






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2020/0150
Address	175 Johnston Street ANNANDALE NSW 2038
Proposal	Ground and first floor alterations to the existing dwelling
Date of Lodgement	05 March 2020
Applicant	Alice C Sun
Owner	Alice C Sun
Number of Submissions	Nil
Value of works	\$190,000.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Heritage, Floor Space Ratio
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent.
Attachment B	Plans of proposed development.
Attachment C	Clause 4.6 Exception to Development Standards.
Attachment D	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 ground and first floor alterations to the existing dwelling at 175 Johnston Street, Annandale.

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

The main issues that have arisen from the application include:

- Non-compliance with the Floor Space Ratio (FSR) development standard.
- Site coverage in excess of 60%
- Consistency of design with Heritage Conservation Area objectives

The non-compliances are acceptable given the proposed works do not result in any additional bulk to the public domain or create unreasonable amenity impacts to adjoining properties and results in improvements to the amenity of the subject site, and therefore, the application is recommended for approval.

2. Proposal

This application seeks consent for alterations and additions to an existing attached dwelling within a heritage conservation area. Proposed works include partial demolition of rear and internal walls, including the construction of new rear and 1st floor addition and landscaping alterations.

New works are to include:

- New Kitchen and dining area to ground floor
- 3 New first floor bedrooms – 3rd bedroom to utilise existing attic space.
- New bathrooms on ground and first floor.

3. Site Description

The subject site is located on the Eastern side of Johnston Street. The site consists of one allotment which has a narrow frontage of 3.76m to Johnston Street and is generally rectangular in shape, with a total area of 95.3 sqm.

The site supports an existing single-storey semi-detached brick Victorian style dwelling with a transverse gable metal roof. Located within the Annandale Heritage Conservation Area.

Surrounding land uses are predominantly single and two storey dwelling houses.

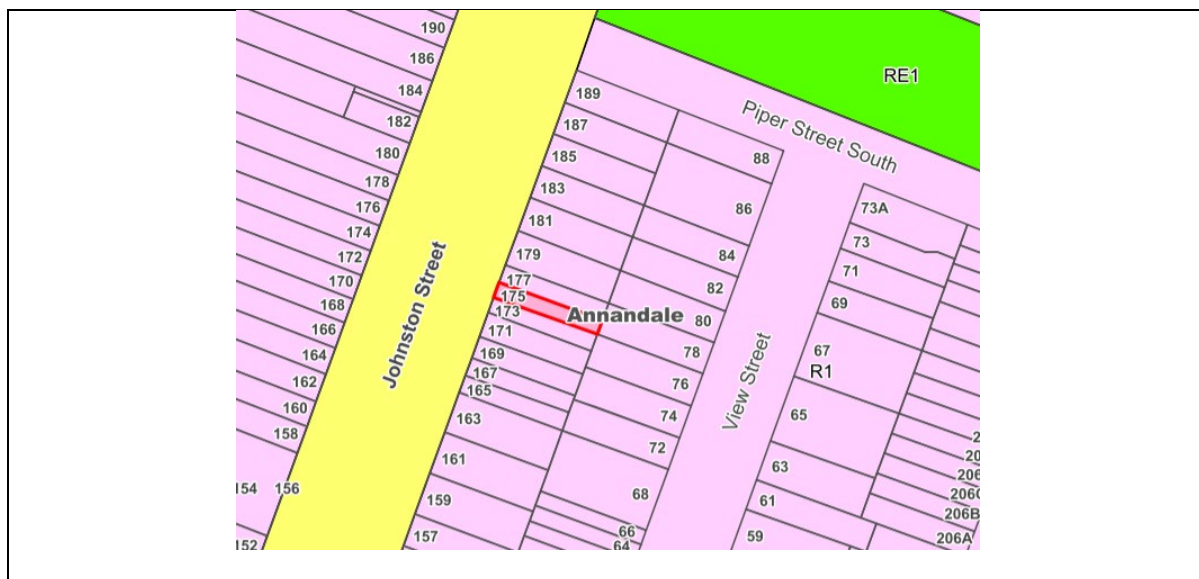


Figure 1 – Zoning map (site is zoned R1 General Residential)

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

The subject site has no relevant development history for consideration with the proposal.

Surrounding properties

Application	Proposal	Decision
25/01/2017 – 177 Johnston St, Annandale	Alterations and additions to dwelling including first floor addition. Demolition of shed to rear – D/2016/220	Approved/LPP
10/08/2017 – 177 Johnston St, Annandale	Modification seeks to various internal and external changes, including replace front roof with a new metal roof – M/2017/100	Approved
30/08/2013 – 171 Johnston St, Annandale	Alterations and additions to the existing dwelling including construction of a new first floor level. SEPP 1 objection for Floor Space Ratio– D/2012/212	Approved
5/11/2014 – 171 Johnston St, Annandale	Modifications include extension of ground floor and first floor – M/2014/117	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
23/06/2020	Request for additional information regarding clause 4.6 exceptions for FSR, Site coverage, and landscaped area development standards, along with design consideration and neighbourhood amenity sent.
6/07/2020	Additional information and amended designs 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 (Building Sustainability Index: BASIX) 2004*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

5(a)(ii) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(iii) *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 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management
- Clause 6.8 - Development in areas subject to aircraft noise

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

The site is zoned R1 under the *LLEP 2013*. The *LLEP 2013* defines the development as:

attached dwelling means a building containing 3 or more dwellings, where—
 (a) each dwelling is attached to another dwelling by a common wall, and
 (b) each of the dwellings is on its own lot of land, and
 (c) none of the dwellings is located above any part of another dwelling

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

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 85.77 sqm	1.04:1 or 98.65 sqm	12.88 sqm or 15.02%%	No
Landscape Area Minimum permissible: 15% or 14.29 sqm	15.49% or 14.76sqm	N/A	Yes
Site Coverage Maximum permissible: 60% or 57.18 sqm	68.73% or 65.5sqm	8.32 sqm or 14.55%	No

(ii) Clause 4.6 Exceptions to Development Standards

Site Coverage for residential accommodation in Zone R1

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

- Clause 4.3A (3)(b) – Site Coverage for residential accommodation in Zone R1

The applicant seeks a variation to the Site Coverage development standard under Clause 4.6 Exceptions to Development Standards of the *LLEP 2013* by 14.55% or 8.32 sqm.

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 contravention of the development standards have been assessed against the provisions of Clause 4.6 of the *LLEP 2013* below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The existing site currently does not comply with the landscaped area standard
- Proposal will increase the site's landscaped area to result in compliance with the landscape component of the standard.
- The proposal provides deep soil and plantings inside the rear boundary
- The proposed building footprint is consistent with the pattern of development in the locality, with acceptable provision of landscaped area and private open space.

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 zone, 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 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 protect and enhance the amenity of existing and future residents and the neighbourhood
- The proposal will increase the amenity of housing in the community.
 - The alteration retains the existing character of the neighbourhood.
 - The proposal will increase the provision of landscaped areas for the use and enjoyment of residents.
 - The proposal does not result in any adverse amenity impacts.

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

The objectives of the Site coverage for residential accommodation in Zone R1 development standard 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 proposal results in an increase to Landscaped Area provision compared to existing.
- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale.
- The siting of the building is within the building location zones when it can be reasonably assumed development can occur.
- The proposal does not result in any adverse amenity impacts to the surrounding properties.

The concurrence Planning Secretary may be assumed for matter 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 Site Cover for residential accommodation in Zone R1 development standard and it is recommended the Clause 4.6 exceptions be granted.

Floor Space Ratio

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

- Clause 4.4 – Floor Space Ratio

The application also seeks a variation to the Floor Space Ratio development standard under Clause 4.6 of the LLEP 2013 by 15.02% or 12.88 sqm.

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 contravention of the development standards have been assessed against the provisions of Clause 4.6 of the LLEP 2013 below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The proposed additions are set well to the rear of the existing building and will not add significantly to bulk and the location and form of the addition is comparable with the neighbours
- The proposal results in a built form which is consistent with adjoining and nearby dwellings as confirmed by the general consistency of the rear BLZ at ground and first floor levels.
- The proposal provides an acceptable balance between landscaped area and built form in a manner that is consistent with the pattern in adjoining properties.
- The proposal will improve the internal amenity of the existing dwelling on the subject site.
- The proposal complies with most other applicable planning controls; that is, landscaped area, private open space and solar access to adjoining properties.
- The proposal will maintain an acceptable level of privacy for the adjoining neighbours.
- The proposal will not result in any unreasonable loss of views.

