills and additions.

Ferris Street runs roughly north-south parallel to Johnston Street and it is one of the minor tree lined streets and its housing stock is more modest than that of Johnston or Annandale Streets. The reason for this was Ferris Street's peripheral location near White's Creek.

The subject site is flanked by a group of generic Late Victorian two storey terraces to the north and a free standing, two storey contemporary house.

3.2 SITE

The site is formed by a short narrow rectangular allotment on the west side of Ferris Street near its intersection with Reserve Street. The allotment backs onto other residential allotments: it has no rear lane access.

The land appears roughly level, but there is slight fall towards the rear which is now obscured by levelling. Approximately half of the site is occupied by a two storey terrace house with a long single storey rear extension. The site has no front yard. A street veranda once extended over the footpath, but it has been removed.

The small rear yard is entirely covered by a lawn and edged with sparse perimeter plantings.

3.3 BUILDING

General Description

The two storey terrace house on the land was most probably constructed the year before

1893, when the property appears in the Metropolitan Detail Series. For some reason the property does not appear in the Sands Directory for at least ten years after its construction. The terrace is solitary and it forms a bald face.

Extensive alterations have compromised the subject terrace. It is clear that it had a veranda awning over the footpath during the period when the terrace served as a shop, but as the existing front fenestration is not original what the facade looked like once is now impossible to tell. The openings may have included a shopfront and the current poorly resolved entry recess may be an echo of a splayed entrance.

The terrace maintains a typical Late Victorian arrangement of two-up-two-down rooms, but the rear extension has been so altered that no trace of the original form or layout survives. The single storey rear extension, which contains an eat-in kitchen, bedroom and family room has been altered and extended towards the side and rear.

Roof

The existing roof over the principal part is a gable roof which still features the central moulded chimney. The roof is clad in corrugated steel. The rear extension is roofed by a shallow pitched skillion, which is also steel clad.

Walls

The original part of the terrace is constructed in painted and rendered solid brickwork. The walls were rendered and traces of the original scribed ashlar coursing survives on the side elevations. Strangely, the decorative fields and scrolled brackets of the roof parapets survive despite the external changes.

External Joinery

No trace of the original joinery survives.

Interior

In line with the loss of external fabric the interior exhibits a similarly low level of integrity. As stated above the rear extension is completely altered due to recent renovations and extensions. There is little evidence of original Victorian fabric, apart from three fireplaces. The stairs have been reconstructed.

3.4 SUMMARY OF CONDITION

Externally the house has lost much of its original fabric in terms of its fenestration, joinery, and decorative plaster mouldings, but its main part retains its original form. The rear extension of the building is both extensively altered and degraded and any attempt at retention of fabric here would serve no conservation benefit. The fabric of item is reasonably well maintained, albeit degraded culturally.

3.5 PHOTOGRAPHS

The photographs on the following pages describe the item in its setting and existing condition.

PROPOSED DEVELOPMENT | 110 FERRIS STREET | ANNANDALE | HERITAGE REPORT



Figure 5 | View of the terrace in Ferris Street. The existing front elevation is not original: the entry opening and windows with their architrave surrounds, the string course and the poorly proportioned window sills are bad attempts at faux heritage. Only the chimney and the parapet ends indicate original fabric.

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Figure 6 | *The terrace with the contemporary painted brick house to the south.*



Figure 7 | *The subject terrace with Late Victorian style neighbours to the north.*



Figure 8 | *Traces of ashlar scribing on the side. The front elevation was rendered recently with smooth render.*



Figure 9 | *Outline of a removed side skillion in the short side passage.*



Figure 10 | *Concrete patching in the kerb where the veranda post once stood.*



Figure 11 | *View of the rear extension. The small timber deck is level with the ground floor.*



Figure 12 | *The family room and eat-in kitchen are recently introduced fabric.*



Figure 13 | *The family room looks out over the yard.*



Figure 14 | *The dining room. The fireplace is original, but the stairs have been reconstructed.*



Figure 15 | *The front bedroom. The fireplace is original, but the rest of the fabric was recently introduced during the 2003-4 renovations.*



Figure 16 | *The front bedroom. Note the poorly detailed architraves: there is no sill piece.*



Figure 17 | *The rear bedroom. The door opens into a recently constructed bathroom addition.*



Figure 18 | *The rear bedroom. The fireplace is original, but the built-ins are not.*

4 Assessment of Significance

4.1 PRINCIPLES

The concept of 'cultural significance' or 'heritage value' recognizes the value of a place or item, which cannot be expressed in monetary terms. Assessment of cultural significance attempts to establish the foundations on the basis of which a place or an item is valued by the community. Cultural significance is embodied in the fabric of the place, in its setting and its relationship to other items, the records associated with the place and the response that the place evokes in the community.

