






# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2020/0121
<b>Address</b>	2/200-202 Albion Street ANNANDALE
<b>Proposal</b>	Part demolition and addition of glass trafficable roof over void.
<b>Date of Lodgement</b>	25/02/2020
<b>Applicant</b>	Design Plus Drafting
<b>Owner</b>	Ms Anna T Hocking
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$15,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variations exceeds 10%
<b>Main Issues</b>	Nil
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for Part demolition and addition of glass trafficable roof over void at 2/200-202 Albion Street Annandale. The application was notified to surrounding properties and no submissions received.

The main issues that have arisen from the application include:

- The proposal resulting in additional non-compliance to the Floor Space Ratio (FSR) development standard.
- The proposal resulting in additional non-compliance to the Site Coverage development standard.
- The proposal seeking to retain existing development standard breach in relation to Landscaped Area.

The non-compliances are acceptable given the proposed works does not result in any additional bulk or create any amenity impacts to adjoining properties, and results in acceptable on-site amenity outcomes, and therefore, the application is recommended for approval.

## 2. Proposal

Part demolition and addition of glass trafficable roof over void which encloses / provides a roof to an existing light-well/private open space.

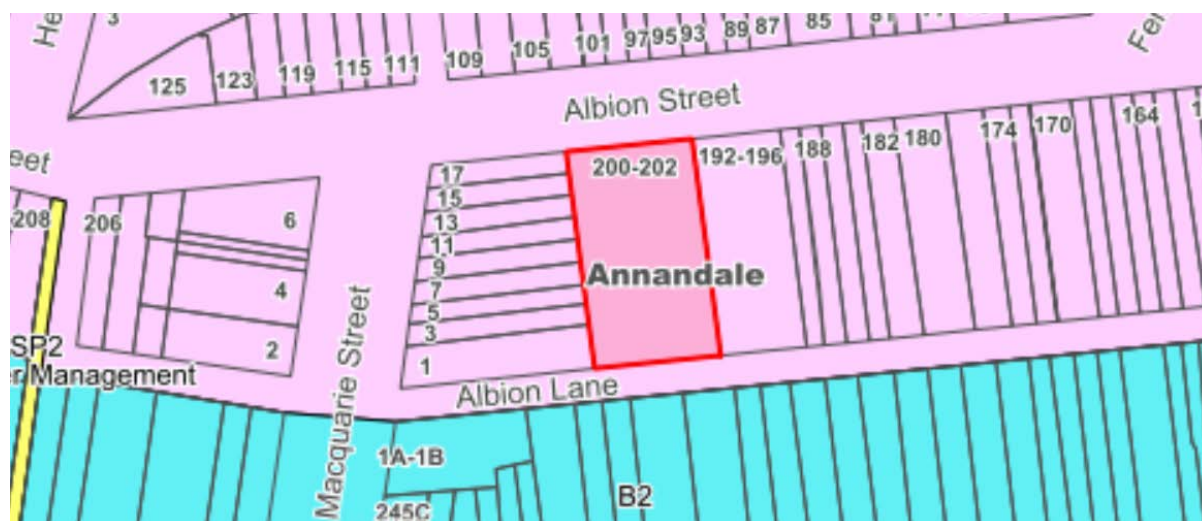
## 3. Site Description

The subject site is has frontages to the southern side of Albion Street and northern side of Albion Lane. The subject premise is located on the Albion Lane frontage. The site consists of one allotment and is generally rectangular shaped with a total area of 905.974 sqm and is legally described as SP72270.

The site has a frontage to Albion Street of approximately 22.86 metres and a secondary frontage of approximate 22.86 metres to Albion Lane.

The site supports a resident flat building which consists of 8 residential dwellings. The adjoining properties support residential dwellings to the west and residential flat building to the east.

The subject site is not listed as a heritage item, nor located in the vicinity of any item of heritage significance. The property is located within a conservation area. The property is identified as a flood prone lot.



#### 4. Background

##### 4(a) Site history

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

##### Subject Site

Application	Proposal	Decision & Date
D/2002/82	Adaptive reuse of existing industrial building for eight (8) residential units including partial demolition of single storey front section of the existing building to allow for a new first floor, open space and courtyards.	Approved 25-Sep-2002
M/2003/29	Modification to development consent D/2002/82 for adaptive reuse of existing industrial building for eight residential units including partial demolition of single storey front sections of the existing building to allow for a new first floor open space and courtyards. Modifications involve the deletion of Condition 5(d).	Approved 28-May-2003
M/2003/56	Modification to development consent D/2002/82 for adaptive reuse of an existing industrial building for eight residential units including partial demolition of existing building. Modification involves a recalculation of the section 94 contributions.	Approved 28-May-2003

##### Surrounding properties

Application	Proposal	Decision & Date
D/2003/826	<u>192 - 196 Albion Street ANNANDALE</u> Construction of 2 x single garages, one each for Unit 3 and Unit 4.	Withdrawn 20/04/2004

#### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
29 April 2020	Request for additional information (clause 4.6 exceptions for FSR, Site coverage, and landscaped area development standards) sent.
2 June 2020	Additional information provided.

### 5. Assessment

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

#### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

#### **5(a)(i) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development**

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

The proposal does not alter the build and scale or external appearance of the development when viewed from the street and will not result in any additional amenity impacts to the surrounding properties and therefore is considered to be acceptable having regard to the nine design quality principles.

#### Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The proposed works, which consist of enclosing an existing patio by providing a transparent trafficable roof over an existing void, will not result any additional non-compliances in the design criteria under the Apartment Design Guide. As the existing patio that will be enclosed is associated with a bedroom at the lower level, there is no impact to the amount of sunlight that is received by the main living area on the upper floor.



Despite the enclosure of the patio on the lower level, the trafficable roof will create a balcony/terrace area of approximately 22 sqm in size on the upper level which exceeds the required 12 sqm.

As the trafficable roof is of transparent material, the ground floor rear bedroom will continue to receive natural sunlight. It should also be noted that on the ground floor southern elevation, the proposal will retain an existing opening that will allow natural ventilation in the ground floor rear bedroom. This opening is not shown on the ground floor plan as it is located more than 1.4 metres above the ground floor level (refer to image below).



Existing opening on the southern elevation at ground floor level will be retained.

Therefore it is considered that the proposal will satisfy the objectives and guidelines under the Apartment Design Guide.

#### **5(a)(ii) *Leichhardt Local Environment Plan 2013 (LLEP 2013)***

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

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

The application is considered satisfactory with respect to the provisions and objectives of the above Clauses. The following assessment clarifies compliances and non-compliances as relevant.

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

The site is zoned R1 – General Residential under the *LLEP 2011*. Residential flat buildings are permitted with consent within the land use zone. The development is consistent with the objectives of the R1 – General Residential.

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

Standard	Proposal	non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.6:1 or 544 sqm	1.03:1 or 937 sqm	393 sqm or 72%	No
<b>Landscape Area</b> Minimum permissible: 15% or 181 sqm	7% or 60 sqm	121 sqm or 67%	No
<b>Site Coverage</b> Maximum permissible: 60% or 544 sqm	69.5% or 630 sqm	86 sqm or 16%	No
<b>Diverse Housing</b> 25% of Dwellings are Single bedroom units or studios	50% of existing units are Single bedroom units	N/A	Yes

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio

The applicant seeks a for further breach to the variation to the Site Coverage development standard under Clause 4.3A(3)(b) – Site Coverage of the applicable Local Environmental Plan to 16% and a further breach to the variation to the Floor Space Ratio development standard under Clause 4.4 – Floor Space Ratio of the applicable Local Environmental Plan to 72% (29 sqm). The applicant also seeks to retain the existing variations to the Landscaped Area.