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 zone, 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 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 protect and enhance the amenity of existing and future residents and the neighbourhood
- The proposal will increase the amenity of housing in the community.
 - The alteration retains the existing character of the neighbourhood.
 - The proposal will increase the provision of landscaped areas for the use and enjoyment of residents.
 - The proposal does not result in any adverse amenity impacts.

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

The objectives of the Floor Space Ratio development standard 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.

- the proposal will provide a suitable balance between landscaped areas and the built form as the proposal complies with the landscaping control as set out in the Leichhardt LEP 2013. Given this, a reduction in gross floor area would not result in an increase in landscape area
- the provision of a rear setback in line with adjoining development at 177 Johnston Street and the provision of nil side boundary setbacks in line with the prevailing pattern of development ensures that impact on adjoining properties has been minimised
- strict compliance with the control would not comply with the underlying purpose of the control. This is because a building that fully complied with FSR would result in a dwelling of poor internal amenity with no additional benefit for the adjoining properties or streetscape as addition is not visible from the public domain.

The concurrence Planning Secretary may be assumed for matter 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 Floor Space Ratio development standard and it is recommended the Clause 4.6 exceptions be granted.

(iii) Clause 5.10 - Heritage Conservation

The subject property at 175 Johnston Street, Annandale, is located within the Annandale Heritage Conservation Area (C1 in Schedule 5 of the Leichhardt LEP 2013).

Clause 5.10: Heritage Conservation from the Leichhardt LEP 2013 and *Sections C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items* and *C.2.2.1.3: Johnston Street Distinctive Neighbourhood* from the Leichhardt DCP 2013 applies to the proposal.

The drawings prepared by Justin Long Design, dated 02 July 2020, were reviewed as part of this assessment. Council's internal Heritage specialist advised that the proposal would not

detract from the Annandale Heritage Conservation Area providing the design change recommended below is carried out to ensure that the proposed link to bedroom 3 contains only the link as per C7 of Part C1.3 of the DCP.

The recommended design change condition shall read as follows:

“The W.C. in the proposed shower room on the first floor must be relocated from the link to the east, within the footprint of the proposed rear addition. The link must only contain access to the proposed bedroom within the roof space.”

Subject to this minor amendment, the proposal is acceptable from a heritage perspective as it will not detract from the heritage significance of the Annandale HCA and is in accordance with Clause 5.10 Objectives 1(a) and (b) in the Leichhardt LEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013.

(iv) Clause 6.8 - Development in areas subject to aircraft noise

The proposal is for alterations and additions to an existing residential unit within the ANEF 20-25 Contour, the additions will increase the number of bedrooms. Therefore, it is considered that the requirements of Development in areas subject to aircraft noise are applicable in this instance. It is recommended that A condition has be included in the development consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015

5(b) Draft Environmental Planning Instruments

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

- Draft SEPP Environment
- Draft Inner West Local Environmental Plan 2020 (*Draft IWLEP 2020*)

5(b)(i) Draft Environmental Planning Instruments

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of the natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. This consolidated SEPP proposes to provide a single set of planning provisions for catchments, waterways, bushland and protected areas. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposal is consistent with the provisions of the draft Environment SEPP.

5(b)(ii) 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 do not have a significant effect upon 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
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes- See discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
<i>C.2.2.1.3: Johnston Street Distinctive Neighbourhood</i>	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes

C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes – see discussion
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	N/A
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

The proposal is consistent with the built form of the adjoining dwelling 177 Johnston Street. 175 and 177 and 173 form part of an identical group. The alterations approved at 177 have altered this group already. The proposed additions will not be visible from the public domain. In this instance the proposal is considered to of an acceptable impact to the HCA provided the proposed link to bedroom 3 in the existing attic space is for just that purpose.

C3.2 Site Layout and Building Design

The development will not comply with the side boundary setbacks nominated in the DCP for a two storey wall, however this is inevitable given that the site is less than 4.0m wide. At 6m high the side walls should ideally be setback 1.9m from each boundary, which would not allow for any first floor and would amount to an effective prohibition on two storeys. Clause C7 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- a. *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- b. *The pattern of development within the streetscape is not compromised;*
- c. *The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- d. *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- e. *Reasonable access is retained for necessary maintenance of adjoining properties.*

The application satisfies these tests and the setbacks are therefore considered acceptable.

With regard to the building location zone the proposal is consistent with the rear setback established by the adjoining 177 Johnston street for ground and first floor. The proposal is therefore acceptable with regards to the BLZ, subject to managing any potential overlooking from the rear bedroom at first floor

3.9 Solar:

Due to the orientation of the sites (north is slightly offset) and the presence of existing structures and buildings, the application will not result in any additional overshadowing to any private outdoor space or north-facing living room windows.

C3.11 Visual Privacy

The rear bedroom at first floor would be only 6.4m back from the rear boundary and less from 177 and 173 Johnston street, across these boundaries lies the private outdoor space of adjoining neighbours. Council does not necessarily require privacy screening from bedroom windows, even when located at first floor, however in this instance given the proximity of the window and the extent of glazing, a requirement for some screening is considered reasonable.



The Following condition is recommended in this instance:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating Window 06 (rear bedroom) being amended with one of the following privacy screen measures:

- a. Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level;
or
- b. Suitable externally fixed screening with a minimum block out density of 75% to a level of 1.6 metres above the floor level;

Note: The louvers are to individual opening more than 30mm wide and a total area of opening that is less than 30% of the surface area of the screen and made of durable materials. Louvered screens must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in a downward or upward position.

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 21 days to surrounding properties. No submissions were received in response to the initial notification.

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.

Hertigae – Satisfactory subject to conditions

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 premises/properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* to vary Clause 4.3A(3)(b) Site Coverage and 4.4 Floor Space Ratio of the *Leichhardt Local Environmental Plan 2013*. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0150 for For ground and first floor alterations to the existing dwelling at 175 Johnston Street ANNANDALE NSW 2038 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

DOCUMENTS RELATED TO THE CONSENT

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
A05, A,	Site Plan	2/7/2020	Justin Long Design
A02, A	Ground and First Floor Plans	2/7/2020	Justin Long Design
A03, A	Elevations Plans	2/7/2020	Justin Long Design
A04, A	Elevation and section Plans	2/7/2020	Justin Long Design
A06, A	Landscape Plan	2/7/2020	Justin Long Design
A00, -	Schedule of Colours	17/12/2019	Justin Long Design
Supporting Documents			
Certificate # A365745	Basix Certificate	17/12/2019	Justin Long Design

As amended by the conditions of consent.

DESIGN CHANGE

Design Change

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

- a. The W.C. in the proposed shower room on the first floor must be relocated from the link to the east, within the footprint of the proposed rear addition. The link must only contain access to the proposed bedroom within the roof space.

FEES

Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at

the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

Security Deposit

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

Security Deposit:	\$2,152.50
Inspection Fee:	\$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

Privacy

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating Window 06 (rear bedroom) being amended with one of the following privacy screen measures:

- c. Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level; or

- d. Suitable externally fixed screening with a minimum block out density of 75% to a level of 1.6 metres above the floor level;

Note: The louvers are to individual opening more than 30mm wide and a total area of opening that is less than 30% of the surface area of the screen and made of durable materials. Louvered screens must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in a downward or upward position.

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.

Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

Standard Street Tree Protection

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

Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner

of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.

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.

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

Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

DURING DEMOLITION AND CONSTRUCTION**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.

Stormwater Drainage System

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensure no concentration of flows or nuisance to other properties.

