

 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2020/0428
<b>Address</b>	73 Ferris Street ANNANDALE NSW 2038
<b>Proposal</b>	Alterations and additions
<b>Date of Lodgement</b>	09 June 2020 – (fees paid 15 September 2020)
<b>Applicant</b>	Karl Howard
<b>Owner</b>	Mr Karl A Howard Ms Rebecca A Duncan
<b>Number of Submissions</b>	0
<b>Value of works</b>	\$49,000.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10%
<b>Main Issues</b>	Floor Space Ratio, Site Coverage and landscaped Area
<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
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	
	 N

## 2. Executive Summary

This report is an assessment of the application submitted to Council for Alterations and additions at 73 Ferris Street, Annandale.

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

The main issues that have arisen from the assessment include:

- Increased GFA inconsistent with the numerical FSR Development Standard.

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

## 2. Proposal

This application seeks consent for alterations to an existing dwelling house within a heritage conservation area, adjacent to a row of heritage items. Proposed works include reconfiguration of ground floor and 1<sup>st</sup> floors to provide greater amenity.

New works are to include:

- Rearranging of existing bedroom on the ground floor to provide internal access from the double garage
- Interior rearrangement of both the ground and first floor internal rooms
- Extension of main bedroom and the provision of internal access from it to the living areas on the first floor with an additional new link.

## 3. Site Description

The subject site is located on the western side of Ferris Street. The site consists of one allotment and is generally square in shape with a wider frontage than the typical subdivision pattern for Ferris Street. The site has a total area of 112.1 sqm.

The site has a frontage to Ferris Street of 12.14 metres and no secondary frontage.

The site supports an existing dwelling house built to all 4 lot boundaries. The adjoining properties support one and two storey dwelling houses.

The property is located within a conservation area and is located adjacent to a row of heritage items.

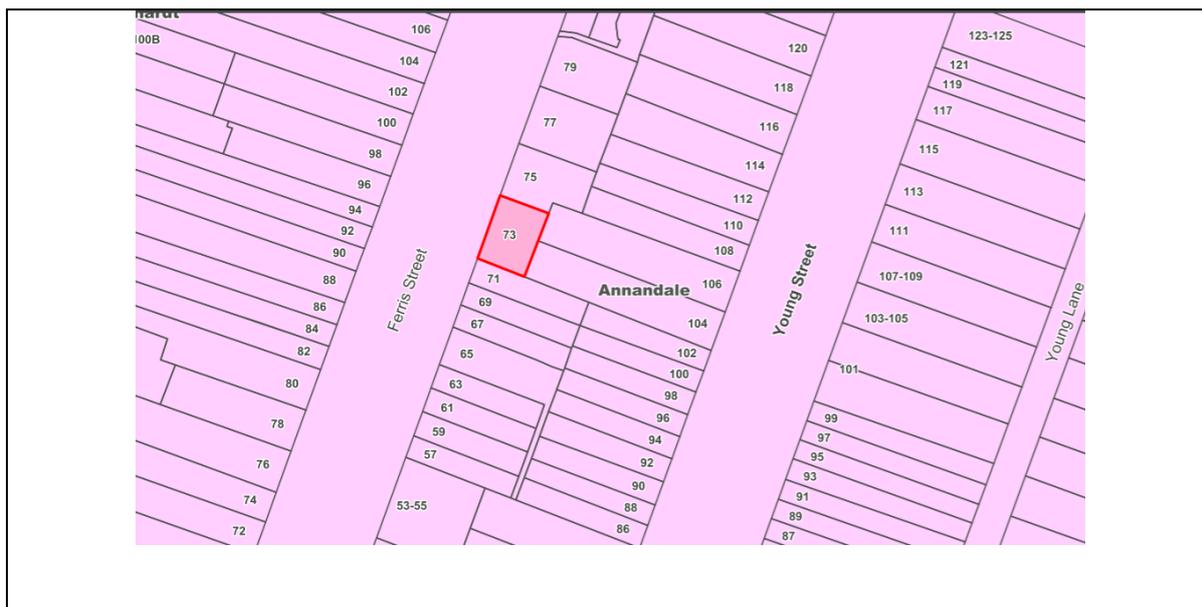


Figure 1 – Zoning map (site is zoned R1 General Residential)

## 4. Background

### 4(a) Site history

The subject site and surrounding properties have no relevant development history for consideration with the proposal.

### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
13/05/2020	Pre- Development application meeting with applicant and advice letter issued.
9/6/2020	Development Application received.
15/9/2020	Development Application fees paid to Council (application formally lodged at that point).
22/9/2020	Formal request to vary development standards under Clause 4.6 received from applicant.