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

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

Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1

A written request has been submitted to Council in accordance with Clause 4.6(34) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- *Compliance with the development standards is unreasonable and unnecessary as the proposal will not alter the existing landscaped area within the site.*
- *The proposal is limited to the enclosure of the existing front paved patio at ground level to allow for a consolidated open space area at first floor level.*
- *The non-compliance with the landscaped area control is to be retained as existing.*
- *The subject townhouse is currently not provided with a landscaped area. The enclosure of the existing paved patio at ground level will not remove an opportunity for tree planting and will allow for a more consolidated private open space area first floor level for the enjoyment of the residents. Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.*
- *The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area. The desired future character of the neighborhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development. The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impact on the existing amenity of the street.*

*The proposal is consistent with the zone objectives, as follows:*

- *The proposal will provide suitable housing having regard to the site and its context;*
- *The proposal will retain the existing low density residential nature of the site;*
- *The proposal will not affect the opportunity to work from home;*
- *The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.*
- *The proposal will not alter the existing landscaping provision on site;*
- *The proposal does not include any subdivision; and*
- *The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.*

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

**Objectives of the R1 General Residential zone**

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

As the proposed works will not result in the reduction of existing Landscaped Area, and results in acceptable streetscape and on-site amenity outcomes, the proposal is considered to consistent with the zone objectives.

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

#### **4.3A Landscaped areas for residential accommodation in Zone R1**

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

The existing building does not achieve compliance with the development standards in relation to Landscaped Area. As the proposal does not result in the reduction of any existing landscaped area and as the proposal will provide a private open space that have adequate amenity and can be used for recreational purposes, the proposal is considered to achieve the objectives of Clause 4.3A, the variation to this standard can be supported.

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

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

#### **Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1**

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

- *Compliance with the development standards is unreasonable and unnecessary as the proposal will provide a more usable private open space area at first floor level with no additional impact on the amenity of adjoining properties and no loss of landscaped area.*
- *The non-compliance with the site coverage area control is as a result of the enclosure of the paved patio area at ground level and this is area is not discernible from the public domain or from the townhouses within the subject development.*
- *The visible built form of the development will not be altered.*
- *The proposal will not introduce a new building element, which has produces new overshadowing for adjoining properties, as the glass floor addition is behind the parapet of the building;*

- *The proposal will not affect the privacy of adjoining properties, as the minor additional trafficable area is to the front of the building and will only allow sightlines towards the public domain, being Albion Street;*
- *The proposed glass roof, given its location, will not affect views from surrounding properties; and*
- *The proposal will not alter the visual bulk of the building as it appears to the public domain and therefore the visual amenity of Albion Street will be retained as existing.*
- *The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area. The desired future character of the neighbourhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development. The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impact on the existing amenity of the street.*
- *The enclosure of the existing paved patio at ground level will not affect existing absorption of surface drainage water and will not obstruct underground flow of water. Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.*
- *The proposal does not seek to increase the density of the development on the subject site.*
- *The proposal seeks to provide a minor increase in the building footprint through the enclosure of an existing paved patio area. However, the existing paved patio is not suitable as landscaped area and is not visible or read as unbuilt upon area from the public domain. The enclosure at ground level will allow for a more consolidated private open space area at first floor level for the enjoyment of the residents.*

*The proposal is consistent with the zone objectives, as follows:*

- *The proposal will provide suitable housing having regard to the site and its context;*
- *The proposal will retain the existing low density residential nature of the site;*
- *The proposal will not affect the opportunity to work from home;*
- *The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.*
- *The proposal will not alter the existing landscaping provision on site;*
- *The proposal does not include any subdivision; and*
- *The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable 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 (see above), in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan as the visible built form of the development will not be altered, the proposal will not introduce or result in any additional bulk and scale or amenity impacts to the surrounding properties, and will result in acceptable on-site amenity outcomes.

It is considered the development is in the public interest because it is consistent with the objectives of the Landscaped Area development standard (see above), in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan. In this regard, while the existing building does not achieve compliance with the development standards in relation to Site Coverage, the proposal will retain the existing building bulk, form and scale, the



proposal raises no issues that are contrary to the desired future character of the area as stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood. The proposal is considered to achieve the objectives of Clause 4.3A, and hence, the variation to the Site Coverage standard can be supported.

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

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

#### Clause 4.4 – Floor Space Ratio

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

- *Compliance with the development standards is unreasonable and unnecessary as the proposal will not alter the existing building as presented to the public domain as it will not alter the bulk and scale of the building.*
- *The proposal is limited to the enclosure of the existing front patio at ground level to allow for a consolidated open space area at first floor level by providing a glass roof behind the existing front parapet.*
- *Exceedance of the FSR control as a result of the proposed works will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity. A reduction in gross floor area, through the deletion of the proposed glass roof would not create additional benefit for adjoining properties or the locality.*
- *The proposal will not introduce a new building element, which has produces new overshadowing for adjoining properties, as the glass floor addition is behind the parapet of the building;*
- *The proposal will not affect the privacy of adjoining properties, as the minor additional trafficable area is to the front of the building and will only allow sightlines towards the public domain, being Albion Street;*
- *The proposed glass roof, given its location, will not affect views from surrounding properties; and*
- *The proposal will not alter the visual bulk of the building as it appears to the public domain and therefore the visual amenity of Albion Street will be retained as existing.*
- *The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area. The desired future character of the neighborhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development. The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impact on the existing amenity of the street.*

*The proposal is consistent with the zone objectives, as follows:*

- *The proposal will provide suitable housing having regard to the site and its context;*
- *The proposal will retain the existing low density residential nature of the site;*
- *The proposal will not affect the opportunity to work from home;*

- *The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.*
- *The proposal will not alter the existing landscaping provision on site;*
- *The proposal does not include any subdivision; and*
- *The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable 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 (see above), in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan. In this regard, while the proposal does not comply with the Floor Space ratio standard, -as the visible built form of the development will not be altered, the proposal will not introduce result in any additional bulk and scale or amenity impacts to the surrounding properties, the proposal is considered to consistent with the zone objectives.

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

#### **4.4 Floor Space Ratio**

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that residential accommodation—*
- (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
  - (ii) *provides a suitable balance between landscaped areas and the built form, and*
  - (ii) *minimises the impact of the bulk and scale of buildings,*
- (b) *to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*

The existing building does not achieve compliance with the development standards in relation to Floor Space Ratio. The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area. The proposal does not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impacts to the surrounding properties. The proposal does not reduce the amount of existing Landscaped Area. Therefore the proposal is considered to achieve the objectives of Clause 4.4, the variation to this standard can be supported.

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

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

Clause 6.8 - Development in areas subject to aircraft noise

The proposal is for minor alterations and additions to an existing residential unit only, would not lead to the increase of the number of bedrooms and does not impact the number of existing dwellings. Therefore it is considered that the requirements of Development in areas subject to aircraft noise not be applicable in this instance.

5(b) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans

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

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes – see SEPP 65 discussion above
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not Applicable
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Not Applicable
C1.6 Subdivision	Not Applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Not Applicable
C1.10 Equity of Access and Mobility	Not Applicable
C1.11 Parking	Not Applicable
C1.12 Landscaping	Yes
C1.14 Tree Management	Not Applicable
C1.15 Signs and Outdoor Advertising	Not Applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not Applicable
C1.17 Minor Architectural Details	Not Applicable

<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.1.1 Young Street Distinctive Neighbourhood	Yes – see discussion
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Not Applicable
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.14 Adaptable Housing	Not Applicable
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	Not Applicable
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes, subject to conditions
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes, subject to standard conditions
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	Yes, subject to standard conditions
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes, subject to standard conditions
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Not applicable
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Not applicable
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Yes, subject to standard conditions
E1.3.2 Foreshore Risk Management	Not applicable

The following provides discussion of the relevant issues:

### C1.0 General Provisions

In regards to the amenity to the bedroom, while an existing void area will be provided with a glazed roof, the bedroom will continue to have access to light and ventilation via an opening in the front wall that faces Albion Lane.

