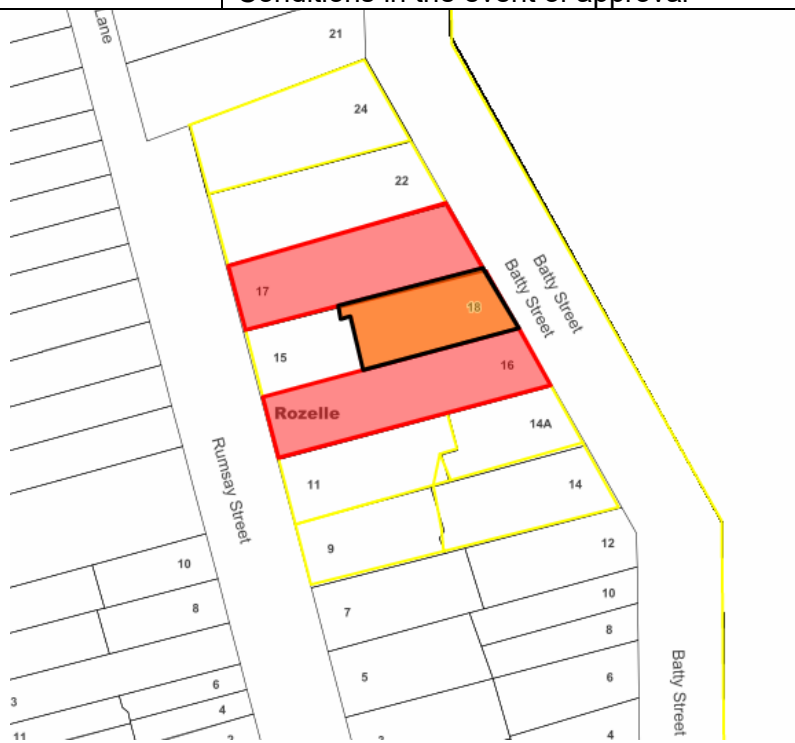




 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2022/0556
Address	18 Batty Street ROZELLE NSW 2039
Proposal	Construction of carport, garbage store, stairs, fence and storage area adjacent to Batty Street frontage
Date of Lodgement	19 July 2022
Applicant	GM Architects Pty Ltd
Owner	Matthew Khouri
Number of Submissions	3
Value of works	\$13,153.00
Reason for determination at Planning Panel	Breach of Development Standards - Landscaped Area, Site Coverage (>10%)
Main Issues	Landscaped Area Site Coverage Parking Heritage Design
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Statement of Heritage Significance
Attachment D	Conditions in the event of approval
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council to construct a carport, garbage store, stairs, fence and storage area adjacent to the Batty Street frontage at 18 Batty Street Rozelle. The application was notified to surrounding properties and 3 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Landscaped Area
- Site Coverage
- Parking
- Heritage Design

The non-compliances are considered unacceptable and therefore the application is recommended for refusal.

2. Proposal

The proposed development includes the following works:

- Demolition of front sandstone/rock wall
- Removal of front timber paling fence
- Demolition of front stone access steps from footpath
- Excavation of front yard to approximate level of road
- Construction of new driveway crossing
- Construction of a single car carport within front setback
- Construction of a storage room within front setback
- Construction of new timber access stairs from footpath
- A deck is proposed to be erected above the storage room and carport
- Construction of new timber picket front fence
- Provision of a timber, electric, sliding gate to the carport frontage

3. Site Description

The subject site is located on the western side of Batty Street, between Mansfield Street and Reynolds Street. The site consists of one allotment and has a total area of 177sqm.

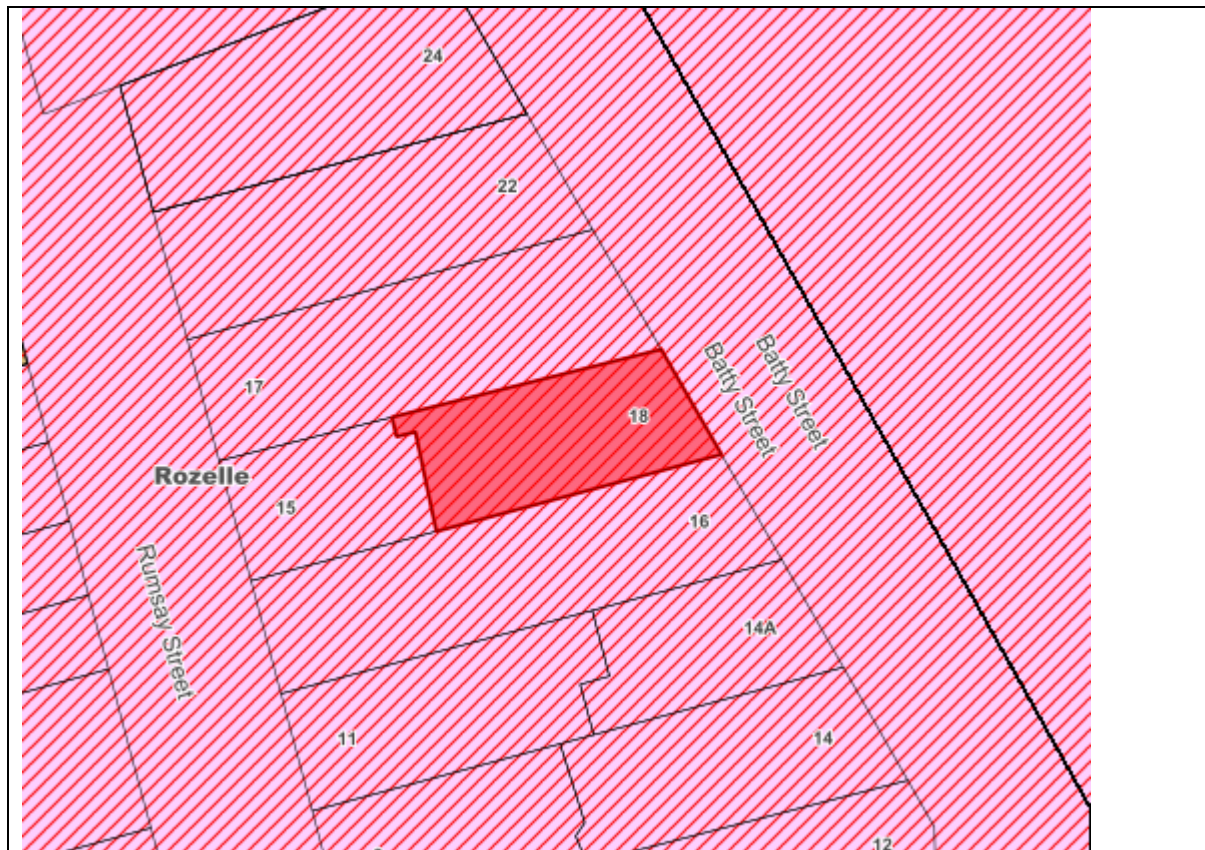
The site has a frontage to Batty Street of 9.46 metres.