Both the Burra Charter of Australia ICOMOS and its Guidelines for Assessment of Cultural Significance; and the NSW Heritage Manual prepared by the NSW Heritage Office recommends that significance be assessed in categories such as aesthetic, historic, scientific and social significance. The NSW Heritage Manual includes two additional criteria for assessing the comparative significance of an item.

Since the preparation of the NSW Heritage Manual, the NSW Heritage Act 1977 was amended in 1999, and again in 2000. Under this amendment the NSW Heritage Council has adopted revised criteria for assessment of heritage significance. The evaluation of cultural significance is based on the adopted approach and the results of the assessment are incorporated into a statement of significance, which is usually included in the inventory sheet of a heritage item.

4.2 APPLICATION OF CRITERIA

4.2.1 Assessment of 110 Ferris Street, Annandale

A HISTORICAL SIGNIFICANCE

An item is important in the course, or pattern, of the cultural or natural history of NSW; or of the local area's cultural or natural history.

The land on which the item stands achieved its definition just prior to 1887, when it formed part of the ongoing subdivision of John Young's *Annandale Estate*. The typical land size and the siting of the house are considered contributory and representative of the key development phase of the conservation area.

The core of the item is a Late Victorian solitary terrace, built probably around 1893 at a time when the Annandale Estate experienced a lull in development following the continuing depression of the late 1880's. Ferris Street developed slowly.

The two storey terrace house was built as a residence, but by the late 1920's it was converted to a butcher's shop, then it was a lending library and a mixed business before it was reconverted to a residence again. None of these changes are evident in the fabric as a result of extensive unsympathetic intrusions and loss of fabric. Victorian style features are only evident in the external form, chimney and roof parapets. The terrace lost its original veranda and rear extension. Due to extensive changes the historic significance of the place is low in the cultural history of the local area.

Guidelines for Inclusion

- ♦ Shows evidence of a significant human activity
- ♦ Is associated with a significant activity or historical phase
- ♦ Maintains or shows the continuity of a historical process or activity

Guidelines for Exclusion

- ♦ Has incidental or unsubstantiated connections with historically important activities or processes
- ♦ Provides evidence of activities or processes that are of dubious historical importance
- ♦ Has been so altered that it can no longer provide evidence of a particular association

110 Ferris Street fails to meet the above criterion, as it is not a significant example in the pattern of the cultural history of the local area, although it dates from a significant phase.

B ASSOCIATIVE SIGNIFICANCE

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history; or of importance in the local area's cultural or natural history.

No relevant entries for owners or occupants of the property have been found in the Australian Dictionary of Biography, ANU, 2006, www.adb.online.anu.edu.au/adbonline.htm or A *Biographical Register 1788-1939* ed. H.J. Gibbney and Ann Smith, 1987, Canberra, ADB.

Guidelines for Inclusion

- ♦ Shows evidence of a significant human occupation
- ♦ Is associated with a significant event, person or group of persons

Guidelines for Exclusion

- ♦ Has incidental or unsubstantiated connections with historically important people or events
- ♦ Provides evidence of people or events that are of dubious historical importance
- ♦ Has been so altered that it can no longer provide evidence of a particular association

110 Ferris Street fails to meet this criterion, as it is not directly associated with historically important persons in NSW.

C AESTHETIC SIGNIFICANCE

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW; or in the local area.

110 Ferris Street was not designed by a prominent Sydney architectural practice.

It appears to have been the work of a local builder, because of its derivative layout and form.

The exterior lost its representative ability due to extensive loss of fabric and extensive recent rear alterations. The building is contributory only through its form still shared with its neighbours. The house does not exhibit any aesthetic achievement and its potential for a high level of aesthetic quality in the context of the locality is lost.

Guidelines for Inclusion

- ♦ Shows or is associated with, creative or technical innovation or achievement
- ♦ is the inspiration for a creative or technical innovation or achievement
- ♦ is aesthetically distinctive
- ♦ has landmark qualities
- ♦ exemplifies a particular taste, style or technology

Guidelines for Exclusion

- ♦ is not a major work by an important designer or artist
- ♦ has lost its design or technical integrity
- ♦ its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
- ♦ has only a loose association with a creative or technical achievement

110 Ferris Street fails to meet the above criterion at the local level because of its compromised aesthetic values, although these values are recoverable to some extent.

D SOCIAL SIGNIFICANCE

An item has strong or special associations with a particular community or cultural group in NSW; or in the local area for social, cultural or spiritual reasons.

The item is an ordinary residence in a typical suburban setting without associations to particular community groups or cultural groups.

Guidelines for Inclusion

- ♦ is important for its associations with an identifiable group
- ♦ is important to a community's sense of place

Guidelines for Exclusion

- ♦ Is important to the community for amenity reasons
- ♦ is retained only in preference to a proposed alternative

110 Ferris Street fails to satisfy this criterion at the local level.

E RESEARCH POTENTIAL

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history; or of the local area's cultural or natural history.