### C1.4 Heritage Conservation Areas and Heritage Items and C2.2.1.1 Young Street Distinctive Neighbourhood

The subject site is not listed as a heritage item on the Leichhardt LEP 2013. It is a contributory item to the 'Annandale Heritage Conservation Area' (C1). There are no listed heritage items in close proximity that would be adversely affected by the proposal.

The subject site is part of the Annandale Distinctive Neighbourhood of the Leichhardt LEP 2013. The subject site is occupied by a former warehouse that has been converted to a strata building and is contributory to the heritage conservation area. The proposal is for alterations to unit 2.

The proposed works have been reviewed with consideration of the Leichhardt Local Environmental Plan 2013 & Development Control Plan 2013. There are no heritage concerns with the current proposal. The proposed works affect fabric that has already been heavily modified when this former warehouse was converted to strata. Overall there will be no impact to the historic streetscape of Annandale.

#### 5(d) The Likely Impacts

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

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

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

#### 5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received.

#### 5(g) The Public Interest

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

The proposal is not contrary to the public interest.



## 6 Referrals

### 6(a) Internal

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

- Heritage
- Engineering

### 6(b) External

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

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

## 8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining 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 written requests pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* to contravene Clause 4.3A and Clause 4.4 of the *Leichhardt Local Environmental Plan 2013*. After considering the requests, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standards and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0121 for Part demolition and addition of glass trafficable roof over void at 2/200-202 Albion Street ANNANDALE subject to the conditions listed in Attachment A below.

**Attachment A – Recommended conditions of consent**

**CONDITIONS OF CONSENT**

**FEES**

**1. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$2,152.50
<b>Inspection Fee:</b>	\$230.65

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

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

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

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

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

**GENERAL CONDITIONS**

**2. 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.

**3. Stormwater Drainage System – Simple**

Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a

public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensuring no concentration of flows or nuisance to other properties.

#### 4. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
Drawing No. A10, Issue B	Existing / Demolition Floor Plans	24.02.20	Design Plus Drafting
Drawing No. A14, Issue B	Proposed Floor Plans	24.02.20	Design Plus Drafting
Drawing No. A15, Issue B	Section & Perspective Drawing	24.02.20	Design Plus Drafting
Drawing No. A50, Issue B	3D & Materials Schedule	24.02.20	Design Plus Drafting

As amended by the conditions of consent.

#### 5. Waste Management Plan

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

#### 6. Works Outside the Property Boundary

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

### **PRIOR TO ANY DEMOLITION**

#### 7. 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.

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### 8. 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.

**9. 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.

**10. Sydney Water – Tap In**

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

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

**DURING DEMOLITION AND CONSTRUCTION****11. 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.

**PRIOR TO OCCUPATION CERTIFICATE****12. 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.

**13. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

**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.

**Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

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

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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



**Obtaining Relevant Certification**

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

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

**Disability Discrimination Access to Premises Code**

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

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

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

#### **Noise**

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

#### **Amenity Impacts General**

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

#### **Fire Safety Certificate**

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

#### **Boarding House – Registration with Fair Trading**

Boarding houses with two or more residents who have additional needs or five or more residents who do not have additional needs are required to register with the Department of Fair Trading.