The site supports a single storey dwelling house and rear detached shed. Both of which were the subject of an order issued relating to unauthorised building works (EPA/2021/0262). The majority of such works were the subject of a Building Certificate (BC/2021/0111) issued on 2/8/2022.

The adjoining properties support detached dwellings, with the adjoining rear property known as 15 Rumsay Street, being vacant.

The property is located within a heritage conservation area.

There is little vegetation on the site. At time of inspection a dead tree was located on the adjoining property 17 Rumsay Street which was located proximate to the boundary of the subject site.



The Site

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
EPA/2021/0262	Emergency Order to Cease Building Works	Issued 7/9/2021
BC/2021/0111	Building Certificate - works undertaken without the proper consent to the internal and external parts of the dwelling due to termite damage including the rear of the dwelling.	Issued 2/8/2022

Surrounding properties

Nil relevant.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
5/9/2022	Letter – Request for Withdrawal
29/9/2022	Draft amended plans and information submitted

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 (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

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

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

5(a)(ii) *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 4.4A - Exception to maximum floor space ratio for active street frontages
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 5.21 - Flood Planning

- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management

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

The site is zoned LR1 under the *LLEP 2011*. The *LLEP 2013* defines the development as:

dwelling house means a building containing only one dwelling.

The development is permitted with consent within the land use table. It is considered that the proposed development is not consistent with the objectives of the LR1 zone.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.8:1 or 153.2sqm	0.5:1 or 95 sqm	-	Yes
Landscape Area Minimum permissible: 15% or 28.7 sqm	0% or 0sqm	28.7sqm or 100%	No
Site Coverage Maximum permissible: 60% or 114.9sqm	75.72% or 145sqm	30.1sqm or 26.2%	No

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a) - Landscaped Area
- Clause 4.3A(3)(b) - Site Coverage

The application has not been accompanied by a case for variation to the above Clause 4.3A(3)(a) - Landscaped Area standard of the *Leichhardt Local Environment Plan 2013* involving a breach of 100%.

The application has not been accompanied by a case for variation to the above Clause 4.3A(3)(b) - Site Coverage standard of the *Leichhardt Local Environment Plan 2013* involving a breach of 26.2%.

The Statement of Environment Effects accompanying the application contends that the proposal is in compliance with these standards. However, assessment demonstrates that the proposed works to the front of the site removes the existing Landscaped Area on the site and also significantly increases site coverage.

For the reasons outlined in this report it is considered that any clause 4.6 exception case/s, should it be submitted, could not adequately justify the resultant breaches of the development standards and should not be supported.

Notwithstanding this, in the absence of a CI 4.6 exception, there is no power to consider the variation nor approve the subject development application.

Clause 5.10 - Heritage Conservation

The originally submitted design is not supported. The revised architectural drawings dated 28 September 2022 were reviewed and the following comments provided with respect to suitability of the proposal with regard to heritage.

Control C2 of Part C2.2.5.1 of the Leichhardt DCP 2013 requires that the established streetscape be conserved and retained with regard to setbacks, street trees and general lack of driveway crossings. Controls C2 a. and b. of Part C1.11 of the DCP require the layout and design of parking areas to be sensitively located so that these do not dominate the streetscape, minimising visual impacts to the building and street. The location of the proposed carport achieves neither of these controls as it will not be sensitively located within the front setback of the dwelling and will dominate the street scene. The proposed carport and driveway crossing are not supported on heritage grounds and should be deleted from the proposal.

The applicant has made a case that the “*existing random rubble wall is of danger to the public as it is on the verge of collapse.*” The revised drawings propose the reconstruction of the front boundary rubble wall to use parts salvaged from the existing wall.

In this regard, the reconstruction of the existing random rubble sandstone retaining wall on the front boundary and the stairs to the front entry could be supported on heritage grounds. However, any reconstruction of the wall would require that the random rubble sandstone blocks be numbered, carefully dismantled and stored and reconstructed like for like. An experienced suitably qualified and experienced Heritage Architect should be commissioned to assist and to provide advice to the consultant team throughout the design, contract documentation and construction stages of such a project. The sandstone base to the front fence must be protected during site preparation and construction works from potential damage.