## 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*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

*5(a)(iv) 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. LDCP 2013 provides controls and guidelines for remediation works. *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)(v) 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

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

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

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

The development is permitted with consent within the 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
<b>Floor Space Ratio</b> Maximum permissible: 0.9:1 or 100.89m <sup>2</sup>	1.46:1 or 164.16 sqm	63.27 sqm or 62.72%	No
<b>Landscape Area</b> Minimum permissible: 15% or 16.81 sqm	0% or 0sqm	16.81 sqm or 100%	No
<b>Site Coverage</b> Maximum permissible: 60% or 67.26 sqm	100% or 112.1m <sup>2</sup>	44.84 sqm or 66.67%	No

(iii) Clause 4.6 Exceptions to Development Standards

Landscaped areas 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)(a) - Landscaped areas for residential accommodation in Zone R1

The applicant seeks a variation to the landscaped area development standard under Clause 4.6 Exceptions to Development Standards of the LLEP 2013 by 100% or 16.81 sqm.

Clause 4.6 allows the consent authority to vary development standards 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 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 private open space and landscaped area is as existing
- The existing property prior to the application already exists as a non-compliance for a property under 235sqm - 15%. The proposal makes no substantial additional change to the existing non-compliance therefore Clause 3(a)(i) is N/A
- The existing property landscaped area is at a width of only 600mm meaning what is serving as the existing site coverage for the property doesn't even exist as compliant landscaped area under 4(b)(i). Therefore any amendment or changes to this space in the development is simply a continuation of this non-compliance and should not effect the application's approval

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 zone, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 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 diversity and amenity of housing in the community.
  - The alteration retains the existing character of the neighbourhood.
  - 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 landscaped area development standard, 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 maintains the existing character of the area in relation to building bulk, form and scale.
  - There is no change to the siting of the building alteration therefore are within an area 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 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 Areas for residential accommodation in Zone R1 development standard and it is recommended the Clause 4.6 exceptions be granted.

#### 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 66.67% or 44.84 sqm.

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 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 property is boundary to boundary
- The proposed private open space and landscaped area is as existing
- The existing property prior to the application already exists as a non-compliance for a property exceeding 60% site coverage. The proposal makes no substantial additional change to the existing non-compliance therefore Clause 3b are not applicable

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 (reproduced in the section above), in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- The proposal will increase the amenity of housing in the community.
- The alteration retains the existing character of the neighbourhood.
- 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 (reproduced in the section above), in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- The proposal maintains the existing character of the area in relation to building bulk, form and scale.
- There is no change to the siting of the building alteration therefore are within an area 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 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 LLEP 2013. 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 standard:

- 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 62.72% or 63.27 sqm, being an increase of 13.36sqm or a further 13.24% from the existing variation.

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 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 bulk, form and scale of the building is unaltered with all proposed works contained within the existing building structure.
- There is no reduction in landscaped area.
- As indicated above the proposal does not result in any change to the bulk and scale of the building as viewed from outside the site

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 (reproduced in the section above), in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- The proposal will increase the amenity of housing in the community.
- The alteration retains the existing character of the neighbourhood.
- 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 includes no additional bulk, with no change to height or width of the existing dwelling. All additional floor space is as resulting from internal alteration to improve amenity and useability within the existing built form.
- The proposal will not change the existing approved provision of landscaped areas

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 Floor Space Ratio development standard and it is recommended the Clause 4.6 exceptions be granted.

(iv) Clause 5.10 - Heritage Conservation

The subject property at 73 Ferris Street, Annandale, is located within the Annandale Heritage Conservation Area (C1 in Schedule 5 of the Leichhardt LEP 2013).

The site is not listed as a heritage item on the Leichhardt LEP 2013. It is a non-contributory residential infill development to the conservation area.

The proposed works presented in the drawings by COSO Architecture have been reviewed with consideration to the Leichhardt Local Environmental Plan 2013 and Development Control Plan 2013.

The proposal is for internal changes to a non-contributory building. No significant fabric will be impacted by the proposal. Proposed external changes will not affect the contribution and significance of neighbouring properties.

The proposal is generally acceptable as it complies with relevant controls and policies.