110 Ferris Street has no potential for yielding archaeological information relating to the development of the area as it appears to be the first building constructed on the site.

Guidelines for Inclusion

- ♦ has the potential to yield new or further substantial scientific and/or archaeological information
- ♦ is an important benchmark or reference site or type
- ♦ provides evidence of past human cultures that is unavailable elsewhere

Guidelines for Exclusion

- ♦ the knowledge gained would be irrelevant to research on science, human history or culture
- ♦ has little archaeological or research potential
- ♦ only contains information that is readily available from other resources or archaeological sites

110 Ferris Street fails to meet the above criterion.

F RARITY

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history; or of the local area's cultural or natural history.

110 Ferris Street is a generic and degraded example of a Victorian terrace house. It is a speculative building built to a standard building typology and it is not a rare example of its kind in the municipality.

Guidelines for Inclusion

- ♦ provides evidence of a defunct custom, way of life or process
- ♦ demonstrates a process, custom or other human activity that is in danger of being lost
- ♦ shows unusually accurate evidence of a significant human activity
- ♦ is the only example of its type
- ♦ demonstrates designs or techniques of exceptional interest
- ♦ shows rare evidence of a significant human activity important to a community

Guidelines for Exclusion

- ♦ is not rare
- ♦ is numerous, but under threat

110 Ferris Street fails to meet the above criterion at the local level as it is not a rare example of its kind.

G REPRESENTATIVE

An item is important in demonstrating the principal characteristics of a class of NSW's; or of the local area's - cultural or natural places; or - cultural or natural environments.

While the building has some capacity to demonstrate a significant historic activity for the Victorian period, that of subdivision for speculative housing, this representative ability is compromised by extensive intrusions and loss of fabric. The terrace is no longer legible as a Victorian building.

Guidelines for Inclusion

- ♦ is a fine example of its type
- ♦ has the principal characteristics of an important class or groups of items
- ♦ has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity
- ♦ is a significant variation to a class of items
- ♦ is part of a group which collectively illustrates a representative type
- ♦ is outstanding because of its setting, condition or size
- ♦ is outstanding because of its integrity or the esteem in which it is held

Guidelines for Exclusion

- ♦ is a poor example of its type
- ♦ does not include or has lost the range of characteristics that make up a significant variation of its type

110 Ferris Street fails to satisfy the above criterion at the local level as the item has lost its ability to demonstrate the principal characteristics of the local area.

Examination of the indicators of heritage significance demonstrate that 110 Ferris Street has limited cultural significance; its degraded fabric compromises its contributory value and it fails to meet the benchmark for cultural significance where its listing as a heritage item would be warranted.

4.3 STATEMENTS OF SIGNIFICANCE

The statement of significance for 110 Ferris Street, Annandale is as follows:

The land was originally part of John Young's Annandale Estate. The land was created as part of an 1891 subdivision of the Rawson Estate. The two storey brick and steel Late Victorian solitary terrace on the land retains its original form and it is only contributory through its setting, form and scale. Its exterior has lost all of its original fabric.

The significance of the conservation area is defined in inner West (Leichhardt) Council's Heritage Controls as follows:

- ◆ *One of a number of conservation areas that 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). This area is important as a well planned nineteenth-century suburb, and for illustrating development particularly from 1880s–1890s, aimed initially at the middle class market.*
- ◆ *The surviving development from this period forms the major element of its identity along with an area of 1910s–1930s development at its northern end.*
- ◆ *Demonstrates the vision of John Young, architect, engineer and property entrepreneur.*
- ◆ *Demonstrates, arguably, the best and most extensive example of the planning and architectural skills of Ferdinand Reuss, a designer of a number of Sydney's Victorian suburbs, including South Leichhardt (the Excelsior Estate) and Birchgrove.*
- ◆ *Clearly illustrates all the layers of its suburban development from 1878, through the 1880s boom and resubdivision, the 1900 slump and the appearance of industry, and the last subdivision around Kentville/Pritchard Streets to the 1930s, with the early 1880s best illustrated along Johnston and Annandale Streets.*
- ◆ *Demonstrates a close relationship between landform and the physical and social fabric of the suburb.*
- ◆ *In its now rare weatherboard buildings it can continue to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around Rozelle Bay and their effect on the building of the suburbs of Leichhardt.*
- ◆ *Displays a fine collection of large detached Victorian Italianate boom period villas with most decorative details still intact, set in gardens.*
- ◆ *Displays fine collection of densely developed Victorian commercial buildings.*
- ◆ *Through the absence/presence of back lanes, changes in the subdivision pattern, and the range of existing buildings it illustrates the evolution of the grand plan for Annandale, in response to the market, from a suburb of middle class villas to one of terraces and semis for tradesmen and workers*