Given that the basis of the current application is the bulk excavation of the front setback area and removal of the existing rubble wall to facilitate the provision of a new carport and storeroom within the site, the proposal considered unsatisfactory. Consequently, any proposed reconstruction of the front boundary rubble wall should be sought by way of a new stand alone development application rather than combined with the rest of the works which are unsupportable.

[5\(b\) Inner West Local Environmental Plan 2022](#)

The *Inner West Local Environment Plan 2022* (IWLEP) was gazetted on the 12th of August 2022. As per Section 1.8A – Savings provisions, of this plan, as the subject development application was made before the commencement of this Plan, the application is to be determined as if the IWLEP 2022 had not commenced.

Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and (1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 19 July 2022, on this date, the IWLEP was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

Notwithstanding this, the amended provisions of the draft EPI do not alter the outcome of the assessment of the subject application.

5(c) Draft Environmental Planning Instruments

There are no other Draft Environmental Planning Instruments applicable to the subject site.

5(d) 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	No – see discussion
C1.1 Site and Context Analysis	No – see discussion
C1.2 Demolition	No – see discussion
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No – 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	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No – see discussion
C1.12 Landscaping	No – see discussion
C1.13 Open Space Design Within the Public Domain	n/a
C1.14 Tree Management	Yes – see discussion
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	No – see discussion
C1.20 Foreshore Land	n/a
C1.21 Green Roofs and Green Living Walls	n/a

Part C: Place – Section 2 Urban Character	
C2.2.5.1 - The Valley - Rozelle - Distinctive Neighbourhood C2.2.5.1(b) – Smith Street Hill sub-area	No – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	No – see discussion
C3.4 Dormer Windows	n/a
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	No – see discussion
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	No – see discussion
C3.12 Acoustic Privacy	No – see discussion
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	
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	Yes
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	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	n/a
E1.2.4 Stormwater Treatment	n/a
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

Part F: Food	n/a
Part G: Site Specific Controls	n/a

The following provides discussion of the relevant issues:

C1.0 General Provisions

The proposal would not satisfy objectives O2, O4 & O6 of this Part relating to Accessibility, Amenity and Compatibility.

C1.2 Demolition

It is considered that the proposed demolition of the front boundary wall on the site is inconsistent with controls C1 and C2 of this Part and is not supported.

C1.3 Alterations and additions

It is considered that the proposed demolition of the front boundary wall and erection of the carport and storage with ensuing loss of Landscaped Area on the site is inconsistent with controls C1, C4 and C7 of this Part and is not supported.

C1.4 Heritage Conservation Areas and Heritage Items

As noted above, the proposal is not supported with regard to impact to the Heritage Conservation Area.

C1.11 Parking

The site does not currently have on-site parking. Under this Part, a dwelling house is not required to provide any on-site parking.

The proposed off-street parking is not supported as it will result in a loss of existing on-street public parking. This is contrary to control C49 of Part C1.11 of the Leichhardt DCP.

In this regard, the layout of the proposed on-street parking as detailed in the application indicates parking spaces set out hard up against the vehicle access driveways of both 14a Batty and 17 Rumsay Street. Given the narrow width of Batty Street this would make it difficult for a B85 vehicle to enter and leave these properties. This was evident from site inspection as owners have painted lines on the road to ensure vehicles to not park too close to the driveways.

C1.12 Landscaping

Information submitted with application demonstrates that the areas of the site shown to be Landscaped Area have been found on inspection to be paved. Areas that have not been paved are of insufficient dimension to be included in calculation of Landscaped Area under the provisions of Leichhardt LEP 2013.

The proposed carport, storeroom, steps and decking within the front setback would eliminate the only existing deep soil Landscaped Area on the site. Consequently, the proposal fails to provide any Landscaped Area on the site available for planting. As noted elsewhere in this

report, the provision of a small planter box in the south-eastern corner of the site above the carport would be inadequate to provide for any significant plantings/tree.

C1.14 Tree Management

It is noted that a tree located on the adjoining property (17 Rumsay Street) is dead. As such, no protection measures or further investigation is required.

It is further noted that a planter box with one cubic metre of soil to support the planting of a tree has been provided to the south-eastern corner of the site, above the proposed carport. The submitted arborist report advises that the above soil volume is suitable to sustain a tree in the long term. However, this proposition is not supported. Rather it is considered that a minimum of 8 to 10 cubic metres of soil is adequate to sustain a tree in the long term.

In consideration of the above, the application is not supported.

C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls

The proposal includes complete excavation of the front of the site and also the relocation of the front wall of the site to the front boundary. Consequently, it is considered that the proposed demolition of the front boundary wall and erection of the carport and storage with ensuing loss of the existing exposed sections of rock face associated with rubble wall is inconsistent with controls C1 and C2 of this Part and is not supported.

C2.2.5.1 - The Valley - Rozelle - Distinctive Neighbourhood

C2.2.5.1(b) – Smith Street Hill sub-area

The proposed demolition of the front boundary wall and erection of the carport and storage with zero front setback and loss of the existing exposed sections of rock face associated with rubble wall would result in an additional crossing contrary to controls C2, C6, C9, C12 and C2 of Part C2.2.5.1 and control C2 of Part C2.2.5.1(b).

C3.1 Residential General Provisions

As noted above, the proposed removal of the front stone rock face and rubble wall for construction of a carport and storeroom would have an adverse impact on the heritage conservation area contrary to control C1 to this Part.

C3.2 Site Layout and Building Design

The location and bulk of the proposed carport and storeroom presenting to the street would not satisfy the requirements of control C1 of this Part relating to the requirement of the site to have sufficient *Site Capacity* to accommodate the proposed development. This lack of capacity is reflected in the breaches of the Landscaped Area and Site Coverage Development Standards. The proposed removal of exposed rock and rubble wall does not satisfy the requirement of control C2 for the proposal to be in character with the natural landscape attributes of the streetscape and neighbourhood.