(v) 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 relevant Draft Environmental Planning Instruments listed below:

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

### 5(b)(i) Draft SEPP Environment

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

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

<b>LDCP2013</b>	<b>Compliance</b>
<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	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
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 - These changes to a non-contributory building will not affect the contribution and significance of neighbouring properties.
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	No change to existing.
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A – Site contains no trees nor opportunity for planting.
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	Yes
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
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.1.1 Young Street Distinctive Neighbourhood	Yes – as existing.
<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	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 – see discussion below
C3.9 Solar Access	Yes – see discussion below
C3.10 Views	Yes
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
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
<b>Part D: Energy</b>	
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
<b>Part E: Water</b>	
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:

### C3.8 Private Open Space

The existing ground floor courtyard is to remain providing the dwelling with 13.16sqm of open space at ground level. The existing structure has its primary open space on the first level in association with the main living areas. This proposal will reduce the area of private open space however will still provide 13.07sqm of private open space on the first floor. The proposal provides a total of 26.23sqm across the 2 levels. The location and functionality of the open space has been designed to provide for the recreation needs of residents and serving as outdoor extension of the 1<sup>st</sup> living area which is further encouraged with the use of sliding doors. The upper floor open space is location centrally on the lot and is considered to minimise visual and acoustic privacy impacts for surrounding residential properties.

This provision of private open space is acceptable with the proposal.

### 3.9 Solar:

The proposed works are within the existing structure with no increase height associated with the additional 1<sup>st</sup> floor roof area. The application will not result in any additional overshadowing to neighbouring properties.

### 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 Council's policy. 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 considered to be 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
- Development 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 a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* to vary Clause 4.3A(3)(a) Landscaped Area, Clause 4.3A(3)(b) Site Coverage and Clause 4.4 Floor Space Ratio of the *Leichhardt Local Environmental Plan 2013*. After considering the request, 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 variations. The proposed development will be in the public interest because the variations are 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/2020/0428

for Alterations and additions at 73 Ferris Street ANNANDALE NSW 2038 subject to the conditions listed in Attachment A below.

**Attachment A – Recommended conditions of consent**

**CONDITIONS OF CONSENT**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

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

<b>Drawing No, Revision No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
DA01	Site +Roof Plan	6/6/2020	COSO Architecture
DA04	Street Elevation	6/6/2020	COSO Architecture
DA05	Section A	6/6/2020	COSO Architecture
DA06	Section B	6/6/2020	COSO Architecture
DA07	Section C	6/6/2020	COSO Architecture
DA02	Ground Floor Plan	6/6/2020	COSO Architecture
DA03	First Floor Plan	6/6/2020	COSO Architecture
DA10	Landscape Plan	6/6/2020	COSO Architecture
DA09	Stormwater Drainage Concept Plan	6/6/2020	COSO Architecture

As amended by the conditions of consent.

**FEES**

**2. 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.

**3. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

**GENERAL CONDITIONS**

**4. 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.

#### **5. Stormwater Drainage System – Simple**

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

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.

#### **6. 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.

#### **7. 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.

#### **8. Works Outside the Property Boundary**

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

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

#### **9. 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.

#### **10. 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.

#### **11. 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**

#### **12. 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.

#### **13. 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.

**14. 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*

**15. 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****16. 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.

**17. 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****18. 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.

**19. Protect Sandstone Kerb**

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

**20. Aircraft Noise –Alterations and Additions**

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.

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.

**ADVISORY NOTES****Permits**

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

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

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

**Insurances**

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

**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within 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.

#### **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.

#### **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  
[www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Department of Fair Trading 13 32 20  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)  
 Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig 1100  
[www.dialprior toyoudig.com.au](http://www.dialprior toyoudig.com.au)

Landcom 9841 8660  
 To purchase copies of Volume One of "Soils and Construction"

Long Service Corporation Payments 131441  
[www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au)

NSW Food Authority 1300 552 406  
[www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