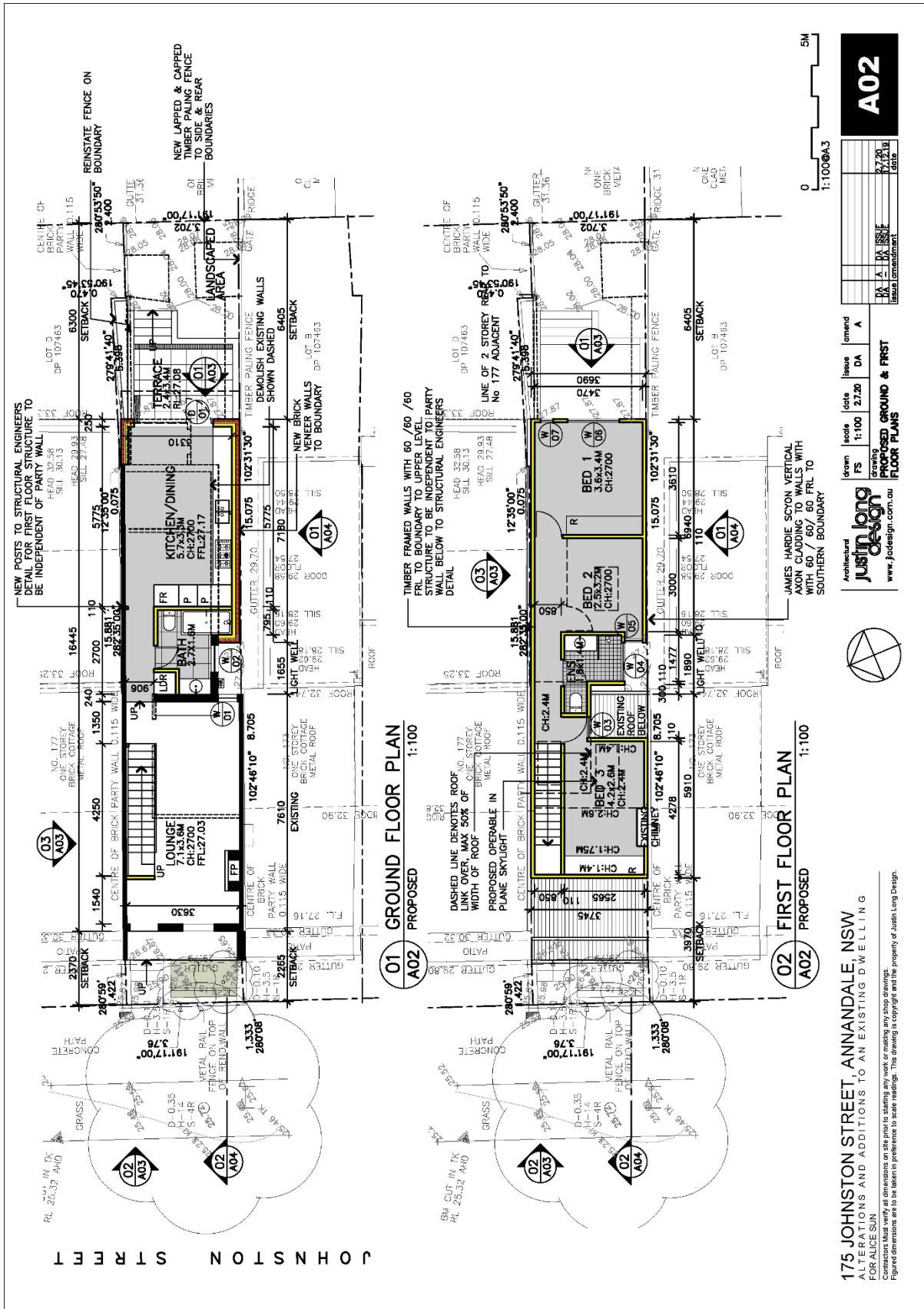
Survey Prior to Footings

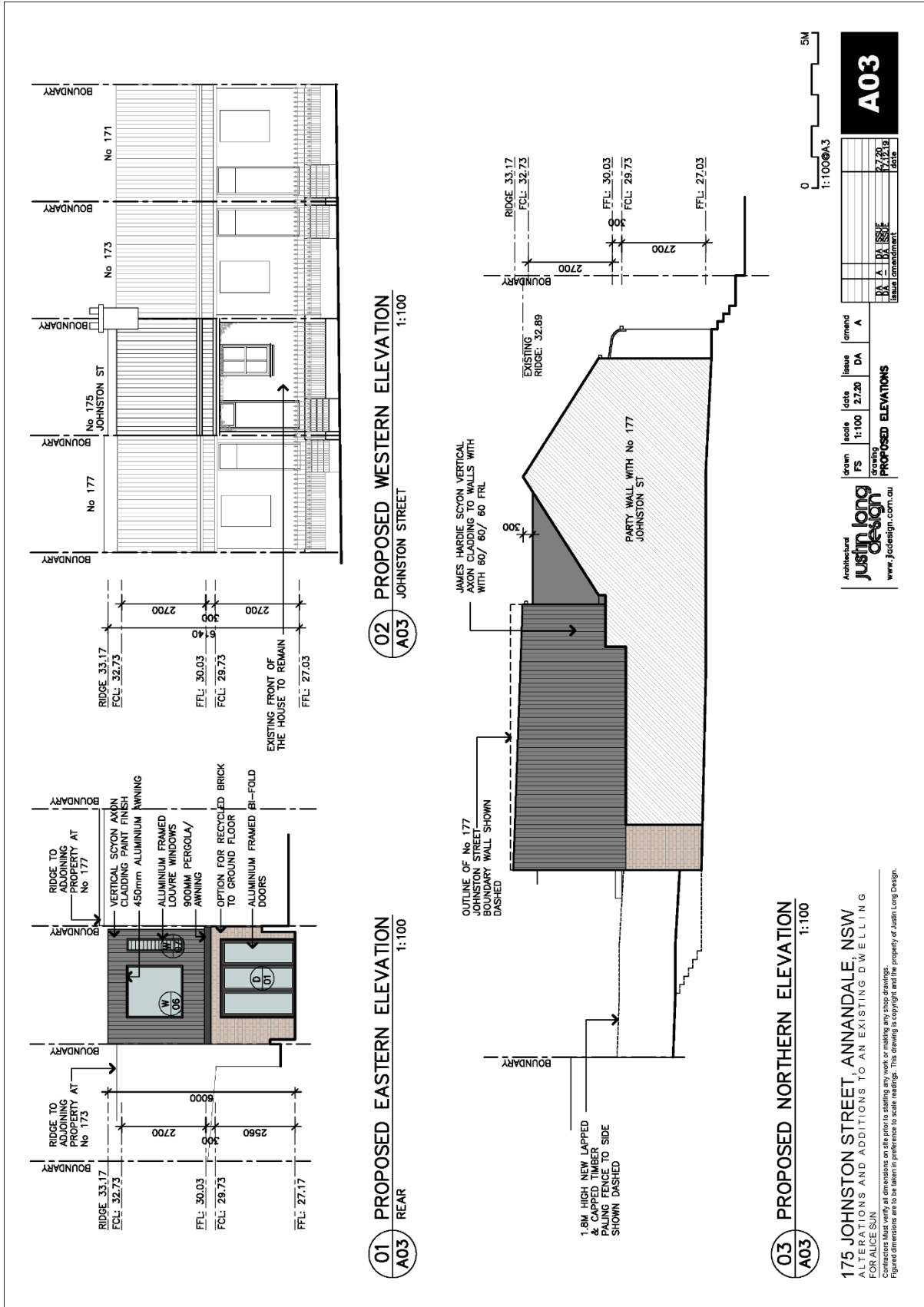
Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