5 Planning Context

110 Ferris Street, Annandale is affected by a number of statutory and non-statutory controls, guidelines and lists that are relevant to this assessment of heritage impacts. They are as follows:

- ◆ NSW Heritage Act 1997,
- ◆ inner West Local Environmental Plan 2022
- ◆ Leichhardt Development Control Plan 2013
- ◆ National Trust of Australia (NSW) Register

5.1 NSW HERITAGE ACT 1977

5.1.1 State Heritage Register

The State Heritage Register is a list of heritage items of particular importance to the people of NSW. It includes items and places of state heritage significance endorsed by the Minister on the recommendation of the Heritage Council. It came into effect on 2 April 1999 and it was created under the Heritage Amendment Act 1998 and replaces the previous system of Permanent Conservation Orders as a means of protecting items of State significance.

Currently the State Heritage register includes all items formerly protected by Permanent Conservation Orders and items identified as having State significance in heritage and conservation registers prepared by State Government agencies received by the NSW Heritage Office prior to 2 April 1999. Items on the State Heritage Register require approval from the Heritage Council of NSW for certain works.

110 Ferris Street is neither included nor proposed for inclusion in the State Heritage Register.

5.1.2 Interim Heritage Orders

Interim Heritage Orders can be made under Part 3 of the Heritage Act either by the Minister or, where authorised, a Local Government Council. Interim Heritage Orders replace the previous Interim Conservation Orders and orders made under Section 130. They are effective for a maximum period of twelve months.

110 Ferris Street is not affected by any Interim Heritage Orders.

5.1.3 Archaeological 'Relics'

Under Division 9 of the Heritage Act, a permit is required for the excavation of relics, unless there is an applicable gazetted exemption. Pursuant to Clause 139 of the Heritage Act, an excavation permit is required where excavation is proposed and there is reasonable knowledge or likelihood that disturbance or excavation of the land will result in a relic being discovered, exposed, moved, damaged or destroyed.

There is no evidence or likelihood that excavation of the land at 110 Ferris Street may disturb relics as defined by the Act.

5.2 INNER WEST LEP 2022

The Inner West Local Environmental Plan 2022 is a statutory plan recently adopted by Inner West Council. The objectives of this plan is "to protect, conserve and enhance the character and identity of the suburbs, places and landscapes of Inner West, including the natural, scientific and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, and of surface rock, remnant bushland, ridgelines and skylines, and to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items."

110 Ferris Street is not listed as a heritage item under Schedule 5 of the LEP, however it is located in the Annandale (C1) heritage conservation area. It is not in the vicinity of any heritage items.

5.3 LEICHHARDT DCP 2013

The relevant objectives of this plan contained in Part C. Place - beyond those furthering the objectives of the LEP - are to encourage the retention and appropriate development of significant items; to encourage contemporary design that responds appropriately to the character of the conservation area; and to enhance amenity and heritage values within the *Young Street Distinctive Neighbourhood* of the Annandale heritage conservation area.

110 Ferris Street is located in the Young Street Distinctive Neighbourhood.

5.4 NATIONAL TRUST

The National Trust of Australia (NSW) is a community-based conservation organisation. The Trust has assembled a Register of heritage items and conservation areas through the assessment work of its expert committees. While the Trust has no legal status, it is considered to be an authoritative guide to heritage significance, and the Trust acts as a lobby group for heritage conservation.

110 Ferris Street is not identified by the National Trust of Australia (NSW).

6 Heritage Constraints

6.1 INTRODUCTION

The foregoing assessment of significance has demonstrated that the item has limited cultural significance in its own right and its contributory features are partially compromised, but fully recoverable in the context of the heritage conservation area.

6.2 CONSTRAINTS

6.2.1 General

Retention of the identified and stated cultural significance of the heritage conservation area is the primary constraint on any development.

6.2.2 Specific constraints

The *Young Street Distinctive Neighbourhood* within the *Annandale Heritage Conservation Area* contains a varied stock of predominantly 19th Century and early 20th Century architectural styles exhibiting a residential character that evolved from subdivision of John Young's Annandale Estate.

The housing style is predominantly low scale Victorian workers cottage between Collins Street and Reserve Street, mixed with single storey Californian bungalows, weatherboard cottages and fibro cottages. Larger dwellings consisting of two storey terraces and two storey detached houses are located towards the northern and southern ends of the neighbourhood.

Despite the mixed variety in architectural styles, the Young Street Distinctive Neighbourhood maintains a typical grid pattern of wide streets and a relatively consistent subdivision pattern, which runs in a south-east and north-west direction, following the contours of the land. The desired future character of the area is defined by the following objective:

O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.

7 Proposed Development

7.1 INTRODUCTION

The proposed development was prepared in a manner consistent with the cultural significance of the conservation area to ensure that its cultural heritage remains undiminished, while meeting the reasonable expectations of the owners.