C3.3 Elevation and Materials

The proposed treatment of the new works to the street elevation include a substantial opening for the carport with high vertical timber paling fence/cladding. It is considered that the proposal, including the presentation shown in the submitted draft amended plans, would be out of character with streetscape and area contrary to Control C11 of this Part.

C3.6 Fences

The application makes reference to the provision of a new 'picket fence'. However, the proposal as represented in the originally submitted plans provides for a front fence type that is not consistent with a timber picket form. The fencing does not contain gaps between palings associated with a picket fence form, but rather, presents as a solid screening element to the street. The proposed treatment of the new works to the street elevation includes a substantial opening for the carport with high vertical timber paling fence/cladding (1.4m – 3.2m high).

The proposed front boundary fencing presentation of the draft amended plans is that of a timber paling fence up to 3.7m in the location of the carport and of a 1.9m high timber paling fence above reconstructed front rock wall. It is also noted that the fencing in front of the carport shown on the amended plans would effectively enclose the carport. Such an enclosure would further increase the bulk of the presentation in the streetscape.

The proposed fence height around the proposed concrete front deck would be approximately 1.1m above FFL of RL21.86. However, the deck level will be approximately 0.51m - 0.84m above the existing front yard level of RL21.02 - 21.35.

The current front fence on the site appears to be a recent replacement of an existing fence.

It is considered that the proposed front fencing, including the presentation shown in the submitted draft amended plans, would be out of character with the streetscape and area contrary to control C11 of this Part.

C3.8 Private Open Space

The rear yard area does not contain the minimum required area of 16sqm with a minimum dimension of 3m. The proposed front deck area is intended as a private open space area which is not supported by the control C1 of this Part.

C3.11 Visual Privacy & C3.12 Acoustic Privacy

The proposed new concrete front deck above the carport and storage room would be approximately 0.51m - 0.84m above the existing front yard level of RL21.02 - 21.35. The proposed front fence and side returns within the front setback line of the dwelling façade would have a height of 1.1m above the deck level. The height of the new fence would be similar to the height of the existing fence in these locations.

Therefore, the new deck level, being significantly higher than that of the existing front yard, would result in a person standing on the front deck to now have a greater vertical field of view outwards from the front of the property than currently exists. In this regard, the existing level of screening/ visual privacy afforded to the front setback of 16 Batty Street and the rear yard area of 17 Rumsay Street by the existing fence height and ground level would be reduced.

However, it is considered that the impact to 16 Batty Street would be limited due to the nature the front setback characteristics of that property. With regard to 17 Rumsay Street it is considered that the impact of the higher deck level would result in significant overlooking and potential acoustic privacy impacts to the rear yard of that property.

In this regard, it is the proposed level of the front deck which would cause the assessed amenity impacts rather than the fence height which would be similar to that currently existing. A raising of the fence height to reduce amenity impacts would act contrary to objective O1 and controls C1, C4 and C6 of Part C3.11 Visual Privacy.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Parking and access

The proposed carport introduces a new crossing within the street which is likely to result in the loss of on-street parking. Further, access to this proposed parking space is constrained by the narrow width of the section of road fronting the site.

Impact on Heritage Conservation Area Streetscape

As noted above the proposed carport and storage room structures would result in the significant loss of the existing front rock and rubble wall which would adversely impact the existing streetscape contrary to the heritage provisions of the LEP and DCP.

Privacy Impacts

The proposed new front deck level would result in an increase in potential visual and acoustic privacy impacts to adjoining properties.

Loss of Rock Outcrop and Rock Wall

The level of excavation and construction within the front of the site, including the relocation of the front wall of the site to the front boundary position, would result in significant loss and alteration to the existing exposed rock shelf and rubble wall at the front of the site.

Lack of Landscaped Area

The proposal would result in the site having no Landscaped Area as defined and no significant deep soil area for substantial planting.

Excessive Site Coverage

The proposal would result in the site having excessive site coverage thereby precluding the potential for provision of compliant Landscaped Area.

Elevation and Materials

The materials, form and finishes of the proposal would result in a visual presentation not in keeping with the streetscape, the heritage conservation area, and Council's suite of planning controls.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. Three (3) submissions were received in response to the initial notification.

The following issues raised in submissions have been discussed in this report:

- Privacy impacts to neighbouring properties.
- Relocation of front boundary wall to the front boundary line.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: The proposal involves excavation that would adversely impact the adjoining properties. Method of excavation. Construction of new retaining walls. Excavation to be 900mm clear of the boundary with 16 Batty Street.

Comment: Any approval should be appropriately conditioned to address the method of excavation and preparation of dilapidation reports.

The draft amended plans indicate rock sawing for excavation into bedrock 870mm from the boundary with 16 Batty Street and 237mm from the boundary with 17 Rumsay Street with a retaining wall within the subject site.

Issue: The proposal involves a sliding front gate to the carport with no detail as to how this is to function.

Comment: No details have been submitted with application demonstrating how such a gate could operate without extending in front of 16 Batty Street when opened. The draft amended plans propose a panel lift door. No detail is provided to how such a door could open without extending over the footway or constraining the intern length of the parking space within the carport.

Issue: Previous works on the site have obstructed ventilation grills in the side wall of 16 Batty Street.

Comment: This matter is not the subject of the current application. The extent of works indicated on the submitted original, or draft amended plans, do not indicate any structure proximate to the side boundary likely to obstruct any openings in the side wall of 16 Batty Street.