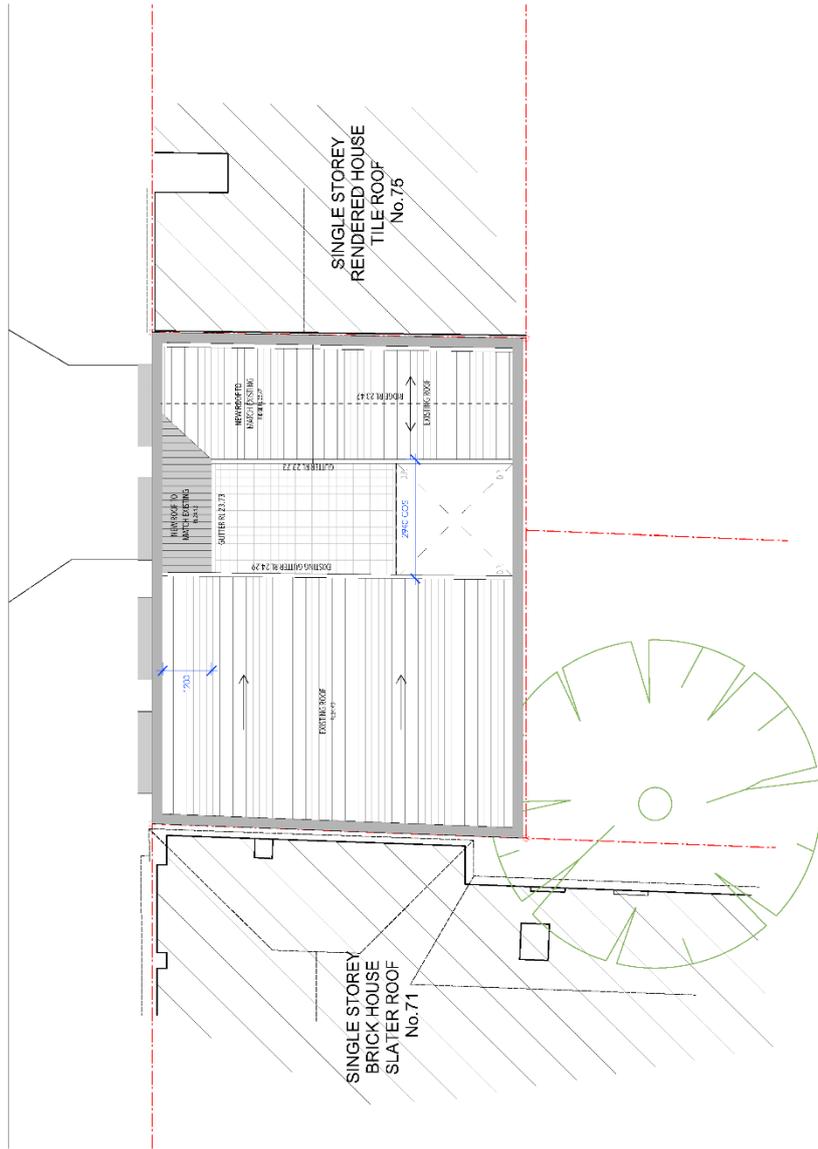
NSW Government  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.diySAFE.nsw.gov.au](http://www.diySAFE.nsw.gov.au)  
 Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Sydney Water 13 20 92



Attachment B – Plans of proposed development



REFER TO PLANS FOR DIMENSIONED STRUCTURE

LEGEND:  EXISTING  FENCE  BLOCK WORK  CONCRETE  BRICK  GLAZING  SCOPING  DECKING  TERRACE FLOOR  TILES  PAVING

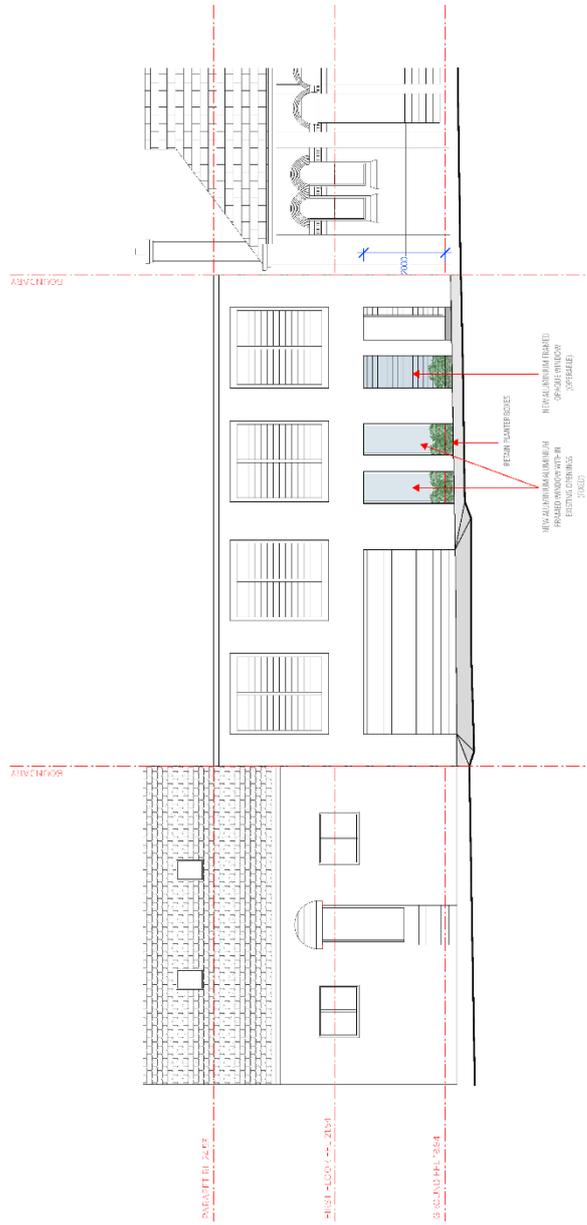
DEVELOPMENT APPLICATION 73 FERRIS STREET / INMADALE (LOT 1/DP177789)

NOTE: All work to comply with the Building Code of Australia, the relevant Australian Standards and the Local Government's Planning Scheme. The applicant is responsible for obtaining all necessary permits and approvals from the relevant authorities. The applicant is responsible for ensuring that the development complies with all applicable laws and regulations. The applicant is responsible for ensuring that the development is constructed in accordance with the approved plans and specifications. The applicant is responsible for ensuring that the development is maintained in accordance with the approved plans and specifications.