The project architect sought the advice of a heritage consultant and the proposal was the subject of a pre-DA application. Extensive consultation was undertaken with the architect on heritage matters. The design development incorporated conservation advice both from the consultant and from council's heritage specialist and the proposal before council reflects a satisfactory resolution of raised heritage issues.

7.2 PROPOSED DEVELOPMENT

The proposed development consists of the following elements:

- ◆ partial demolition of the interior, demolition of the existing entry porch, demolition of the interior of the existing rear extension and removal of the timber deck;
- ◆ alterations within the interior with a relocated staircase and reinstated original entry hall and new entry door;
- ◆ construction of an additional storey over the existing rear extension;
- ◆ construction of a new timber deck in the rear garden;
- ◆ construction of an enlarged attic fit-out with new front and rear facing windows; and
- ◆ new site landscaping.

7.3 DOCUMENTS

The proposals are described and documented in detail by architectural drawings prepared by Georgina Wilson Associates. They generally describe the physical aspects of the proposed development and this heritage assessment was based on the architectural set of documents submitted to council.

8 Heritage Impact of Development

8.1 INTRODUCTION

110 Ferris Street is not listed as a heritage item under the existing statutory controls of the Inner West Local Environmental Plan 2022, however it is located within a heritage conservation area and this assessment of significance found that the house is contributory to the cultural heritage of that area, despite extensively compromised values.

The following assessment examines the development in the light of the Inner West LEP 2022 and the Leichhardt DCP 2013, but only in terms of those objectives and controls with direct heritage conservation impacts.

8.2 HERITAGE IMPACT ASSESSMENT

The following assessment is based on the NSW Heritage Office guide to the preparation of Statements of Heritage Impacts to help identify issues associated with the proposed development affecting heritage conservation areas and the format where appropriate follows the set out of the DCP to assist staff in their interpretation of heritage issues.

Inner West LEP 2022

5.10 Heritage Conservation objectives:

"To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views."

The following section demonstrates compliance in detail.

The building on the site is identified as being contributory to the cultural heritage of the local area despite its exceptionally degraded fabric: it is still legible as a Late Victorian style, working class terrace. Although it is solitary, its contributory value is maintained by its being one of a number of similarly scaled terraces in the street.

The streetscape contribution of the existing building will be maintained by the retention of existing setting, form and scale. The proposed works are concentrated in the rear, the interior and within the roof. The existing scale of the streetscape will not be affected. The house will remain unaltered in terms of the streetscape and the removal of the poorly resolved entrance recess will improve its streetscape presentation.

The small new dormer window will generate negligible streetscape impacts.

The rear development reflects the external form and character of the existing building by adopting a simple form. The scale of the second storey addition is kept to a minimum and it remains well below the rear gutter line of the original gable roof. The rear addition is acceptable as there is no historic rear building line due to the chaotic nature of rear extensions. The bulk of the new rear addition is mitigated further by the separating recess to allow for maintaining the integrity of the principal form. The proposed addition has minimal impact on the culturally significant principal form and none on its streetscape presentation.

There is no adverse impact generated for the significant qualities of the heritage conservation area.

Leichardt DCP 2013:**C1.2 Demolition****Objectives**

O1 To enhance the environmental performance, cultural significance and character of the area by encouraging good management of existing buildings.

The proposed alterations and rear additions will maintain the cultural significance and contributory values of the principal building form. The proposed rear alterations do not affect significant fabric and represent good management of the existing building.

O2 To ensure that heritage items or buildings in a Heritage Conservation Area are only demolished where they cannot be reasonably retained or conserved.

The proposed demolition only affects a degraded rear parts of the contributory item.

O3 To ensure that where demolition of a Heritage Item or buildings in a Heritage Conservation Area is deemed appropriate, that the replacement building:

- a. meets the desired future character of the area;*
- b. is compatible with the apparent subdivision pattern; and*
- c. is consistent with the objectives contained in the Leichhardt Local Environmental Plan 2013 and this Development Control Plan.*

Demolition of significant elements of the item are not proposed. Demolition is confined to elements which are lacking in cultural value.

O4 To retain existing buildings that contribute to the desired future character of the area.

The setting of the existing terrace remains unaffected in the Ferris Street streetscape.

The proposal satisfies conservation objectives in terms of demolition.

Controls

C1 Council will not approve a development application for the demolition of:

- a. a Heritage Item; or*
- b. a building in a Heritage Conservation Area that contributes positively to the conservation area; or*
- c. a building that makes a positive contribution to the desired future character of the area*

Unless:

- i. the existing building is found to be structurally unsafe; and*
- ii. cannot be reasonably repaired; and*
- iii. the proposed replacement building is consistent with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan; and*
- 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.*

Demolition of the item is not proposed. Demolition is confined to degraded elements - the rear extension and interior - which are of limited, or of no cultural value.

Achieved.