#### **Construction of Vehicular Crossing**

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

**Lead-based Paint**

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

**Dial before you dig**

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

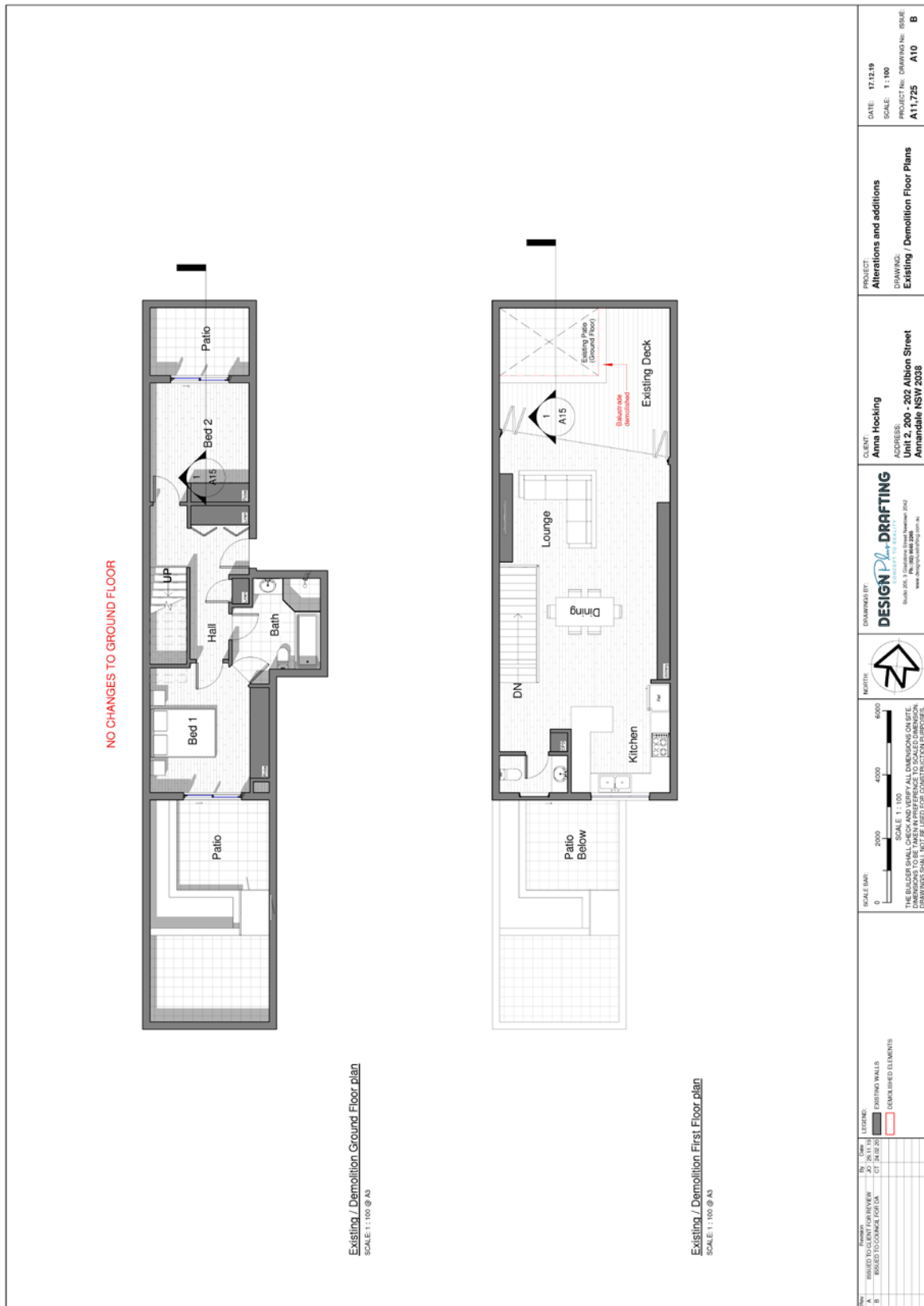
**Useful Contacts**

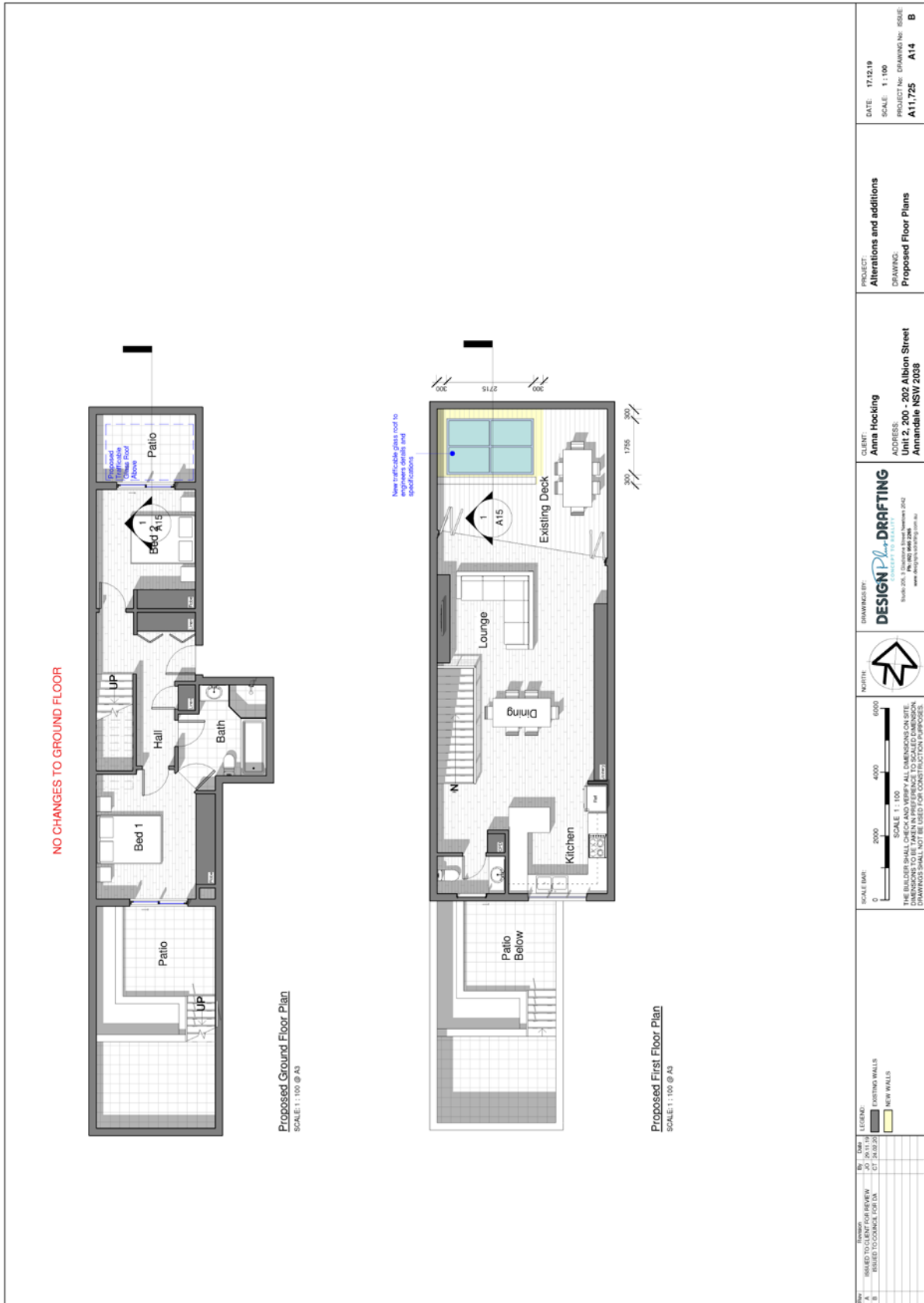
BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior.toyoudig.com.au">www.dialprior.toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

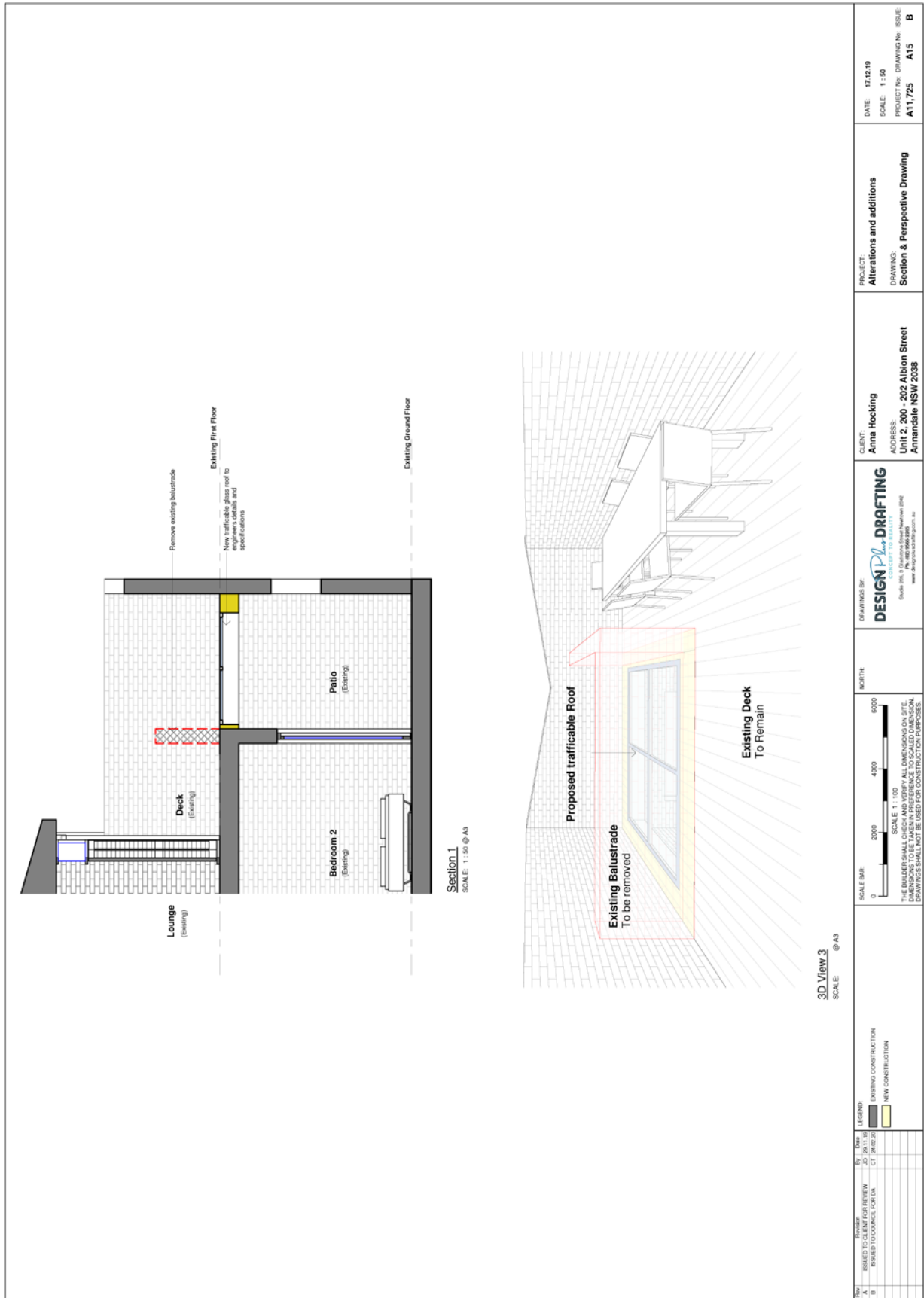
If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