Issue: The proposed works would encroach into adjoining properties.

Comment: The application does not indicate the likelihood of any works likely to encroach into the adjoining properties.

5(h) 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 contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineer
- Urban Forest

7. Section 7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

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 would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

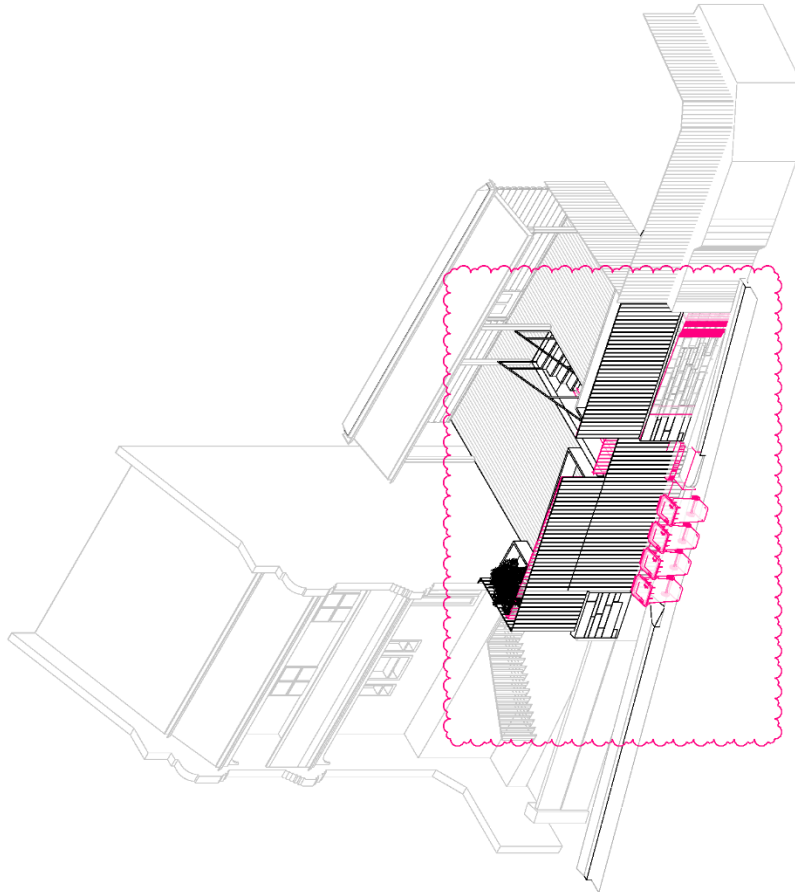
- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, **refuse** Development Application No. DA/2022/0556 for the construction of carport, garbage store, stairs, fence and storage area adjacent to Batty Street frontage at 18 Batty Street, ROZELLE for the reasons outlined in Attachment A:

Attachment A - Reasons for refusal

1. The proposed development is inconsistent with Clause 1.2(b)(c)(d)(e)(f)(i)(l)(m)(n)(o)(t)(v) of the Leichhardt Local Environmental Plan 2013 (LLEP 2013) as the proposal will result in adverse impacts on environmental heritage, residential amenity and is contrary to the pattern, streetscape and desired future character.
2. The proposed development is inconsistent with the following zone objectives of the R1 Zone prescribed in Clause 2.3 of the Leichhardt Local Environmental Plan 2013 as the proposal will result in adverse streetscape and amenity impacts:
 - *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.*
3. The proposed development is inconsistent with the Landscaped Area development standard contained in Clause 4.3A(3)(a) *Landscaped Areas for Residential Accommodation in Zone R1* of the Leichhardt LEP2013. The proposal is inconsistent with Part C1.12 *Landscaping* of the Leichhardt DCP2013. The proposed development is inconsistent with the Site Coverage development standard contained in Clause 4.3A(3)(b) *Landscaped Areas for Residential Accommodation in Zone R1* of the Leichhardt LEP2013.
4. The proposed development is inconsistent with the objectives of Clause 5.10 Heritage Conservation of the Leichhardt Local Environmental Plan 2013 as the proposed alterations and additions will detract from the significance of *The Valley* Heritage Conservation Area. In particular the proposal is inconsistent with Part C1.4 *Heritage Conservation Areas and Heritage Items*, C2, C6, C9, C12 and C2 of Part C2.2.5.1 of - *The Valley - Rozelle - Distinctive Neighbourhood*; control C2 of Part C2.2.5.1(b) - *Smith Street Hill sub-area* and control C11 of Part C3.3 *Elevation and Materials* of the Leichhardt DCP2013.
5. The proposal is inconsistent with the applicable Objectives O2, O4 and O6 of Part C1.0 *General Provisions* of the Leichhardt DCP2013 relating to accessibility, amenity and compatibility. The proposal is inconsistent with control C1 of Part C3.1 *Residential General Provisions* of the Leichhardt DCP2013.
6. The proposal is inconsistent with controls C1 and C2 of Part C1.2 *Demolition* of the Leichhardt DCP2013.
7. The proposal is inconsistent with controls C1, C4 and C7 of Part C1.3 *Alterations and Additions* of the Leichhardt DCP2013.
8. The proposal is inconsistent with control C49 of Part C1.11 *Parking* of the Leichhardt DCP2013 due to likely loss of existing on-street public parking.