Controls C2 and C3 are not relevant, as the item is effectively retained and a heritage report is submitted as part of the development application.

C1.3 Alterations and additions

The relevant adopted approach is the following: *The original building and roof form is left intact, and the new addition provided as a separate, linked element (which could be contemporary and different in style);*

The proposed works are intended to merge with the existing building, but still maintain the legibility of the new layer as a distinct element in line with Article 22.2 of the *Burra Charter*.

Objectives*Objective 01*

- a. *Complements the scale, form and materials of the streetscape including wall height and roof form;*

There is no impact on the streetscape of Ferris Street apart from the minor alteration of the entrance and the introduction of the new dormer window. These changes generate negligible visual impacts.

By confining the majority of the proposal to the rear, the significant contributory existing form in the Ferris Street streetscape is maintained without adverse impact.

The proposed addition is subservient to the principal form and consistent with surrounding bulk, height and scale.

Achieved.

- b. *Where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*

The rear additions are simple and sympathetic in character and form. Their expression is consistent with the character of the terrace which requires simplicity in its rear setting.

Achieved.

- c. *Makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*

There is no impact on the streetscape of Ferris Street, because the additions generate minimal visual impact. The heritage values of the streetscape are maintained.

Achieved.

Objectives d to g are not relevant for heritage conservation.

- h. *Retains existing fabric wherever possible and maintains and repairs, where necessary, rather than replaces the fabric.*

Existing significant fabric is concentrated only in the wall fabric of the principal form. The development does not affect the principal form apart from minor internal alterations. The proposed internal changes within the principal form are reversible. Fabric removal in the already degraded rear extension is within acceptable limits as no significant fabric is found in the rear.

Achieved.

Controls**General provisions**

C1 a. have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;

The existing building is a late Victorian terrace with only minimal surviving Victorian detailing. None of the suggested design approaches of *Section 7 - Two and three storey Terraces - of the Building Typologies* listed in Appendix B are applicable directly to this housing type, as it affects a two storey Victorian variant of solitary terraces and it is very degraded culturally. The proposed addition represents a rear wing in line with Control C2(b) of *Section 7 - Two and three storey Terraces*.

Achieved.

b. be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form;

The works are largely confined to the rear part of the terrace. The new additions are consistent in form, scale and materials with the character of Late Victorian antecedents.

Achieved.

c. retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like);

The coherence of the streetscape is maintained because the addition will not be visible in the Ferris Street streetscape. There is no impact on the primary streetscape presentation of the existing building. The rear alterations and additions are consistent with the existing character and fit the visual diversity of the rear elevations of Ferris Street.

Achieved.

d. maintain the integrity of the streetscape and heritage significance;

The primary streetscape presentation is maintained. The principal form of the terrace is retained and its remaining contributory values are maintained.

Achieved.

e. be considered from all public vantage points from which the additions will be visible; and

The proposal was considered from all public views within Ferris Street. It is not visible from elsewhere

Achieved.

f. achieve the objectives and controls for the applicable desired future character

The works - consisting of a rear extension - ensure that the desired future character of the locality is not affected.

Achieved.

C2. Development shall preserve the consistency in architectural detail and form of continuous rows of attached dwellings or groups of similar dwellings;

The subject building is a solitary terrace, albeit now extensively degraded, although its fundamental form is still legible. The streetscape is not affected by the development which is confined to the rear and not visible from Ferris Street.

Achieved.

C3. For end terraces/buildings, new works should be setback a minimum of 500mm from the end side wall to retain the historic form as it presents to the public domain.

Not relevant.

C4. Where buildings contain original form or detail which has been compromised, the integrity of the original form and detail should be enhanced, rather than being justification for further compromise.

The changes to the rear extension does not affect culturally significant values, which are only expressed through the form of the building. The surviving original details are not affected.

Achieved.

C5. New materials and fenestrations of alterations and additions shall be compatible with the existing building.

The materials of the proposed alterations are consistent with traditional Victorian detailing at ground floor level, using masonry. The second storey addition utilises lightweight cladding referencing traditional weatherboards. The new roof sheeting is metal with a standing seam referencing traditional corrugated iron sheeting. New fenestration is vertically oriented.

Achieved.

Controls 6 to 8 are not relevant to this heritage assessment.

C9. Alterations or additions to the rear of an existing building are to:

- a. be of a building height that complies with the objectives and controls of the Site Layout and Building Design Part C3.2 of this Development Control Plan;
- b. maintain an area of useable private open space in accordance with Part C Section 3.8 – Private Open Space of this Development Control Plan;
- c. be of minimum visibility from the street (refer to Figure C1);
- d. comply with any other relevant residential development controls within this Development Control Plan.

The development does not breach height controls. Adequate private open space is provided.

Achieved.

C10. Where rear additions are visible from the public domain due to street layout or topography, maintaining original roof form is preferred and new additions are to be sympathetic to that original roof.