Attachment B – Plans of proposed development











**MATERIALS SCHEDULE**

**Material:** Timber Decking  
**Location:** Deck  
**Finish:** Matching existing



**Material:** Metal frame with glass  
**Location:** Deck  
**Finish:** Matching existing



<b>REVISIONS</b>	<b>NO.</b>	<b>DATE</b>	<b>BY</b>	<b>REASON</b>	

<b>SCALE</b> 1:500	<b>DATE</b> 11/12/19	<b>SCALE</b> 1:500
<b>THE ENGINEER SHALL CHECK AND VERIFY ALL DIMENSIONS ON SITE. DIMENSIONS TO BE TAKEN TO THE FACE TO UNLESS OTHERWISE SPECIFIED. DIMENSIONS SHALL BE TO THE EXTERIOR DIMENSIONS UNLESS OTHERWISE SPECIFIED.</b>		
<b>CLIENT</b> Arma Hocking Unit 2, 200 - 202 Albion Street Armadale NSW 2038	<b>PROJECT</b> Alterations and additions DRAWING: 30 & Materials Schedule	<b>PROJECT NO.</b> DAMM19/010 <b>DATE</b> 11/12/19 <b>SCALE</b> A11,725 - A50 - B
<b>DRAWN BY</b> <b>DESIGN DRAFTING</b> PRACTICE 11/12/19 www.designdrafting.com.au		

**Attachment C- Clause 4.6 Exception to Development Standards**

2/200–202 Albion Street, Annandale  
DA/2020/0121  
Site Area: 907m<sup>2</sup>

**REQUEST FOR VARIATION TO LANDSCAPED AREA FOR  
RESIDENTIAL ACCOMMODATION IN ZONE R1 (SITE  
COVERAGE) DEVELOPMENT STANDARD PURSUANT TO  
CLAUSE 4.6(3) OF LEICHHARDT LEP 2013**

**Clause 4.3A – Landscaped Areas for Residential  
Accommodation in Zone R1**

Clause 4.3A of the Leichhardt LEP 2013 prescribes a maximum site coverage area of 60% of the site, equating to 544.2m<sup>2</sup> for this site.

The proposed works to the existing dwelling are limited to the enclosing of an existing patio at ground level to allow for a trafficable glass roof area above as part of the first-floor existing deck.

The proposal provides a site coverage of 623m<sup>2</sup>, providing a non-compliance with the maximum area of 78.8m<sup>2</sup> (14.47%). A Clause 4.6 variation has been prepared in response to the non-compliance.

The objectives of Clause 4.3A are as follows:

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

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

The zoning of the land is R1 General Residential under the provisions of the Leichhardt Local Environmental Plan 2013. The objectives of the R1 zone are:

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

#### **Clause 4.6 – Exceptions to Development Standards**

Clause 4.6 of the Leichhardt Local Environmental Plan 2013 allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

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

The clause goes on to state:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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*
- (4) 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, and*
  - (b) the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard.

The NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the DP&I's Guide.

#### **Clause 4.6(3) and 4.6(4)**

The proposal is considered against the four matters required to be established under Clause 4.6.

#### **1. Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:**

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways<sup>1</sup>:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by Commission Morris in. Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance<sup>2</sup>. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

The most common way of establishing that compliance with a standard is unreasonable and unnecessary is to establish that the objectives of the standard are met, even though the standard is not complied with<sup>3</sup>. This objection relies on this method. Compliance with the objectives of the FSR standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- Compliance with the development standards is unreasonable and unnecessary as the proposal will provide a more usable private open space area at first floor level with no additional impact on the amenity of adjoining properties and no loss of landscaped area.

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<sup>1</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827

<sup>2</sup> *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

<sup>3</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245



- The non-compliance with the site coverage area control is as a result of the enclosure of the paved patio area at ground level and this area is not discernible from the public domain or from the townhouses within the subject development.
- The visible built form of the development will not be altered.

**2. There are sufficient environmental planning grounds to justify contravening the development standard:**

Given the consistency of the proposal against the zone objectives and landscaped area objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard<sup>4</sup>.

The proposal seeks to enclose an existing patio by providing a glass roof above to provide a more consolidated private open space area at first floor level and will therefore not add to the visible built form of the site.

The enclosure of the patio area to provide a consolidated terrace at first floor level will not affect the amenity of adjoining properties for the following reasons:

- The proposal will not introduce a new building element, which has produces new overshadowing for adjoining properties, as the glass floor addition is behind the parapet of the building;
- The proposal will not affect the privacy of adjoining properties, as the minor additional trafficable area is to the front of the building and will only allow sightlines towards the public domain, being Albion Street;
- The proposed glass roof, given its location, will not affect views from surrounding properties; and
- The proposal will not alter the visual bulk of the building as it appears to the public domain and therefore the visual amenity of Albion Street will be retained as existing.

Therefore, the proposal is reasonable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The proposal responds appropriately to the unique opportunities and constraints of the site as it is providing a glass roof above an existing patio, to allow for a more usable private open space area at first floor level, with no additional privacy impacts.

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<sup>4</sup> see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

The area in which the works are to be undertaken is not visible to the public domain and therefore does not affect the bulk and scale of the development as presented to the public domain.

In addition, the lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds<sup>5</sup>.

**3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):**

The written request adequately addresses the matters referred to above by Clause 4.6(3).

**4. 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:**

**Clause 4.4 – Objectives**

The proposal will be in the public interest as it meets the objectives of the landscaped area in Zone R1 development standard as follows:

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

*Comment:* The subject townhouse is currently not provided with a landscaped area. The enclosure of the existing paved patio at ground level will not remove an opportunity for tree planting and will allow for a more consolidated private open space area first floor level for the enjoyment of the residents.

Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.

**Objective (b)** seeks to maintain and encourage a landscaped corridor between adjoining properties.

*Comment:* The proposal will not affect any existing landscaped corridor between adjoining properties, as it does not seek to remove any landscaped area.

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<sup>5</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

**Objective (c)** seeks to ensure that development promotes the desired future character of the neighbourhood.

*Comment:* The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area.

The desired future character of the neighborhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development.

The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impact on the existing amenity of the street.

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

*Comment:* The enclosure of the existing paved patio at ground level will not affect existing absorption of surface drainage water and will not obstruct underground flow of water. Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.

**Objective (e)** seeks to control density.

*Comment:* The proposal does not seek to increase the density of the development on the subject site.

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

*Comment:* The proposal seeks to provide a minor increase in the building footprint through the enclosure of an existing paved patio area. However, the existing paved patio is not suitable as landscaped area and is not visible or read as unbuilt upon area from the public domain. The enclosure at ground level will allow for a more consolidated private open space area at first floor level for the enjoyment of the residents.

**Objectives of the Zone**

The zoning of the property is R1 and the objectives of the zone are:

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

The proposal is consistent with the zone objectives, as follows:

- The proposal will provide suitable housing having regard to the site and its context;
- The proposal will retain the existing low density residential nature of the site;
- The proposal will not affect the opportunity to work from home;
- The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.
- The proposal will not alter the existing landscaping provision on site;
- The proposal does not include any subdivision; and
- The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the landscaped areas for residential accommodation in Zone R1 development standard and the objectives of the R1 zone.

In addition, the above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify the non-compliance.

With respect to Clause 4.6(4)(b), concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 21 February 2018 attached to the Planning Circular PS 18-003<sup>6</sup>.

### Conclusion

The consistency of the development with the zone objectives and the objectives of the landscaped area standard and the lack of unreasonable impact arising is sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard and such justification is specific to the circumstances of this case.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

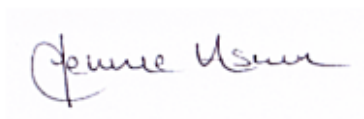
Despite the breach with the standard, the proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979 (formerly 5(a)(i) and (ii) of the Act), which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land and to promote good design and amenity of the built environment.

In the context of other requirements of Clause 4.6, it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

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<sup>6</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at Para [28]



Jennie Askin  
Director  
aSquare Planning Pty Ltd

2 June 2020





2/200–202 Albion Street, Annandale  
DA/2020/0121  
Site Area: 907m<sup>2</sup>

**REQUEST FOR VARIATION TO LANDSCAPED AREA FOR  
RESIDENTIAL ACCOMMODATION IN ZONE R1  
DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3)  
OF LEICHHARDT LEP 2013**

**Clause 4.3A – Landscaped Areas for Residential  
Accommodation in Zone R1**

Clause 4.3A of the Leichhardt LEP 2013 prescribes a minimum landscaped area of 20% of the site, equating to 181.4m<sup>2</sup> for this site.