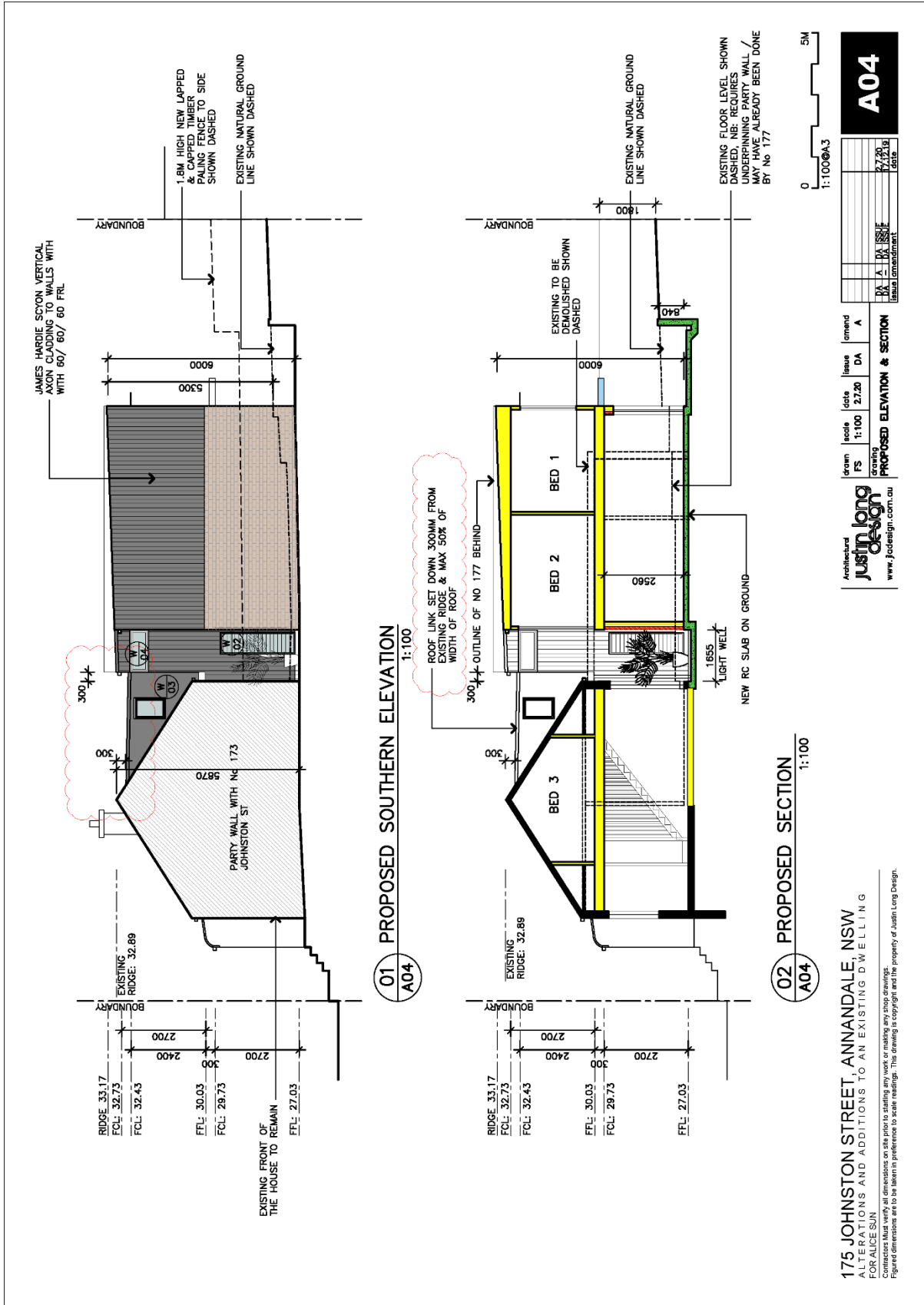
PRIOR TO OCCUPATION CERTIFICATE**Aircraft Noise –Alterations and Additions**

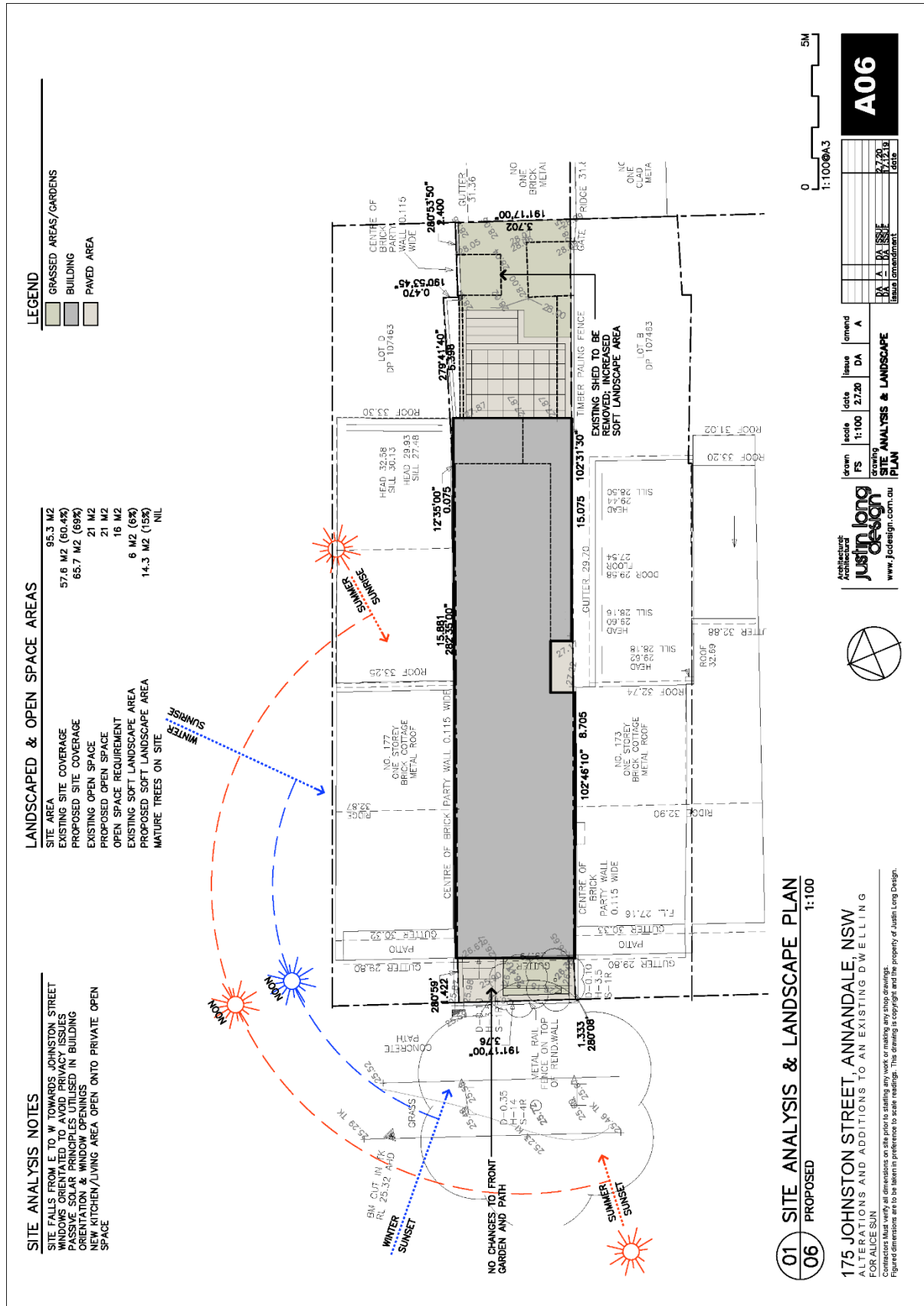
Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the “Before the Issue of a Construction Certificate” Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.









Attachment C- Clause 4.6 Exception to Development Standards

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Clause 4.6, exceptions to development standards, provides matters for consideration with respect to seeking an exception to a development standard as well as objectives. The objectives of the clause are:

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

Clause 4.6, Floor Space Ratio, is a development standard that is not subject to any of the specified exclusions from the operation of clause 4.6.

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

FLOOR SPACE RATIO

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

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

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

As set out below, the proposed development will achieve objective (a) of the standard notwithstanding numerical non-compliance.

The objectives of the floor space ratio standard are set out in clause 4.4:

- (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*

Bulk, form and scale compatible with desired future character. Despite the 0.9:1 standard, many surrounding buildings have FSRs similar to or greater than the proposal as suggested in the photographs earlier in this statement. It is noted that No. 173 is the exception however in view of the fact that the adjoining property to the south, No. 171 is occupied by a part one and part two-storey dwelling, it is likely that it will be developed in a manner that is consistent with the proposal and adjoining two-storey forms. The

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proposed development will be compatible in that local context. The proposed additions are set well to the rear of the existing building and will not add significantly to bulk and the location and form of the addition is comparable with the neighbours. The additions are compatible in scale and character with surrounding buildings. The built form is well modulated to provide visual interest and reduce apparent bulk and, as set out in part 5.1, represents *contemporary development which is complementary to the existing streetscape* that will *maintain hipped and gabled roof forms* and *preserve the predominant scale and character* consistent with Council's desired future character provisions.

Balance between landscaped area and built form: The existing site currently does not comply with the landscaped area standard, however, the proposal results in the provision of more landscaped area and it complies with the standard. The proposal provides an acceptable balance between landscaped area and built form in a manner that is consistent with the pattern in adjoining properties. It will provide a high standard of amenity for the occupants of the development on the site.