DRAWING NAME: **SITE + ROOF PLAN**  
 DRAWING NO: DA01  
 SCALE: 1:100  
 DATE: 10/06/2023  
 REVISION: 01

PREPARED FOR: KARL HOWARD

AR C 01111 C 1 U R 1  
**COSO**  
 1041 Connor Rd, Mt. Druitt, NSW 2770  
 Phone: +61 (0)2 9566 2890 / Fax: +61 (0)2 9566 2888  
 Email: info@coso.com.au / Website: www.coso.com.au



SEEK TO P. 1415 FOR DEMOLISHED STRUCTURE

LEGEND:  EXISTING  F BRICK  BLOCK WORK  COPPER  BRICK  CLADDING  SCOTING  DECKING  TILES  PAVING

DEVELOPMENT APPLICATION\_03 FERRIS STREET, ANNANDALE (LOT 1/DP177769)

ARCHITECTS: J. KARL HOWARD

PREPARED FOR: KARL HOWARD

DA04

4/15/2014

STREET ELEVATION

SCALE: 1:100 (PLAN)

SCALE: 1:50 (ELEV)

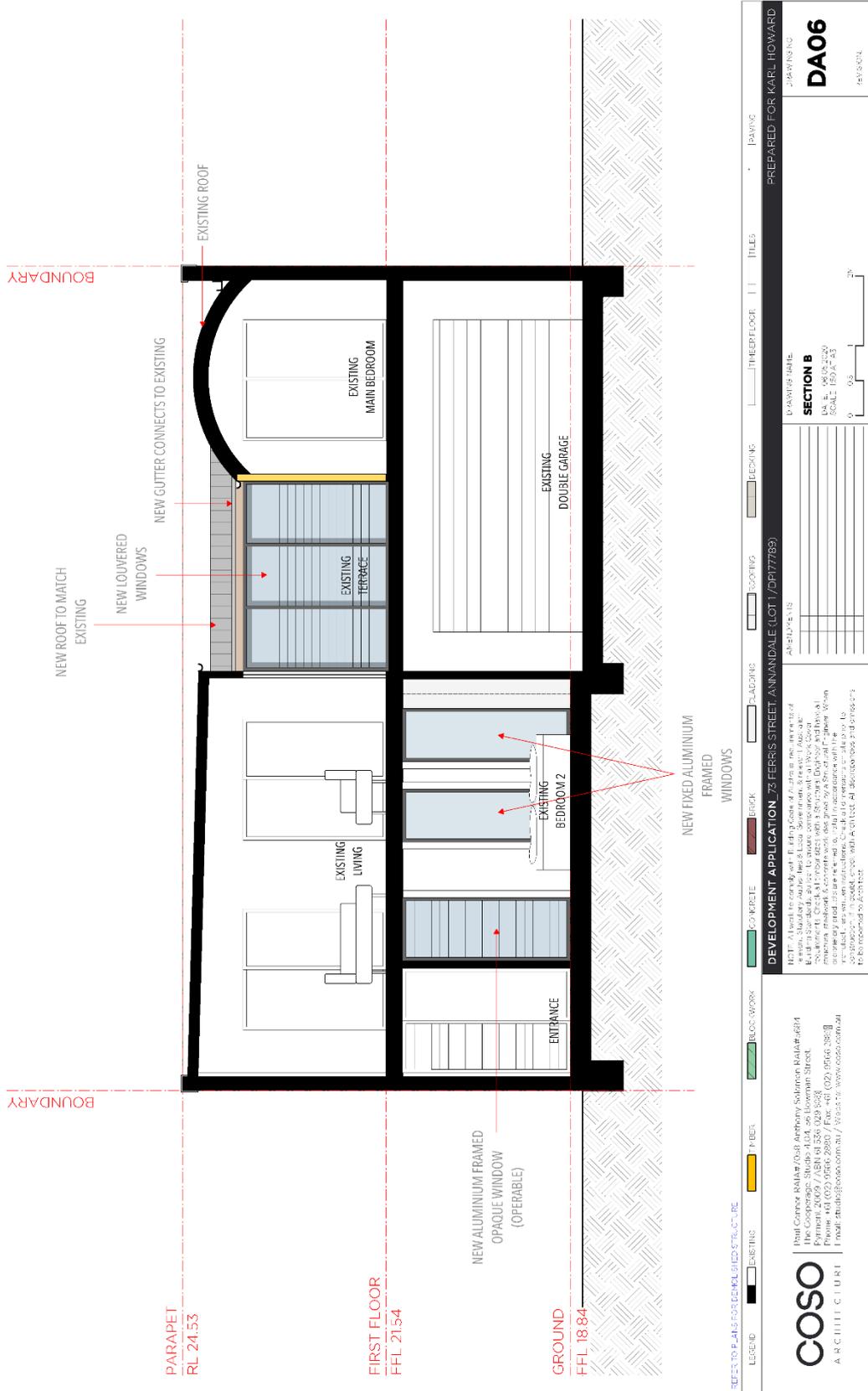
DATE: 10/14/14

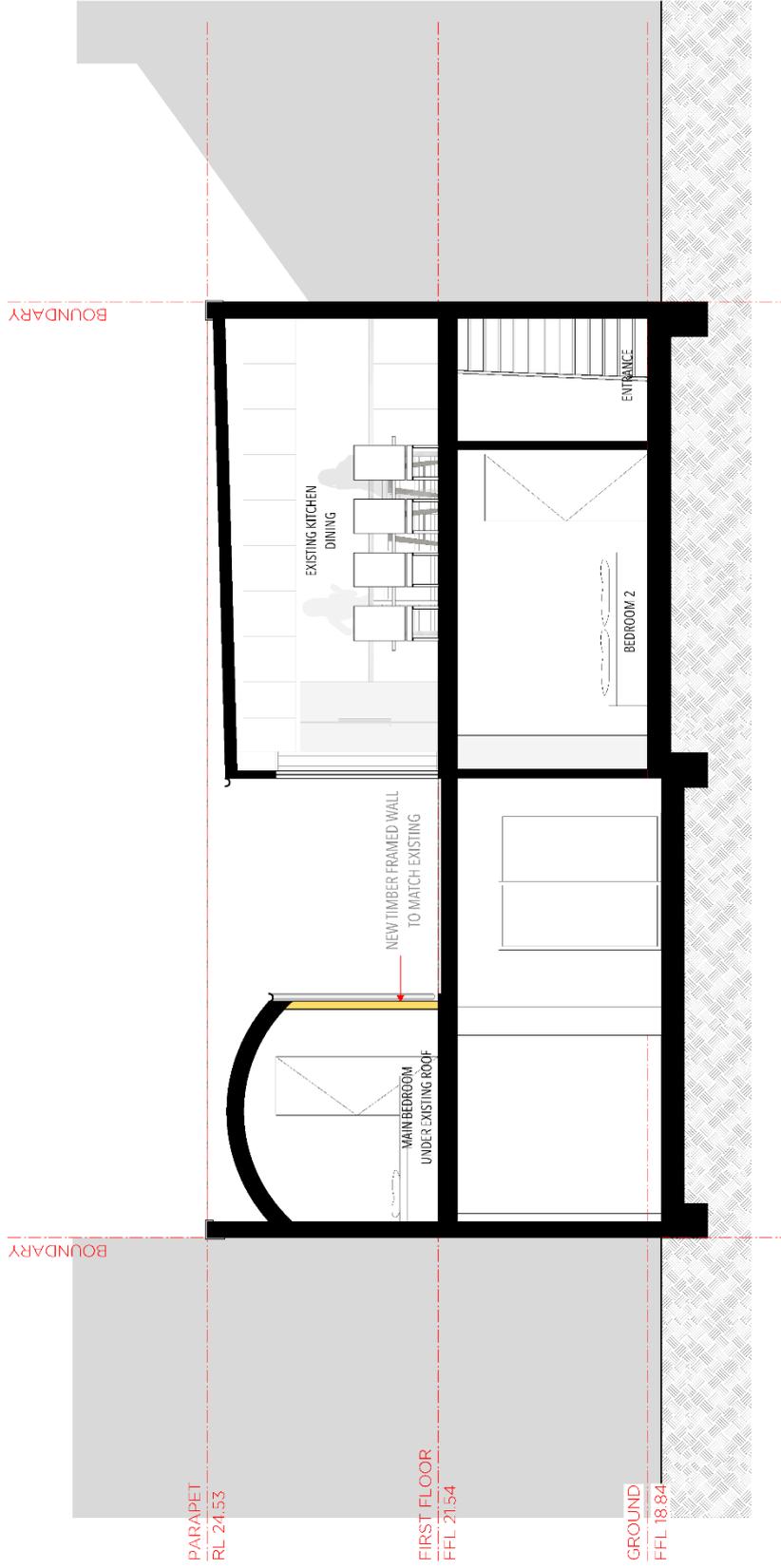
NOT: All work to comply with the City Code of Australia in the interests of safety, stability, safety, and health. Some items are subject to change. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided.