The proposed roof form is a simple skillion sympathetic and subservient to the Victorian character of the terrace.

Achieved.

C11. Alterations and additions above ground floor level shall:

- a. comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan;
- b. maintain setback patterns within surrounding development;
- c. be subordinate to the existing building so that the additions do not dominate the building from the public domain.

The proposed addition does not extend beyond the existing predominant setback and it is consistent in bulk with adjoining development. **Achieved.**

C12 Additions at first floor and above shall be of a scale and are to be located in a manner which:

- a. maintains visual separation between the existing building and adjoining residential development; and*
- b. maintains setback patterns of surrounding development; and*
- c. will ensure that the addition does not dominate, but is sub-ordinate to the existing dwelling when viewed from the street.*

The proposed addition maintains existing scale and setback patterns. It does not dominate its neighbours and it is subordinate to the principal form of the existing terrace.

Achieved.

Control 13 is not relevant to this heritage assessment; the addition is not on the side of the first floor.

Control 14 is not relevant to this heritage assessment; the addition is not attached to the rear of the existing roof form as understood by the control.

C15 Appropriate roof forms for rear additions depend on the context of the site, and may include:

- a. pitched in form to match the predominant roof forms of the original property and / or its context; or*
- b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or*
- c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B - Building Typologies of this Development Control Plan*

The roof form of the rear addition is a simple skillion and it represents a minimal visual impact in line with C15(b).

Achieved.

Control 16 is not relevant to this heritage assessment; link elements are not proposed.

Control 176 is not relevant to this heritage assessment; as there is no veranda.

C1.4 Heritage Conservation Areas and Heritage Items

Objectives:

Objective 1 Development:

a. does not represent an unsympathetic alteration and addition to a building;

The addition responds to the character of the terrace with its Victorian period working class residential associations by proposing a simple, restrained and sympathetic addition.

b. encourages the protection, restoration, continued use and viability of buildings for their original purpose;

The existing traditional residential use is maintained and enhanced by the proposal.

c. encourages the removal of unsympathetic elements;

The terrace contains a number of unsympathetic external elements, such as the entry recess, which will be removed.

- d. *is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter;*

The building is in the periphery of the Annandale Street heritage conservation area. The proposal respects the working class character, scale and form of the conservation area. The proposed materials and colours are compatible with the setting of the conservation area.

- e. *conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting;*

Significant building elements exhibiting cultural significance are not affected. The existing streetscape setting is not affected and the proposed rear extension is sympathetic to the setting as a simple, subordinate element.

- f. *maintains the visual unity of groups of buildings, in particular semi-detached and attached terraces;*

The coherence of the streetscape is maintained. The subject terrace is solitary and the visual impact of the proposed alterations are negligible in the streetscape.

- g. *makes an appropriate visual and physical distinction between the existing building and new parts of the building;*

The proposed additions are legibly contemporary and make appropriate distinctions.

- h. *protects and enhances views of the existing building from the public domain;*

There is no change to views from and to the public domain.

- i. *new buildings are sympathetic in scale, form, architectural detail, fenestration and siting to the Heritage Conservation Area or Heritage Item and conforms with the Burra Charter.*

Not relevant. The development is not for a new building.

The relevant objectives are satisfied.

Controls:

- C1 *Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.*

The existing building is a Victorian solitary terrace with most of its original detailing lost. It is a narrow terrace and while its form and scale matches others in the local area, there is no section in Appendix B that fits this type accurately being a solitary terrace, nevertheless the following section demonstrates compliance.

Achieved.

- C2 *The fabric of an existing building is to be the subject of appropriate conservation practices including:*

- a. *retention of original detail and finishes such as:*

- i. *original face brick which should not be painted over or rendered;*
ii. *original decorative joinery and iron work which is not to be removed;*

Original visible elements, which are limited to chimney, roof parapet and fireplaces, will be conserved and restored.

b. conservation of original elements;

Original elements, which are limited to external walls, will be conserved and restored.

c. reconstruction or restoration of original elements where deemed appropriate;

The lost timber framed front veranda cannot be restored, because its knowledge is lost.

d. retention of the original cladding material of original roofs where viable;

The cladding of the principal roof is original. The proposed new cladding is a higher grade solution.

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.

The proposed new materials were selected with regard to the cohesiveness of the terrace and its neighbours: brick is used for ground floor walls and lightweight cladding for the upper level additions of the rear extension.

Achieved.

*C3 Development of dwellings within Heritage Conservation Areas must:**a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;*

The roof over the principal form of the building is retained. The chimney is retained. The walls of the front two rooms are retained.

b. retain the major form, scale and materials of the existing structure as described in (a);

There is no change to the major form, scale and materials.

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

The proposed rear additions and the dormer windows do not dominate the terrace and the small front dormer window will have negligible impact in the streetscape of Ferris Street.

d. retain significant, established gardens and plantings including early fences.