Impact of bulk and scale: The proposal provides additional accommodation on the site in accordance with Council's DCP; it is well modulated and is compatible in scale with the existing and surrounding buildings.

2. *The objective is not relevant to the development.*

Objective (b) of the development standard, relating to non-residential development, is not relevant to the proposal.

3. *The objective would be defeated or thwarted if compliance was required.*

This criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Compliance with the development standard is unreasonable or unnecessary in the circumstances because

- the arguments set out above under 1. show that the proposed development will achieve the relevant objective (a) of the development standard and strict compliance with the development standard is therefore unnecessary and unreasonable
- objective (b) of the development standard is not relevant to the proposal
- the development standard has been virtually abandoned by the Council's granting consents departing from the standard

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Are there sufficient environmental planning grounds to justify contravening the development standard?

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

- The proposal provides a gross floor area of 95.3m² which exceeds the standard by approximately 9m² which is considered to be minor whilst also providing a relatively modest standard of accommodation.
- A requirement to comply with the standard by reducing the floor space of the dwelling by 9m² would not result in any significant material difference of its appearance or its impacts.
- The proposal results in a built form which is consistent with adjoining and nearby dwellings as confirmed by the general consistency of the rear BLZ at ground and first floor levels.
- In the context, the proposal will provide a compatible built outcome with minimal additional bulk or visual impact.
- The proposal will improve the internal amenity of the existing dwelling on the subject site.
- The proposal complies with most other applicable planning controls; that is, landscaped area, private open space and solar access to adjoining properties.
- The proposal will maintain an acceptable level of privacy for the adjoining neighbours.
- The proposal will not result in any unreasonable loss of views.
- The proposal will generate no adverse traffic or parking impacts.
- The proposed built form will have no adverse heritage or streetscape impacts.

For the reasons set out above, the proposal will achieve a better planning outcome than a compliant development of the site.

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

In relation to the objectives of the FSR standard:

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

The proposal is compatible with the desired future character confirmed by its general consistency with the adjoining neighbours in terms of bulk, form and scale. Despite the 0.9:1 standard, many surrounding buildings have FSRs similar to or greater than the proposal and the proposed development will be compatible in that context. The built form is well modulated to provide visual interest and reduce apparent bulk and, as set out in part 5.1, represents *contemporary development which is complementary to the existing streetscape that will maintain hipped and gabled roof forms and preserve the predominant scale and character* consistent with Council's desired future character provisions.

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(a)(ii) to ensure that residential accommodation provides a suitable balance between landscaped areas and the built form

The existing site currently does not comply with the landscaped area standard. The proposal, however will comply with it. The proposal provides landscaped area that is consistent with the pattern in the locality and will provide a high standard of amenity for the occupants of the development on the site and the residential accommodation provides a suitable balance with it.

(a)(iii) to ensure that residential accommodation minimises the impact of the bulk and scale of buildings

The proposal provides additional accommodation on the site in accordance with Council's DCP; it is well modulated and is compatible in terms of bulk and scale with the existing and surrounding 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

This objective is not relevant, as the proposal is not for non-residential development.

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

In relation to the objectives of the R1 zone:

- *to provide for the housing needs of the community*

The proposed additional accommodation will contribute towards meeting the demand for housing in the locality.

- *to provide for a variety of housing types and densities*

The proposal will contribute towards the variety of available housing types and densities; and in particular, affordable family accommodation.

- *to enable other land uses that provide facilities or services to meet the day to day needs of residents*

This objective is not relevant, as the proposal is not for non-residential use.

- *to improve opportunities to work from home*

The additional accommodation provided in the proposal will improve opportunities for the occupants 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*

The proposal provides additional accommodation in a manner that is compatible in pattern, orientation and character with surrounding buildings.

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- *to provide landscaped areas for the use and enjoyment of existing and future residents*

The site provides useful and additional landscaped area on a site that currently does not comply. The landscaped area and private open space are acceptable quality and quantity 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*

This objective is not relevant, as the proposal does not involve subdivision.

- *to protect and enhance the amenity of existing and future residents and the neighbourhood*

The proposal will improve the standard of housing without unreasonable impacts on neighbouring properties.

SITE COVERAGE

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

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

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

As set out below, the proposed development will achieve objective (a) of the standard notwithstanding numerical non-compliance.

The objectives of the site coverage standard are the same landscaped area and are set out in clause 4.3A:

- (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*

Suitable landscaped areas for substantial tree planting and for the use and enjoyment of residents: The existing site currently does not comply with the landscaped area standard.

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Although the proposal does not comply with the site coverage standard, it increases the site's landscaped area to result in compliance with the standard. The landscaped area is sufficient for the site given its small size and the reasonably limited opportunity to provide deep soil and the requirement to provide private open space capable of coping with regular traffic and to maintain the utility of the backyard. In this regard, the proposed landscaped area is suitable and will allow tree planting in the rear yard and for the use and enjoyment of the residents.

Maintain and encourage a landscaped corridor between adjoining properties:

Landscaped corridors on residential lots are generally a characteristic of long/deep lots. Given the general small size of the lots in the immediate locality and the short rear setbacks for dwellings, the opportunity to provide a landscape corridor is limited. The proposal however provides deep soil and plantings inside the rear boundary in a manner that is consistent with the pattern in the locality and in this regard provides a suitable landscaped corridor in accordance with the objective appropriate for the site.

Development promotes the desired future character of the neighbourhood: The proposal provides additional accommodation on the site generally in accordance with Council's DCP and promotes the desired future character of the neighbourhood.

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: The proposal's increase in deep soil than currently provided on site will improve the retention and absorption of surface drainage water on the site.

Control site density: The provision of an additional 9m² of floor space does not unreasonably increase site density to the detriment of local amenity.

Limit building footprints to ensure that adequate provision is made for landscaped areas and private open space: The proposed building footprint is consistent with the pattern of development in the locality and the dwelling will have an acceptable provision of landscaped area and private open space.

2. *The objective is not relevant to the development.*

This criteria is not applicable to the proposal.

3. *The objective would be defeated or thwarted if compliance was required.*

This criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Compliance with the development standard is unreasonable or unnecessary in the circumstances because

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- the arguments set out above under 1. show that the proposed development will achieve the relevant objective (a) of the development standard and strict compliance with the development standard is therefore unnecessary and unreasonable

Are there sufficient environmental planning grounds to justify contravening the development standard?

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

- The proposal provides both acceptable landscaped area and site coverage for the site and the development.
- The proposed landscaped area complements the character of the existing house and will provide a positive contribution to the streetscape and the significance of the Conservation Area.
- It provides an acceptable standard of amenity for the future occupants without unreasonably compromising the amenity of adjoining and nearby residents.
- It complies with the additional qualitative DCP landscaped area controls.

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

This criteria has been adequately addressed earlier in this submission.

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

This criteria has been adequately addressed in the earlier FSR submission.

Concurrence of the Secretary

The concurrence of the Secretary may be assumed by Council. The implications of a development application involving alterations and additions to a dwelling not complying with a floor space ratio and site coverage development standards of the Leichhardt LEP are local in their scope and raise no matters of significance for State or regional environmental planning.

The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The floor space ratio and site coverage of the proposed development is justified as set out above. The variations sought will enhance the utility of the existing development without significant adverse impacts on neighbouring amenity or the public domain.

Conclusion

This submission shows that, in the circumstances of the case, compliance with the development standards are unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify contravening the development standards and that the proposed development will be in the public interest because it is consistent with the objectives of the development standards and with those of the R1 General Residential zone.

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There are no other relevant development standards applicable to the proposal.

Clause 5.10, Heritage Conservation, provides objectives and requirements for consent when proposing development in conservation areas. The site is located in the Annandale Conservation Area. The objectives of the clause are as follows:

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

Subclause (4) requires Council to consider the effect of the proposed development on the heritage significance of the conservation area concerned. The proposal will not have any unreasonable impact on the significance of the conservation area and will not be perceived in the streetscape as the maximum height of the proposed addition is only 440mm higher than the existing ridge, however, approximately 12-metres behind it. This can be confirmed by reference to the streetscape photograph earlier in this statement in which the roof of No. 177 is not seen. The height of the addition is lower than No. 177's addition and less in visual bulk (See Dwg A03-04). The proposal is, therefore, considered not to have any unreasonable impact on the heritage significance of the conservation area and it is acceptable.