9. The proposal is inconsistent with Part C1.14 *Tree Management* of the Leichhardt DCP2013 and with Objective O1 (f) and Control C1 of C3.8 *Private Open Space* of the Leichhardt Development Control Plan 2013.
10. The proposal is inconsistent with controls C1 and C2 of Part C1.19 *Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls* of the Leichhardt DCP2013.
11. The proposal is inconsistent with control C1 of Part C3.1 *Residential General Provisions* of the Leichhardt DCP2013 and with controls C1 and C2 of Part C3.2 *Site Layout and Building Design* of the Leichhardt DCP2013.
12. The proposal is inconsistent with control C11 of Part C3.6 *Fences* of the Leichhardt DCP2013.
13. The proposal is inconsistent with objective O1 and controls C1, C4 and C6 of Part C3.11 *Visual Privacy*; and C3.12 *Acoustic Privacy*.
14. The proposal would result in adverse environmental impacts on the built environment in the locality pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979; has failed to adequately demonstrate that the site is suitable for the development in relation to section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979; and the approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the Environmental Planning and Assessment Act 1979

Attachment B – Plans of proposed development



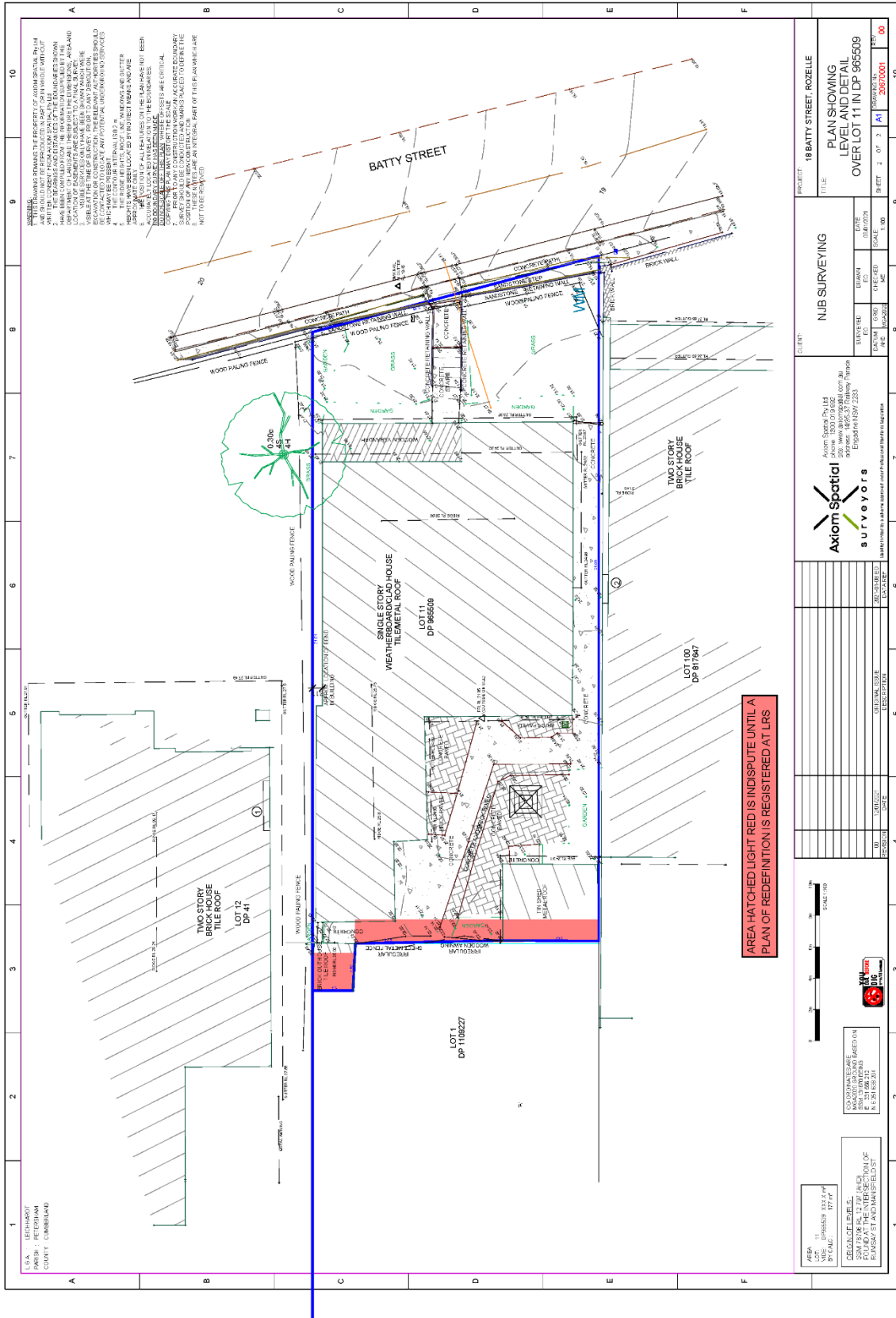
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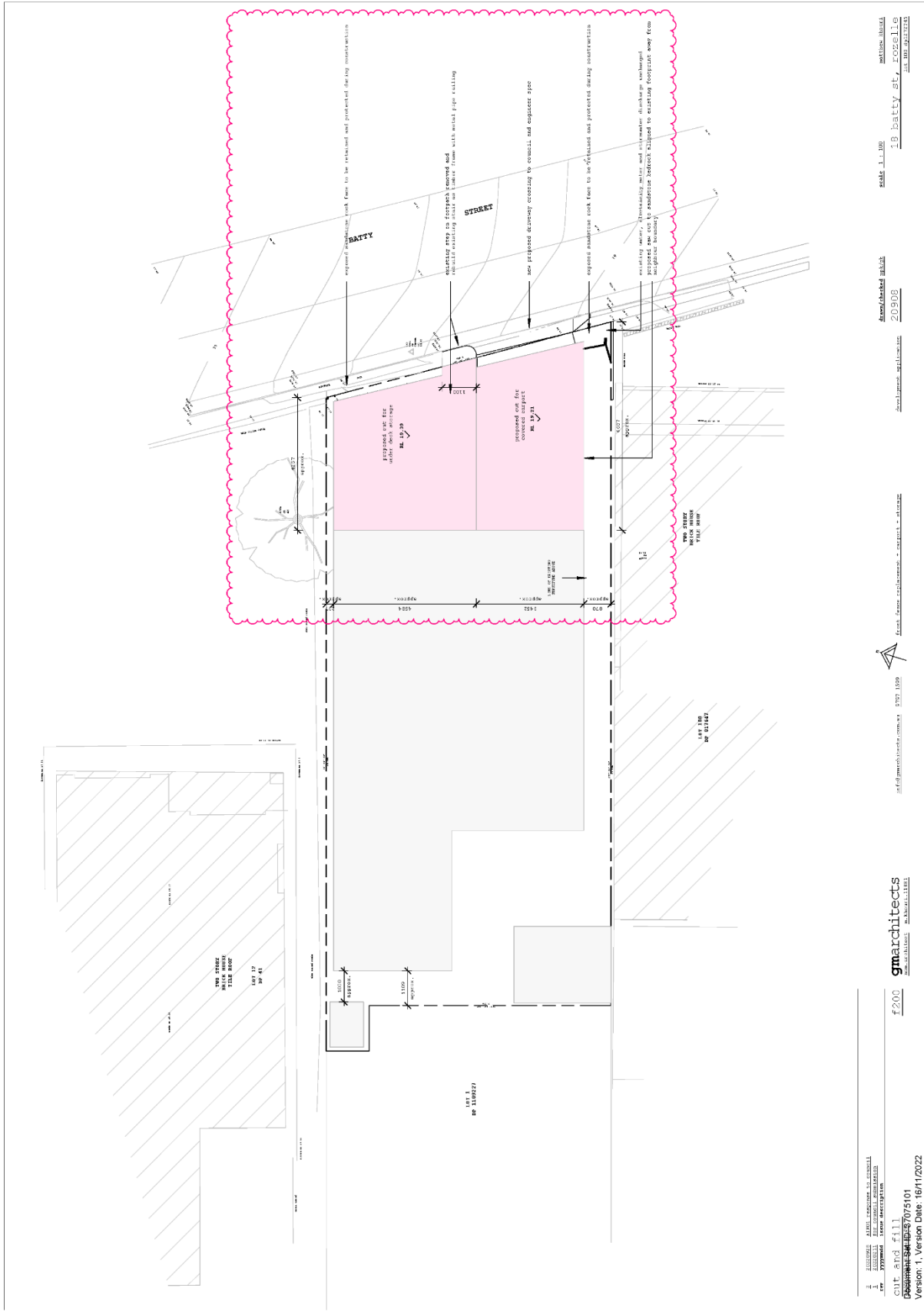
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gmarchitects
 13 Batty St, Esselle