The proposed works to the existing dwelling is limited to the enclosing of an existing patio at ground level to allow for a trafficable glass roof area above as part of the first-floor existing deck. The proposal will not reduce the existing landscaped area provided for the site as a whole.

The existing site provides a landscaped area of 60m<sup>2</sup>, providing a non-compliance with the minimum required area of 121.4m<sup>2</sup> (66.9%). Given works are occurring within the site, a Clause 4.6 variation has been prepared in response to the existing non-compliance.

The objectives of Clause 4.3A are as follows:

- (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) *to ensure that development promotes the desired future character of the neighbourhood,*
- (d) *to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*

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- (e) *to control site density,*
- (f) *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

The zoning of the land is R1 General Residential under the provisions of the Leichhardt Local Environmental Plan 2013. The objectives of the R1 zone are:

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

#### **Clause 4.6 – Exceptions to Development Standards**

Clause 4.6 of the Leichhardt Local Environmental Plan 2013 allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

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

The clause goes on to state:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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*
- (4) 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, and*
  - (b) the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard.

The NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the DP&I's Guide.

#### **Clause 4.6(3) and 4.6(4)**

The proposal is considered against the four matters required to be established under Clause 4.6.

#### **1. Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:**

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways<sup>1</sup>:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by Commission Morris in. Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance<sup>2</sup>. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

The most common way of establishing that compliance with a standard is unreasonable and unnecessary is to establish that the objectives of the standard are met, even though the standard is not complied with<sup>3</sup>. This objection relies on this method. Compliance with the objectives of the landscaped area development standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- Compliance with the development standards is unreasonable and unnecessary as the proposal will not alter the existing landscaped area within the site.
- The proposal is limited to the enclosure of the existing front paved patio at ground level to allow for a consolidated open space area at first floor level.

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<sup>1</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827

<sup>2</sup> *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

<sup>3</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

- The non-compliance with the landscaped area control is to be retained as existing.

**2. There are sufficient environmental planning grounds to justify contravening the development standard:**

Given the consistency of the proposal against the zone objectives and landscaped area objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard<sup>4</sup>.

The proposal seeks to enclose an existing patio by providing a glass roof above to provide a more consolidated private open space area at first floor level and will therefore retain the existing level of landscaped area within the site.

The enclosure of the patio area to provide a consolidated terrace at first floor level will not affect the amenity of adjoining properties for the following reasons:

- The proposal will not introduce a new building element, which has produces new overshadowing for adjoining properties, as the glass floor addition is behind the parapet of the building;
- The proposal will not affect the privacy of adjoining properties, as the minor additional trafficable area is to the front of the building and will only allow sightlines towards the public domain, being Albion Street;
- The proposed glass roof, given its location, will not affect views from surrounding properties; and
- The proposal will not alter the visual bulk of the building as it appears to the public domain and therefore the visual amenity of Albion Street will be retained as existing.

Therefore, the proposal is reasonable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The proposal responds appropriately to the unique opportunities and constraints of the site as it is providing a glass roof above an existing patio, to allow for a more usable private open space area at first floor level, with no additional privacy impacts.

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<sup>4</sup> see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]



The area in which the works are to be undertaken do not provide an opportunity for the provision of landscaped area.

In addition, the lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds<sup>5</sup>.

**3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):**

The written request adequately addresses the matters referred to above by Clause 4.6(3).

**4. 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:**

**Clause 4.4 – Objectives**

The proposal will be in the public interest as it meets the objectives of the landscaped area in Zone R1 development standard as follows:

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

*Comment:* The subject townhouse is currently not provided with a landscaped area. The enclosure of the existing paved patio at ground level will not remove an opportunity for tree planting and will allow for a more consolidated private open space area first floor level for the enjoyment of the residents.

Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.

**Objective (b)** seeks to maintain and encourage a landscaped corridor between adjoining properties.

*Comment:* The proposal will not affect any existing landscaped corridor between adjoining properties, as it does not seek to remove any landscaped area.

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<sup>5</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

**Objective (c)** seeks to ensure that development promotes the desired future character of the neighbourhood.

*Comment:* The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area.

The desired future character of the neighborhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development.

The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not create any adverse impact on the existing amenity of the street.

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

*Comment:* The subject townhouse is currently not provided with a landscaped area. The enclosure of the existing paved patio at ground level will not affect existing absorption of surface drainage water and will not obstruct underground flow of water. Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.

**Objective (e)** seeks to control density.

*Comment:* The proposal does not seek to increase the density of the development on the subject site.

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

*Comment:* The proposal seeks to provide a minor increase in the building footprint through the enclosure of a existing paved patio area. However, the existing paved patio is not suitable as landscaped area. The enclosure at ground level will allow for a more consolidated private open space area at first floor level for the enjoyment of the residents.



**Objectives of the Zone**

The zoning of the property is R1 and the objectives of the zone are:

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

The proposal is consistent with the zone objectives, as follows:

- The proposal will provide suitable housing having regard to the site and its context;
- The proposal will retain the existing low density residential nature of the site;
- The proposal will not affect the opportunity to work from home;
- The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.
- The proposal will not alter the existing landscaping provision on site;
- The proposal does not include any subdivision; and
- The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the landscaped areas for residential accommodation in Zone R1 development standard and the objectives of the R1 zone.

In addition, the above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify the non-compliance.

With respect to Clause 4.6(4)(b), concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 21 February 2018 attached to the Planning Circular PS 18-003<sup>6</sup>.

### Conclusion

The consistency of the development with the zone objectives and the objectives of the landscaped area standard and the lack of unreasonable impact arising is sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard and such justification is specific to the circumstances of this case.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

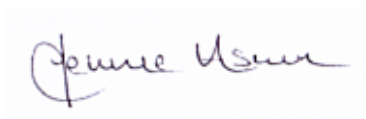
Despite the breach with the standard, the proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979 (formerly 5(a)(i) and (ii) of the Act), which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land and to promote good design and amenity of the built environment.

In the context of other requirements of Clause 4.6, it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

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<sup>6</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at Para [28]



Jennie Askin  
Director  
aSquare Planning Pty Ltd

2 June 2020



2/200–202 Albion Street, Annandale  
DA/2020/0121  
Site Area: 907m<sup>2</sup>

**REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF  
BUILDINGS DEVELOPMENT STANDARD PURSUANT TO  
CLAUSE 4.6(3) OF LEICHHARDT LEP 2013**

**Clause 4.4 – Floor Space Ratio**

Clause 4.4 of the Leichhardt LEP 2013 and the associated map prescribe a maximum floor space ratio (FSR) of 0.6:1 (543.6m<sup>2</sup>) for this site.

The proposed works to the existing dwelling is limited to the enclosing of an existing patio at ground level to allow for a trafficable glass roof area above as part of the first-floor existing deck. The proposal increases the existing gross floor area (GFA) by 7.6m<sup>2</sup>.

The proposal provides a floor space ratio of 1.033:1 (937m<sup>2</sup>), resulting in an exceedance of the FSR control by 393.4m<sup>2</sup> or 72.3%. This is an increase from the existing exceedance of 385.8m<sup>2</sup> or 70.97%.

This variation has been prepared having regard to this non-compliance.

The objectives of Clause 4.4 are as follows:

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

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The zoning of the land is R1 General Residential under the provisions of the Leichhardt Local Environmental Plan 2013. The objectives of the R1 zone are:

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

#### **Clause 4.6 – Exceptions to Development Standards**

Clause 4.6 of the Leichhardt Local Environmental Plan 2013 allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

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

The clause goes on to state:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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*
- (4) 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, and*
  - (b) the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard.

The NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the DP&I's Guide.

#### **Clause 4.6(3) and 4.6(4)**

The proposal is considered against the four matters required to be established under Clause 4.6.

#### **1. Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:**



In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways<sup>1</sup>:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by Commission Morris in. Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance<sup>2</sup>. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

The most common way of establishing that compliance with a standard is unreasonable and unnecessary is to establish that the objectives of the standard are met, even though the standard is not complied with<sup>3</sup>. This objection relies on this method. Compliance with the objectives of the FSR standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- Compliance with the development standards is unreasonable and unnecessary as the proposal will not alter the existing building as presented to the public domain as it will not alter the bulk and scale of the building.

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<sup>1</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827

<sup>2</sup> *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

<sup>3</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245



- The proposal is limited to the enclosure of the existing front patio at ground level to allow for a consolidated open space area at first floor level by providing a glass roof behind the existing front parapet.
- Exceedance of the FSR control as a result of the proposed works will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity. A reduction in gross floor area, through the deletion of the proposed glass roof would not create additional benefit for adjoining properties or the locality.

**2. There are sufficient environmental planning grounds to justify contravening the development standard:**

Given the consistency of the proposal against the zone objectives and FSR objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard<sup>4</sup>.

The proposal will retain the bulk and scale of the development as it appears to Albion Street with the additional floor area confined to the existing patio to the front of the subject townhouse, which is not discernible from the public domain.

The enclosure of the patio area to provide a consolidated terrace at first floor level will not affect the amenity of adjoining properties for the following reasons:

- The proposal will not introduce a new building element, which produces new overshadowing for adjoining properties, as the glass floor addition is behind the parapet of the building;
- The proposal will not affect the privacy of adjoining properties, as the minor additional trafficable area is to the front of the building and will only allow sightlines towards the public domain, being Albion Street;
- The proposed glass roof, given its location, will not affect views from surrounding properties; and
- The proposal will not alter the visual bulk of the building as it appears to the public domain and therefore the visual amenity of Albion Street will be retained as existing.

Therefore, the proposal is reasonable amenity in terms of the built environment and represents the orderly and economic use and development

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<sup>4</sup> see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The proposal responds appropriately to the unique opportunities and constraints of the site as it is providing a glass roof above an existing patio, to allow for a more usable private open space area at first floor level, with no additional privacy impacts.

Reduction in the FSR will not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds<sup>5</sup>.

**3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):**

The written request adequately addresses the matters referred to above by Clause 4.6(3).

**4. 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:**

**Clause 4.4 – Objectives**

The proposal will be in the public interest as it meets the objectives of the FSR development standard as follows:

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

*Comment:* The proposal will retain the existing building bulk, form and scale and therefore is compatible with the desired future character of the area.

The desired future character of the neighborhood is stipulated in DCP Subsection C2.2.1.1 - Young Street Distinctive Neighbourhood'. It states that the neighbourhood has a mixed character and includes some post war development.

The controls allow for contemporary development that is complementary to the streetscape. The proposal will not alter the presentation to the street or increase the height of the front wall along Albion Street and therefore will not

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<sup>5</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

create any adverse impact on the existing amenity of the street.

**Objective (a)(ii)** seeks to provide a balance between landscaped areas and built form.

*Comment:* The existing site does not provide any deep soil for Dwelling 2 within the strata lot. The proposal seeks to enclose the existing paved patio at ground level by providing a glass roof at first floor level allowing for a more usable private open space area at first floor level.

Existing deep soil within the site outside of Unit 2 is not proposed to be altered and will be retained as existing.

**Objective (a)(iii)** seeks to minimise the impact of the bulk and scale of buildings.

*Comment:* As outlined above, the proposal will not alter the built form as presented to Albion Street and as presented within the development itself. The proposed glass roof is behind the front parapet and therefore is not discernible from the public domain or from the townhouses within the subject development.

**Objective (b)** is not relevant as this relates to non-residential development.

#### **Objectives of the Zone**

The zoning of the property is R1 and the objectives of the zone are:

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

The proposal is consistent with the zone objectives, as follows:

- The proposal will provide suitable housing having regard to the site and its context;
- The proposal will retain the existing low density residential nature of the site;
- The proposal will not affect the opportunity to work from home;
- The proposal will not alter the built form and therefore will not affect the existing character, style, orientation and pattern of surrounding buildings.
- The proposal will not alter the existing landscaping provision on site;
- The proposal does not include any subdivision; and
- The proposal will protect the amenity of existing and future residents and the neighbourhood in terms of visual and acoustic privacy, solar access and view loss.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives of the R1 zone.

In addition, the above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify the non-compliance.

With respect to Clause 4.6(4)(b), concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 21 February 2018 attached to the Planning Circular PS 18-003<sup>6</sup>.

### Conclusion

The consistency of the development with the zone objectives and the objectives of the FSR standard and the lack of unreasonable impact arising is sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard and such justification is specific to the circumstances of this case.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

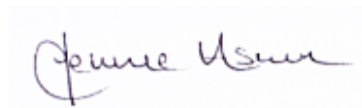
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<sup>6</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at Para [28]

Despite the breach with the standard, the proposal is consistent with the objects of Section 1.3 of the EP&A Act, 1979 (formerly 5(a)(i) and (ii) of the Act), which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land and to promote good design and amenity of the built environment.

In the context of other requirements of Clause 4.6, it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.



Jennie Askin  
Director  
aSquare Planning Pty Ltd

2 June 2020



## Attachment D – Statement of Heritage Significance

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### Area 18 Annandale Conservation Area

#### Landform

A wide ridge of land between Whites Creek and Johnstons Creek running due north to Rozelle Bay, with views from cross streets, and from the northern end of the suburb to the harbour, Anzac Bridge and the city, and west towards Leichhardt.



Figure 18.1 Annandale Conservation Area Map.

#### History

George Johnston, a marine officer of the First Fleet, received a grant of 290 acres on the northern side of Parramatta Road in 1799, an area now known as Annandale, named after Johnston's home town in Dumfriesshire, Scotland where he was born in 1764. Annandale House, designed in the Georgian style, was occupied by the Johnston family from 1800, and despite development closing in on all sides, their Annandale estate remained intact until 1876.

The first subdivision of 1876 reveals a grid of streets and allotments covering the land bounded by Parramatta Road, Johnston, Collins and Nelson Streets. Robert Johnston transferred this portion to his son, George Horatio, in June 1876 who sold off 75 lots to John Young, who then purchased the remainder of the estate for 121,000 pounds in October 1877. Young then sold the land to the Sydney Freehold Land and Building Investment Co Ltd, which he formed in 1878 to subdivide and sell the 280 acre estate. Building contractor and entrepreneur John Young, the company's chairman for the rest of its life, and its second largest shareholder, left an indelible impression on Annandale's development. Other directors of the company were politicians Samuel Gray and Robert Wisdom, developers John North and AW Gillies, soap and candle manufacturer WA Hutchinson and Henry Hudson.

Architect and surveyor Ferdinand Reuss junior won a prize of 150 pounds offered by the company for the best design for the subdivisional layout for Annandale



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and designed many of the houses. Reuss widened Johnston Street, a major design feature which followed the spine of the ridge from 66ft to 100ft and the topography of the estate encouraged the symmetrical street grid pattern.