Subclause (5) states that Council may require the preparation of a heritage management document that *assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned*. The clause is not a mandatory requirement and allows Council to exercise discretion when considering the matter. Although the property is located within a conservation area, a heritage management document is not a requirement for this site in accordance with Council's DCP specific heritage requirements.

Clause 6.8, Development in areas subject to aircraft noise, provides objectives for development in areas subject to aircraft noise as well as matters for consideration.

The objectives are as follows:

- (a) *to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and its flight paths,*
- (b) *to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
- (c) *to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*

Sub-clause (2) states that the clause applies to development that:

- (a) *is on land that:*
 - (i) *is near the Sydney (Kingsford Smith) Airport, and*
 - (ii) *is in an ANEF contour of 20 or greater, and*

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Attachment D – Statement of Heritage Significance

heritagesolutions

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Architect

Planner

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HERITAGE IMPACT STATEMENT

No 175 Johnston Street Annandale
Backend additions to a single storey terrace in the Annandale Heritage Conservation Area
July 2020



Front view of the row Nos 177 to the left end adjoining No 175, then 173, 171, then a gap given access to the rear, then a further row of three, Nos 169, 167 & 165. They were evidently built by the same hand.

Owners: Alice Sun & Jamie Carter
Architect: Justin Long

STRUCTURE OF THIS REPORT

Introduction
History of the Place
Fabric Assessment
Significance
Heritage Issues/Streetscape Analysis
The Proposal
Evaluation in terms of the Heritage Controls
Conclusions

Appendix A - Photo File
Appendix B – Sources

heritagesolutions

HIS: 175 Johnston Street Annandale

1.0 INTRODUCTION



Google Image: No 175 is actually the adjoining terrace above/north. The next terrace is No 177 which has approved additions along similar lines as proposed to No 175.

This is a modest row of single storey terraces probably built speculatively for rental. They are unusual in the context of Johnston Street which was marketed as the premier street in the Colony principally to the middle classes. They are simple Late Victorian Italianate in style, which retain their original form of two front rooms under a cross gable, with an extension for a kitchen with probably the bathroom added later circa 1895 in skillion form. This was after the cusp of the Victorian boom. Nos 173/175 are relatively intact, the others in the group have been substantially altered with two storey modern rear additions. The owners of No 175 wish to do similar.

2.0 THE HISTORY OF THE PLACE

Annandale is a distinct sandstone ridge and peninsula bounded by Rozelle Bay to the north, and the estuaries of Johnston's Creek to the east and Whites Creek to the west. Parramatta Road is the southern boundary.

This area was part of a crown grant to George Johnston a marine officer of the first fleet in 1799. It is named after Johnston's home town in Dumfriesshire, Scotland. Johnston built a large single storey Georgian villa just south of Parramatta Road, in what is now Stanmore, in 1800. This site was better situated for access via Parramatta Road and enjoyed the long northerly aspect to the Harbour. The 290 acre Annandale Estate remained intact and held by the Johnston family until 1876. By this stage Sydney was rapidly developing its inner suburbs and the rural acreage of Annandale was 'ripe' for development.

The first subdivision of the land bounded by Parramatta Road, Johnston, Collins and Nelson Streets was done in 1876. Robert Johnston transferred this parcel to his son

George who then sold off 75 lots to John Young, who proceeded to purchase the remainder of the Estate in October, 1877. Young formed the Sydney Freehold Land and Building Investment Company in 1878 as a vehicle for subdivision and sale.

John Young, who had been the superintendent of works for the Crystal Palace in London, was a builder and entrepreneur who became a major figure in the development of Victorian Sydney, as well as a politician. He was an Alderman on Leichhardt Council and the first Mayor of Annandale. He was also a Lord Mayor of Sydney. He built many major buildings including the G.P.O. Young built himself a large ranging house and estate on the northern tip of Annandale, called '*Kentville*', which included the first bowling green in the Colony. He lived above the burgeoning waterfront industry on Rozelle Bay, including his own sawmilling business. He later built the famous Witch's Houses Group and the Abbey at the northern end of Johnston Street.

His partners in the development of Annandale included the politicians Samuel Gray and Robert Wisdom, developers John North and A W Gillies, soap and candle manufacturer W A Hutchinson and Henry Hudson. Their names became street names, in Annandale.

The architect and surveyor Ferdinand Reuss Jun. won a limited competition for the design of the suburb, as well as designing many of the houses. Under this plan Johnston Street was widened to 100 feet, Annandale Street to 80 feet, but the remaining of streets remained at 66 feet. This reinforced a rational pattern of dominant north south streets following the contour with the principal street, Johnstone on the ridge. The centrepiece of the Reuss Plan was parkland on Piper Street at the point of highest elevation at the north end; now the Hinsby Reserve just to the north of the subject property.

This set up the distinctive physical and social hierarchy, characteristic of Annandale with the grander streets and larger lots, related to elevation, prospect, breezes etc. Johnston Street was marketed to become the grandest street in the Colony. It was originally pitched as middle class detached houses on large lots, as occurred with similar development of the Toxteth Estate in Glebe, at the same time. Toxteth in Glebe being closer to the City was fully developed during the 1880's boom. Annandale's development was to prove more halting.

The initial sales were of generous lots along Johnston Street, 66 feet frontages. Most of the initial sales were in Johnston and Annandale Streets up until, 1881. This is represented by the clusters of large Victorian mansions at the south end of Johnston Street. Though not as grand as on Johnston Street, substantial houses were also built in the boom decade at the south end of Annandale Street. The bulk of houses in this boom period were two storied. After, then single storey became the norm, partly due to the fashion shift to more suburban house styles. This was assisted by the tram service available in Parramatta Road in 1883. Sales were slow and after 1882, the Company reduced lots sizes, including allowing for smaller lots on the lower slopes such as to White's Creek. Further re-subdivisions occurred in the late 1880's. The new population petitioned to secede from Leichhardt Council (there were no bridges at this stage across White's Creek) and in 1894, the new Borough of Annandale was incorporated.

The 1896 financial crash seriously impeded further development resulting in subsequent development being mainly more modest, mostly single storey semi-detached houses and terraces on the lesser streets. Being further removed from transport, the housing to the north end was also more modest, until the tram extension along what is now The Crescent from Glebe, changed fortunes. Hence, there is a distinct shift between the

earlier Victorian core areas with their stucco villa architecture and the later brick and tile Federation styled houses mostly on smaller lots, after 1900.

Annandale developed a distinct political culture and a social network of local small business interests including, merchants, builders, printers, etc. They mostly lived locally. The number of Annandale's builders rose from one in 1884, to 14 in 1886 to 17 in 1889. The builder/developers included a partnership of John Wise, Herbert Bartrop, and John Rawson who were active in 1881/2. Other Annandale builders were Robert Shannon, William Nichols, William Baker, Albert Packer, Owen Ridge, George McDonald, George Bates, Hans Christensen, Cornelius Gorton, William Wells, and Phillip Newland.

The Company went into liquidation in 1916, and the remaining unsold land, at the northern end was purchased by the Intercolonial Investment Land and Building Co Ltd. In 1909 Sir John Young's *'Kentville Estate'* was subdivided. This Estate mainly comprises single storey houses on small lots, notwithstanding the appeal of views and elevation at the northern tip of the peninsula.

By 1893 Annandale comprised about 1200 houses, mostly brick, but with some weatherboard. This increased in 1901 to 1700, to 2400 in 1911, and to 2800 in 1921. By the 1947 census, Annandale had 3265 residences. This suggests about half of Annandale's building stock are twentieth century.

While the initial Plan envisaged a privileged suburb of middle class villas and grand mansions, it became a mix of housing and in similar socio/economic terms to the other inner suburbs. Industry arrived early, principally along the Creek edges and to the foreshores, encouraging reclamation. Annandale ceased to be bounded by water. The industry provided local employment, and often required skilled trades. The largest industry in a very handsome complex between Trafalgar and Nelson Streets, was Beale's Piano Factory. The managers mostly lived close by. Nevertheless, the larger lots and wider streets than the norm in the inner suburbs, and the environmental benefits of elevation, long views, and good ventilation have favoured Annandale. The building stock are also generally well built, substantial, and adds to the attraction of this suburb for modern living.