f001
 08/01/2022
 13 Batty St, Esselle

Version: 1, Version Date: 16/11/2022





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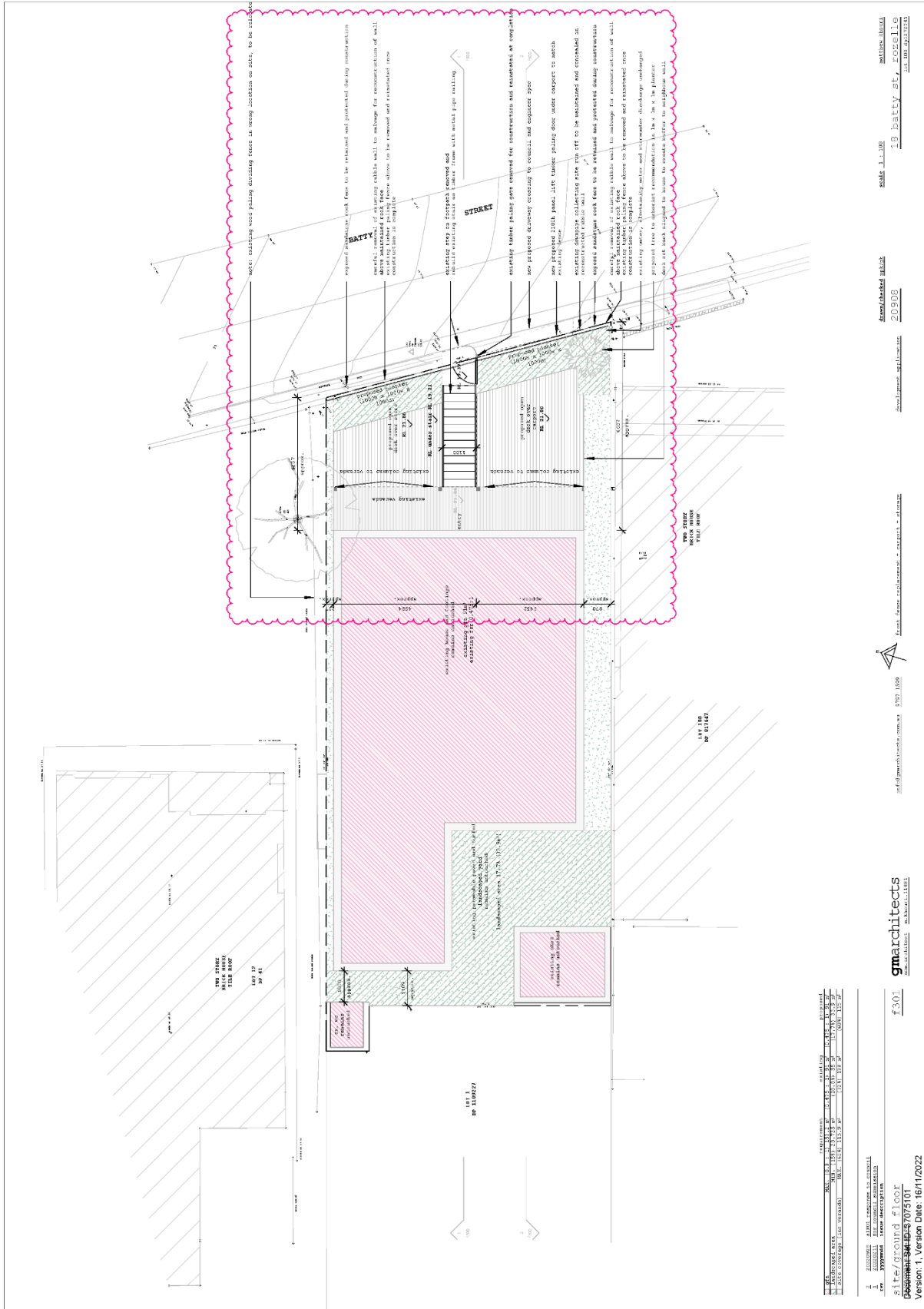
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Architectural application