Annandale Street, 80 feet wide, almost rivalled Johnston Street, but its opposite number, Trafalgar Street, retained the 66ft width determined by the 1876 plan. On the western side, Young Street matched the 66ft wide Nelson Street, which for topographical reasons terminated at Booth Street. The four cross-streets, Collins, Booth, Piper and Rose Streets were also 66ft wide. The centrepiece of the plan was an open space at the junction of Johnston and Piper Streets, which became Hinsby Reserve. The plan also featured two other large reserves and six smaller ones. The company's original policy of 'no back lanes' was an enlightened planning policy: access for night soil collection was to be by side passage from the front street. Terrace housing was therefore not part of their plans, indicating that they were aiming for a middle class market. Even the lesser streets were 50ft wide, still above the standard widths of other suburban streets.

The majority of the building lots were generous, directed again to a middle class market: 66ft frontages with depths of about 90ft, ideal for freestanding houses. Most of the allotments sold up to 1881 were in Johnston and Annandale Streets. Allotments on the slopes above the creeks were largely ignored. Though extension of the tram track along Parramatta Road reached the junction of Annandale's main artery in 1883, the track was not built along Johnston Street. Land sales were sluggish and in 1882 the company was forced to revise its original policy on lot sizes. Though Johnston and Annandale Streets remained typical of the kind of middle class suburb the company originally envisaged, elsewhere a proliferation of small lots were created by resubdivisions. The company began with land on the creek slopes near Parramatta Road, re-subdividing sections 26 and 30 (creating Mayes Street), 34 (Ferris Street) and 37 on the western side, and eastern sections 28 and 33. The smaller lots did attract working class buyers, largely missing before 1882.

Between 1884 and 1886 more sections were resubdivided, increasing the number of sales up to 1889. Section 25, creating Alfred Street, and 35 were resubdivided, and sections 9-11 and 16-19 were halved to create sections 50 and 56 (along the banks of Whites Creek). The company undertook further resubdivisions in 1887 and 1888 involving sections 13, 21, 22, 24, 29, 39 and 40. As land sales reached their peak Annandale ratepayers began petitioning to secede from Leichhardt Council and incorporate the new Borough of Annandale which occurred in 1894. Between 1894 and 1930 Annandale Council was filled with self-employed local businessmen - timber merchants, builders and contractors, printers, grocers, butchers and a long serving carrier. They provided social leadership in their community. Many of the builders of the suburb's physical fabric possessed local addresses. The number of Annandale's builders and contractors rose from one in 1884 to fourteen in 1886 to seventeen in 1889. Apart from John Young, a partnership comprising John Wise, Herbert Bartrop and John Rawson was especially active in 1881/2, making twenty-five separate purchases. Other prominent local builders of Annandale's houses were Robert Shannon, William Nicholls, William Baker, Albert Packer, Owen Ridge,

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George McDonald, George Bates, Hans Christensen, Cornelius Gorton, William Wells and Phillip Newland.

The Sydney Freehold Land and Building Investment Co Ltd, after thirty-eight years of having a controlling interest in Annandale, went into liquidation in 1916. The remaining unsold lots which were, in the main, located at the suburb's northern end, were bought by the Intercolonial Investment Land and Building Co Ltd. Annandale's last major land sales began in 1909 when Young's Kentville Estate was subdivided into ninety allotments.

By 1893, of Annandale's 1,189 residences, 906 were constructed of brick and 250 of weatherboard. The whole process of building up the streets of Annandale stretched over a long time. At the 1901 census there were 1,729 houses increasing to 2,363 by 1911 and reaching 2,825 in 1921. Annandale had 3,265 residences at the 1947 census.

The bubonic plague first appeared in The Rocks in 1901, and led to quarantine areas in Glebe and other inner areas. It affected attitudes to inner city/suburban housing, so that by 1910 those who could afford to were moving out, particularly to the railway suburbs. Inner suburban areas such as Annandale began to be seen as slums. It was at this time, and particularly after World War I, that industry began to appear in peripheral areas, along Johnstons and Whites creeks and in the swampy head of Rozelle Bay (later to be reclaimed).

John Young, with architectural and engineering experience in England including as superintendent for Crystal Palace, purchased the North Annandale land, established the Sydney Freehold Land & Building Investment Co to lay out the subdivision and finance the residential building.

The subdivision in the 1870s was premature, forcing the company to re-subdivide many of the large 'villa' allotments along Annandale Street and Trafalgar Street for smaller scale housing attracting working class residents. Johnston Street for the most part still exhibits the single villa ideals envisaged by the company for the three main streets.

#### Sources

Information provided by Max Solling.

#### Significant Characteristics

- Close relationship between landform and layout of the suburb with widest street along ridge top.
- The highest land has the widest streets and the largest buildings with the deeper setbacks
- Streets, buildings and setbacks diminish in size towards creeks.
- Important civic, ecclesiastical and educational buildings sited on top of the ridge facing Johnston Street, giving spire of Hunter Bailey Church high visibility from wide arch of Sydney suburbs.

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- A notable group of buildings, 'the witches hats' sited on northern edge of Johnston Street ridge as it falls towards Rozelle Bay.
- Tree-lined streets, particularly of brush box, planted within the carriageway.
- Industrial buildings occur randomly, but generally marginalised to creek edges, the northern end of Annandale and round Booth Street.
- Variety of domestic buildings 1880s-1930s including single and double-fronted freestanding, semidetached and terrace houses and pre-World War II flats from one to three storeys.
- Small collection of weatherboard dwellings.
- Victorian Italianate boom period villas generally along southern end of Johnston Street, nearer to Parramatta Road.
- Uninterrupted commercial buildings with attached dwelling along Parramatta Road, with parapets and balconies or suspended awnings and some original shop fronts.
- Group of shops, pub, post office, church at intersection of Booth Street.
- Occasional corner shops throughout suburb.
- Skyline of chimneys, decorative fire wall dividers on terraces, ridge capping and finials.
- Wealth of decorative elements – iron fences, coloured tiles in paths, steps and verandahs, plaster moulding finishes above door and window openings, coloured glass, chimneys, verandah awnings.
- Walls of rendered brick (1870s and 1880s), and dry pressed face brick (available from c1890s).
- Roof cladding of terracotta tiles, slate, and some iron, particularly on verandahs.
- Irregular occurrence of back lanes.
- Iron palisade fences on low sandstone plinth.
- Continuous kerbs and gutters – many of sandstone.
- Rock outcrops within footpath and road alignments.

#### Statement of Significance or Why the Area is Important

- 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.

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- 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.

#### Management of Heritage Values

##### Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

##### Retain

- All pre-1939 buildings and structures because they are important to understanding the history of the growth of this suburb.
- All weatherboard buildings, their rarity adds to their significance.
- Green garden space to all residential buildings – an important part of the character of Annandale.
- Original plastered walls (generally belonging to pre-1890s buildings).
- Original dry pressed face brick walls (generally belonging to post-1890s buildings).

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- All original architectural details.
- Original iron palisade fences.
- Back lanes in their early configuration.
- Brush box tree planting, replace where necessary in original position within the alignment of the carriageway.
- All sandstone kerbs and gutter uninterrupted by vehicular access.

#### Avoid

- Amalgamation to create any more wider allotments that would further disrupt the Victorian pattern of development.
- Demolition of any pre-1939 building unless it is so compromised that it can no longer contribute to an understanding of the history of the area.
- Plastering or painting of face brick walls.
- Removal of plaster from walls originally sealed with plaster.
- Removal of original architectural details.
- Changes to the form of the original house. Second or third storey additions.
- Posted verandahs over footpaths to commercial premises or former commercial premises where no evidence can be provided to support their reconstruction.
- Additional architectural detail for which there is no evidence.
- High masonry walls or new palisade fences on high brick bases.
- Alteration to back laneways.
- Road chicanes which cut diagonally across the line of the streets.

#### Further Work

Use Water Board Detailed Survey of 1890 to identify which buildings remain from that time.

Compile photographic record of the conservation area from photos available since the late nineteenth century to the present time, as a means of assisting in appropriate reconstruction/'restoration'.