The huge estate of the Johnsons was late to subdivide, from around 1875, then promoted as a superior suburb with Johnston Street to be the premier residential street in the City. The earlier boom mansions of the late Victorian period reflect this vision.

The property lies within the Annandale Conservation Area. While Annandale was subdivided around 1876, initial growth produced the grander houses along Johnston Street and some terraces at the south end of Annandale Street, closer to the Parramatta Road trams. However, most development occurred in the early twentieth century. A small number of builders operated in Annandale and did small runs of houses for sale through this period. Hence, similar houses pop up throughout the suburb. The double fronted *'villa'* type houses are also prevalent on prominent and desirable sites.

The wealthy builder and entrepreneur John Young played a prominent role in the development of the suburb. He had a large estate and house at the northern end of the suburb, his house *'Kentville'*. He also built the so called witches houses on the north western side of Johnston Street. He played a role in the incorporation of the Municipality of Annandale and became the first mayor in 1894. Annandale was re-incorporated into Leichhardt with wider amalgamations after WW2.

While Johnston Street contains the grandest houses, Annandale Street was also prestigious for middle class housing. In the boom period often two or more lots were sold for individual houses. Speculative rows developed particularly in the early twentieth century, in the prevailing Federation styles.

With the changes of fortune changes of form occurred such as re-subdivision to provide more housing on smaller lots. This evidently occurred with this row.

The evidence of the Sands Directories

The Directories were published from just before 1850 to 1932/33, and listed where people lived prior to telephone books. They give occupants, not owners and are not entirely reliable. Numbers have often changed or have not been given. Hence the most recent listings are the most reliable, and hence this evidence to examined in reverse chronological order

1932/33

Mrs V Nowlish (sic) was listed at No 175.

1930

Joseph Cullen is listed at No 175.

1920

Mrs L Trainor is listed at No 175.

1910

William Firth is listed at No 175.

1900

The numbers are different; James Harvey is listed at this property, then No 145.

1895 (Annandale is in Leichhardt Municipality in this period)

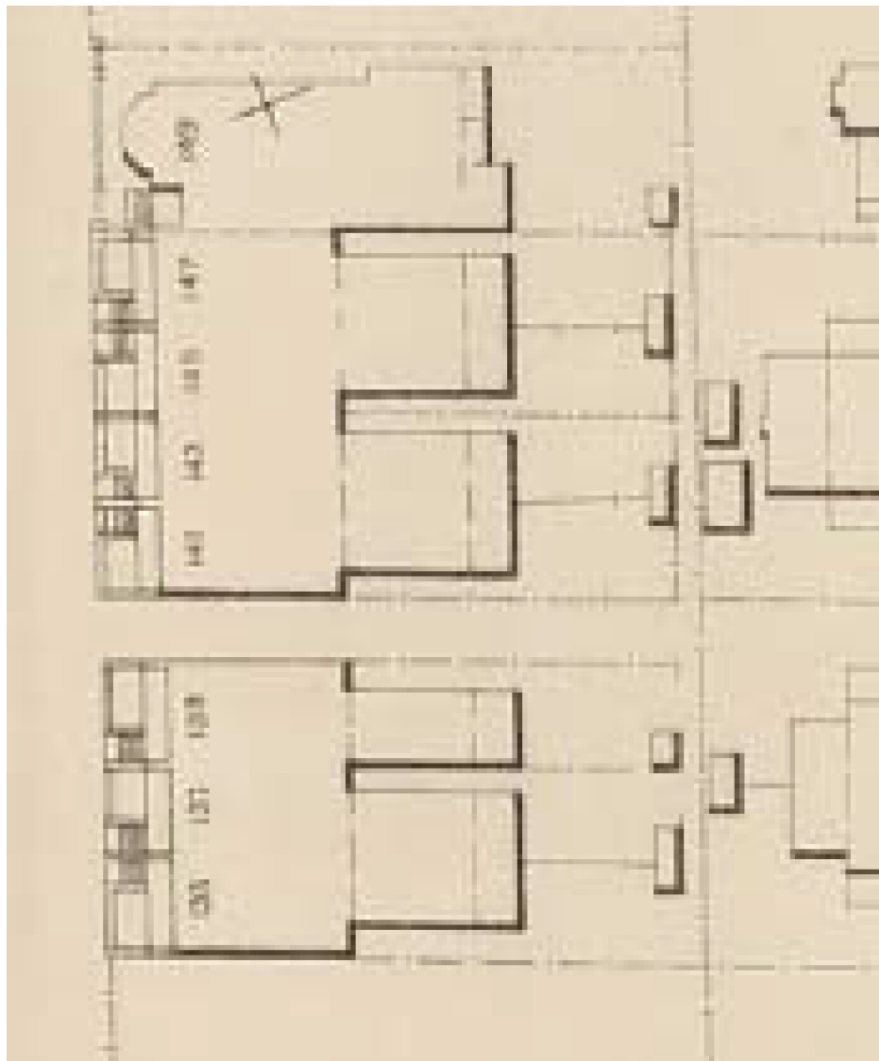
Frederick Adams is listed at this property.

1890

There are no numbers listed and only 7 names between Booth and Piper Streets. This suggests this row had not been built.

Conclusion

The Sands evidence suggests, as does the fabric, that these houses were tenanted, with frequent changes of occupancy. As the Water Board Plan is 1892 this row was built by then.



Detail showing the subject row, with No 145 second from the top/North, now No 175.

There are 7 terraces in this row, in two groups, Nos 135/137/139 & 141/143/145 & 147. The current numbers are Nos 165/167/169 & 171/173, 175/177. The break in the group gives service access to the backs of both this row and houses fronting Trafalgar Street.

135/137 are a pair with a paired service wing behind, 141/143 & 145/147 are also a pair with paired service wings behind. The service wings are likely to be kitchen with bathroom behind, with a privy at the back of the yard.

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HIS: 175 Johnston Street Annandale

**3.0
FABRIC ASSESSMENT**

Appendix A – contains a Photo File of the existing house and context. This document records the existing fabric for archival purposes



The terrace row of 7. No 175 is the second house from the left/north end.



Front

The houses have a double hung window to the front, are rendered with drip moulds to the openings except for No 177 where the render has been stripped. The front doors differ, but is likely that the 4 panelled door to No 135 the likely original. The veranda roofs are bullnose.



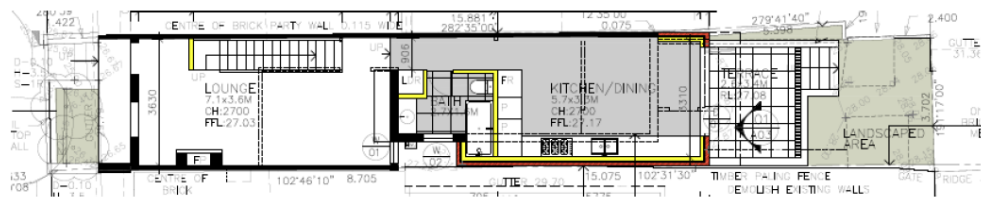
Current Plan

4.0 HERITAGE ISSUES & CONSTRAINTS

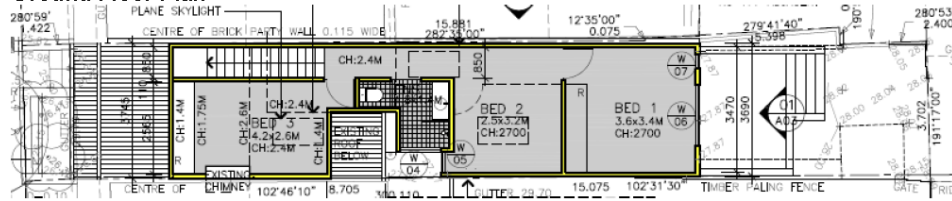
This report also forms a documentation of the history and this house, as a record at a change point. The recommended parameters for management are:

1. As contributory heritage the principal form and fabric as visible from the street is important and should be conserved. Otherwise the house is commonplace and has limited significance given the many better examples of small speculative terraces.
2. Retaining the legibility of the original layout and materiality is desirable.
3. The back additions should be complementary to the row and subservient to the scale.