10th Cannon Ridge 70/80 Anthony Sabarwal Road #1874  
 Parramatta 2150 NSW Australia  
 Phone: +61 (0)2 9566 2885 / Fax: +61 (0)2 9566 2885  
 Email: info@coso.com.au / Website: www.coso.com.au

**COSO**  
 ARCHITECTS







REFER TO PLANS FOR DIMENSIONED STRUCTURE

LEGEND: [Symbol] EXISTING [Symbol] P/BEC [Symbol] BLOCKWORK [Symbol] ROOF [Symbol] CLADDING [Symbol] BECK [Symbol] BRICK [Symbol] SCOTTING [Symbol] DECKING [Symbol] TILES [Symbol] PAVING

DEVELOPMENT APPLICATION\_23 FERRIS STREET, ANNANDALE (LOT 1/DR177789)

NOT: All work to comply with the City of Sydney's Building Code of Australia in the interests of safety, stability and the public good. Some items are subject to change. The applicant is responsible for ensuring that all work complies with the Building Code of Australia and the relevant standards. The applicant is responsible for ensuring that all work complies with the Building Code of Australia and the relevant standards. The applicant is responsible for ensuring that all work complies with the Building Code of Australia and the relevant standards.

DA07

SECTION C

SCALE: 1:100

DATE: 18/04/20

PREPARED FOR: KARL HOWARD

J. KARL HOWARD







REFLECT TO PLAN FOR DEMOLISHED STRUCTURE

LEGEND: ■ EXISTING ■ NEW ■ BLOCKWORK ■ BRICK ■ CONCRETE ■ CLADDING ■ SCULPTING ■ DECKING ■ TILES ■ PAVING

DEVELOPMENT APPLICATION\_23 FERRIS STREET, ANNANDALE (LOT 1/DR177785)

LANDSCAPE PLAN  
 DRAWING DATE: 24/03/2024  
 SCALE: 1:50 (A3)  
 SCALE: 1:50 (A4)

PREPARED FOR: KARL HOWARD

DATE: 24/03/2024

NOTE: All work to comply with the City of Sydney's Planning Scheme, including the Local Environmental Plan (LEP) 2014, and the Sydney Local Government Area (SLGA) Code of Council. The plan is subject to the approval of the Council. The plan is subject to the approval of the Council. The plan is subject to the approval of the Council.

1001 Connor Rd, Tel: 02 9566 2885 / Fax: +61 (02) 9566 2885  
 1001 Connor Rd, Tel: 02 9566 2885 / Fax: +61 (02) 9566 2885  
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 A R C I T I C T U R E



## Attachment C- Clause 4.6 Exception to Development Standards

### 4.6 SITE COVERAGE + LANDSCAPING EXEMPTION

To accompany a Development Application to Inner West Council

#### 1.0 Introduction

The following statement addresses Clause 4.6 of the Leichardt LEP. It is in reference to the accompanying applications non-compliance of both Floor space ratio + shote coverage and landscaped areas.

#### 2.0 4.6 Clause Exemption

Applicant Details	
Applicant Name	Karl Howard
Site Address	73 Ferris Street
Suburb	Annandale, 2038
Lot/DP	LOT 1 / DP177789

abn 61536029808

**Paul Connor** FRAIA #7058

**Anthony Solomon** RAlA #5684

Studio 4.04 "The Cooperage"

56 Bowman St. Pyrmont NSW

ph + 61 2 9566 2880

[www.coso.com.au](http://www.coso.com.au)

**COSO**ARCHITECTURE

**CLAUSE 4.6**

Clause 4.6 MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states 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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

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

**Claim for Variation**Landscaped Area + Site Coverage Standards and Objectives

The standard and associated objectives have been previously identified. It has been determined that the development has a gross Landscaped area of 0sqm. This represents a non-compliance of 15% for the site (105sqm). The proposal seeks to maintain the existing unrecognised landscaped area (see below 4bi) and only slightly decreases the overall amount of area that already persists. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons.

(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,

Response: The existing landscaped areas of the site provide an enjoyable interior condition for one of the ground floor bedrooms as well as the primary street frontage.

(b) to maintain and encourage a landscaped corridor between adjoining properties,

Response: The existing property is boundary to boundary therefore N/A

(c) to ensure that development promotes the desired future character of the neighbourhood,

Response: The proposed property frontage is as existing therefore N/A

(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,

Response: The proposed property stormwater management is as existing therefore N/A

(e) to control site density,

Response: The existing property site coverage is as existing therefore N/A

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

Response: The proposed private open space and landscaped area is as existing therefore N/A

(2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.