Not relevant: there is no significant garden.

Achieved.

C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C Section 1.2 – Demolition within this Development Control Plan.

Not relevant: the dwelling is not to be demolished.

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).

The proposed steel roof for the rear additions is appropriate, because the selected material is compatible with the context.

Achieved.

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.

The original roof form is retained. The proposed roof over the rear addition is subservient to the original roof.

Achieved.

Control C7 is not relevant, because no link element is proposed.

Controls C8 and C9 are not relevant, because the development is not for a new building.

Part C - Place - Section 2: Urban Character

C2.2.1 Annandale Distinctive Neighbourhoods

C2.2.1.1 Young Street Distinctive Neighbourhood

Objective

O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.

The following section demonstrates compliance with the relevant controls.

Controls

C1 Maintain and enhance the diversity of dwelling style found throughout the neighbourhood, such as Federation and Victorian dwellings, Californian bungalows and weatherboard cottages.

The existing Victorian terrace is maintained.

Achieved.

C2 Maintain the character and consistency in architectural detail of continuous rows of attached dwellings

Not relevant: the subject terrace is solitary.

C3 Allow for contemporary development, which is complementary to the existing streetscape.

Not relevant: the streetscape is not affected.

C4 Preserve and maintain the historic subdivision pattern of Young Street Distinctive Neighbourhood.

Not relevant: no change is proposed to the subdivision pattern.

C5 Contain upper floors within the roof form, so as not to be visible from the street frontage.

The proposed rear extension is not visible from the street frontage..

Achieved.

C6 Improve the environmental amenity and interest for pedestrians accessing the area
The development does not affect pedestrian movements.

Not relevant.

C7 Maintain the harmony/character of the neighbourhood by ensuring development is complementary in form and materials, and reflects the cohesiveness of the streetscape.

The proposal has negligible impact on the streetscape of Ferris Street.

Achieved.

C8 Preserve and integrate natural rocky outcrops into the landscaping of the area, particularly where visible from public places

There are no rock outcrops or any other natural features associated with the site.

Not relevant.

C9 Maintain the prevalence of street trees in addition to mature and visually significant trees on private land.

There is no impact on street trees.

Achieved.

C10 Promote the establishment and enhancement of existing front gardens and landscaping on private property.

Landscaping of the existing front garden will be enhanced with new planting.

Achieved.

C11 The development to a primary street frontage shall have a maximum building wall height of 3.6m unless:

a. the relevant wall will adjoin a two storey or higher building in which case the 3.6m wall height may be varied where the new roof forms relate to existing adjacent forms and will not exceed the higher ridge height of the adjoining building;

b. the development is on a corner site in which case a 6m building wall height may be used, if all amenity and streetscape issues have been addressed to the satisfaction of Council.

Not relevant: no work occurs at the primary frontage

C12 New driveway crossings are to be avoided. Existing driveway crossings are to be minimised and a maximum width of a single crossing.

Not relevant: driveway crossings are not proposed.

C13 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).

The site is not in a Sub Area.

Not relevant.

8.3 STATUTORY COMPLIANCE

8.3.1 Heritage Act

The proposals are consistent with the provisions of the Heritage Act.

8.3.2 Inner West Local Environmental Plan 2022

110 Ferris Street is not a listed item under the LEP, but it is located within a heritage conservation area. The objective of the plan in terms of development within heritage conservation areas under Clause 5.10 (1) are

- (a) to conserve the environmental heritage of Inner West,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The plan also provides under 5.10(2) that development consent is required for any of the following (only the relevant sections are quoted):

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (e) erecting a building on land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area.*

Furthermore the plan provides that

(4) Effect of proposed development on heritage significance

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).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), 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.*

The foregoing has demonstrated that the proposed development is compatible with the cultural significance of the heritage conservation area.

The proposed development complies with the heritage provisions of the LEP.

8.4 CONCLUSION

Having examined the heritage impact of the development on the cultural heritage of the conservation area the following can be concluded:

- ◆ changes to the existing building do not generate a loss of cultural value for the conservation area;
- ◆ the development does not compromise the setting of the solitary terrace; and
- ◆ the development, which is concentrated in the rear has neutral impact for the streetscape of Ferris Street.

The proposed development does not generate negative heritage impacts for the conservation area.

PROPOSED DEVELOPMENT | 110 FERRIS STREET | ANNANDALE | HERITAGE REPORT

9 Recommendations

Having assessed the significance of the place and the heritage impact of the proposed development the following are recommended:

- ◆ that Council should consent to the proposed development in recognition of its lack of adverse heritage conservation impacts and contemporary design quality, which is sympathetic and responsive to the cultural values of the conservation area.

Signed



ZOLTAN KOVACS B. Arch (Hons)
ARCHITECT

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