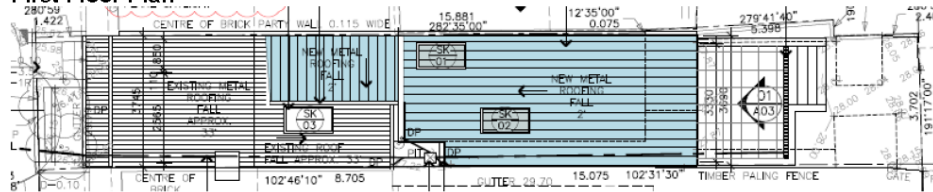
5.0 THE PROPOSAL



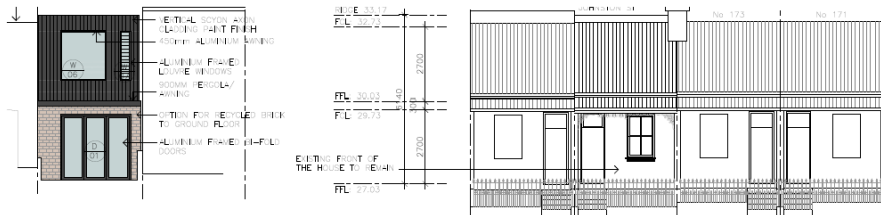
Ground Floor Plan



First Floor Plan

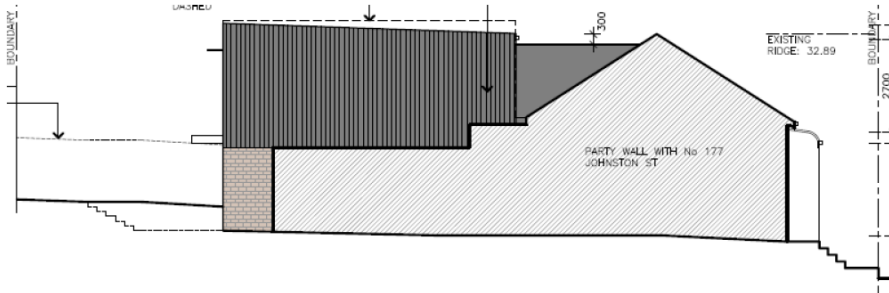


Roof Plan

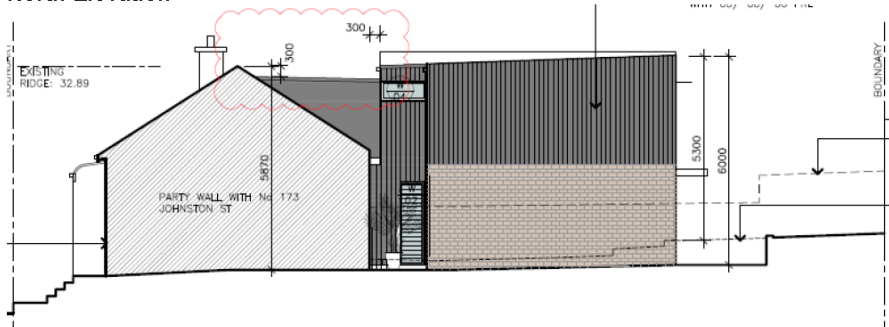


East Elevation

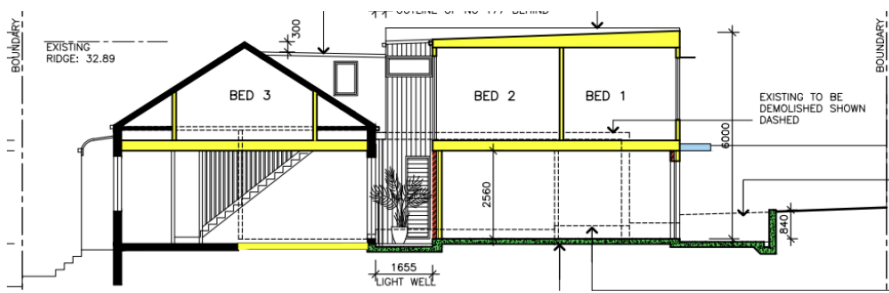
Front/West Elevation



North Elevation



South Elevation



Section

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HIS: 175 Johnston Street Annandale

Discussion

This is a crisp and elegant re-work to make a tiny house workable with modern amenities which satisfies the parameters proposed in 4.0. It will retain the legibility of the front part including the roof form, with the back being dropped lower and subservient. Even though this will not be seen, it allows interpretation of the original form of this house; as does No 177. This house is flanked by Nos 171 & 177 which have substantial rear additions which conceal the original form. This scheme retains the legibility of the original form while allowing comparable accommodation and amenity.

6.0 EVALUATION IN TERMS OF THE HERITAGE CONTROLS

The Annandale Conservation Area

The character of Annandale was formed by principally two periods of growth, the late Victorian boom, emulated in the context by mainly a two storey terraced topology, and after the 1890's crash into the early twentieth century Federation boom mostly with single storey terraces and semis. This house is representative of the latter history.

The diversity is a consequence of the making of the suburb by a large number of individual actions; small scale entrepreneurial developers. This includes many one off houses, and many small groups or pairs of like houses. A small number of builders and developers operated during that time; researched by Alan Roberts' extensive work on the suburb.

Reuss's remarkable plan, has a grid and hierarchy of streets orientated to the north/south ridgeline. This together with a common close siting of the buildings gives coherence to the streetscape, given the diversity of house types, form, materials, and stylistic details. There is a unity and diversity in the built character that this house reflects. By keeping the principal external form as viewed from the public domain, and the principal character and form in interpretive terms, will conserve its **contributory significance** to the Heritage Conservation Area. The changes are complementary and **compatible** in form, style, and materials, while being a contemporary statement.

7.0 CONCLUSIONS

1. This row is of contributory heritage significance requiring conservation of the row as viewed from the street and complementary and subservient change.
2. It would be desirable that the original form be interpreted with change.
3. By improving the liveability by change, will ensure its ongoing care and conservation.
4. This document can serve as a record of the heritage values and fabric, at this change point.

APPENDIX A
PHOTO FILE: EXTERIOR – the main house



Front



ROW between Nos 167/169



The southern group



Entry detail



Back of No 173/175



Back of No 177/179



Front entry - repro door



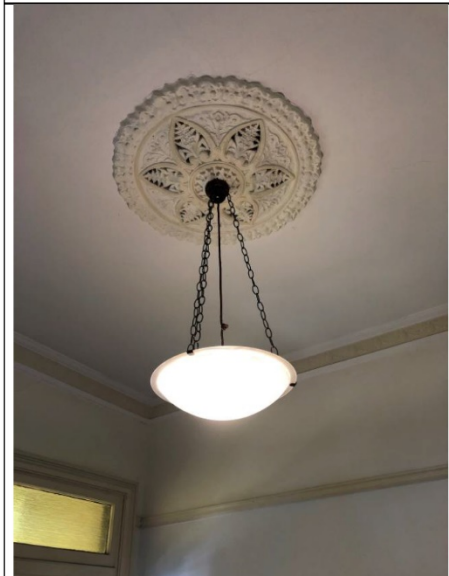
Front entry No 171 - likely original detail



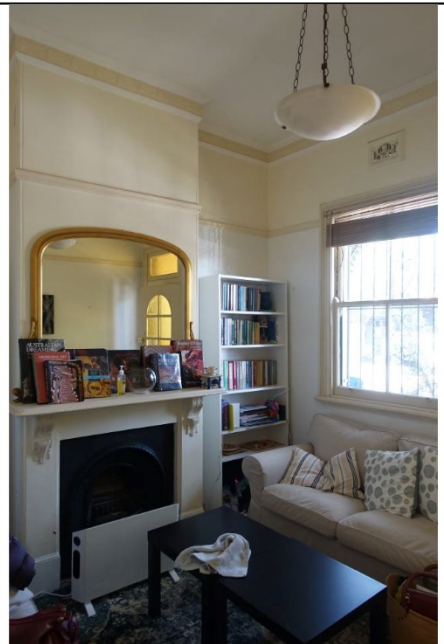
No 175 view east to back



Second room



Front room – detail



Front room – painted timber mantle



SOURCES

- Alan Robert's unpublished research on the development history of Annandale as well as his book on the Johnstons '*Marine Officer, Convict Wife*'
- Water Board Plans – the State Library web
- Leichhardt Municipal History – Solling/Reynolds '*Leichhardt – on the margins of the City*' 1997
- Sands Directories – City of Sydney website