(3) Development consent must not be granted to development to which this clause applies unless–

- (a) the development includes landscaped area that comprises at least–
  - (i) where the lot size is equal to or less than 235 square metres–15% of the site area, or
  - (ii) where the lot size is greater than 235 square metres–20% of the site area, and
- (b) the site coverage does not exceed 60% of the site area.

Response: The existing property prior to the application already exists as a non-compliance for a property under 235sqm - 15%. The proposal makes no substantial additional change to the existing non-compliance therefore Clause 3ai and 3b are N/A

(4) For the purposes of subclause (3)–

- (a) the site area is to be calculated under clause 4.5 (3), and

Response: Refer to DA documentation to assess the site coverage calculation of the proposed development.

- (b) any area that–
  - (i) has a length or a width of less than 1 metre, or
  - (ii) is greater than 500mm above ground level (existing), is not to be included in calculating the proportion of landscaped area, and

Response: The existing property landscaped area is at a width of only 600mm meaning what is serving as the existing site coverage for the property doesn't even exist as compliant landscaped area under 4bi. Therefore any amendment or changes to this space in the development is simply a continuation of this non-compliance and should not effect the applications approval.

- (c) any deck or balcony or the like (whether enclosed or unenclosed) is not to be included in calculating the site coverage if–
  - (i) it is 2.4 metres or more above ground level (existing), as measured from the underside of the structure and the area below the structure is able to be landscaped or used for recreational purposes, or
  - (ii) the finished floor level is 500mm or less above ground level (existing).

Response: Refer to DA11 of the accompany DA documentation that addresses the exact perimeters from which the site calculations have been conducted. Both separate unenclosed terrace areas have not been included in the site coverage calculations.

**Conclusions**

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- (a) that the contextually responsive development is consistent with the zone objectives, and
- (b) that the contextually responsive development is consistent with the objectives of Landscaped Areas and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- (d) that having regard to (a), (b) and (c) above that compliance with the landscaped area and site coverage development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the developments ability to comply with the landscaped area and site coverage development standard objectives that approval would not be antipathetic to the public interest, and
- (f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have informed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a landscaped area and site coverage variation in this instance.

**COSO ARCHITECTURE**

**Paul Connor**

FRAIA 7058

**Partner**

COSOARCHITECTURE

**3.0 COMPLIANCE WITH LEICHARDT LOCAL ENVIRONMENTAL PLAN 2013****2.1 Land Use Zones**

This site is currently zoned as R1 - General Residential. The proposal maintains this zoning.

**4.3 Height of Buildings**

The site is under classification 'I' 8.5m maximum height of building. The proposal abides by this requirement.

**4.4 Floor Space Ratio**

The site is under classification restricting development to a 0.5:1 FSR. The existing development already exceeds that parameter and therefore the development (as per Pre-DA meeting) will need to go through the Development Application panel prior to its approval.

Pursuant to clause 4.4(2) LLEP the maximum floor space ratio for development on the site shall not exceed 0.5:1 as depicted on the FSR map in the LEP. We note that pursuant to clause 4.4(2A) of LLEP the maximum FSR for non-residential development on the site (the existing business premises) is 1:1.

The stated 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,*
  - 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.

It has been determined that the development has a gross floor area, as defined, of 196m<sup>2</sup> being an FSR of 1.75:1. This represents a non-compliance of 75%.

Clause 4.6 MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states 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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

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

### **Claim for Variation**

#### Floor Space Ratio Standard and Objectives

The standard and associated objectives have been previously identified. It has been determined that the development has a gross internal floor area, as defined, of 162.8m<sup>2</sup> being an FSR of 1.6:1. This represents a non-compliance of 60%. The proposal increases floor space to 178.4m<sup>2</sup> being an FSR pf 1.75:1, representing a non-compliance of 75%. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

(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*

Response: The bulk, form and scale of the building is unaltered with all proposed works contained within the existing building structure.

(ii) *provides a suitable balance between landscaped areas and the built form, and*

Response: There is no reduction in landscaped area.

(iii) *minimises the impact of the bulk and scale of buildings,*

Response: As indicated above the proposal does not result in any change to the bulk and scale of the building as viewed from outside the site. This objective is satisfied.

### **Conclusions**

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- (a) that the contextually responsive development is consistent with the zone objectives, and
- (b) that the contextually responsive development is consistent with the objectives of the floor space ratio standard, and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- (d) that having regard to (a), (b) and (c) above that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the developments ability to comply with the zone and floor space ratio standard objectives that approval would not be antipathetic to the public interest, and
- (f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have informed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a floor space ration variation in this instance.

#### 5.0 Heritage Conservation, Heritage Impact Statement

This site is within a general conservation area. The Existing structure is not considered to a contributing form within the streetscape. The interior changes cannot be viewed form the public domain. There is no additional impact to the heritage conservation area.