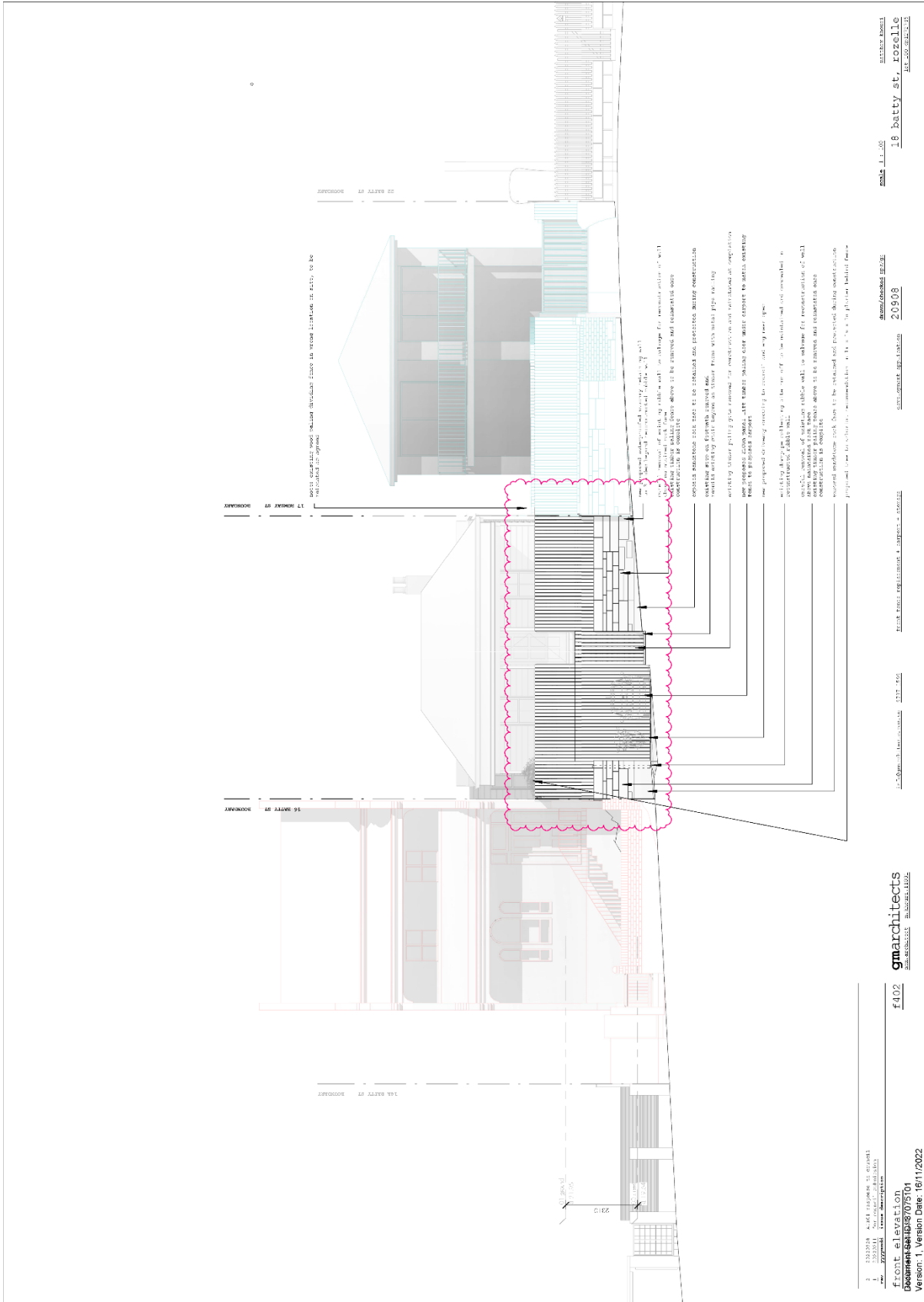
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1st floor plan
1/1/2022
1700 BATTY STREET
NSW 1510

gmar architects
ARCHITECTS
1700 BATTY STREET
NSW 1510

1700 BATTY STREET
NSW 1510
1/1/2022
1700 BATTY STREET
NSW 1510
1/1/2022





DATE: 11.10.22
 16 BATTERY ST, ROSKILL
 220508

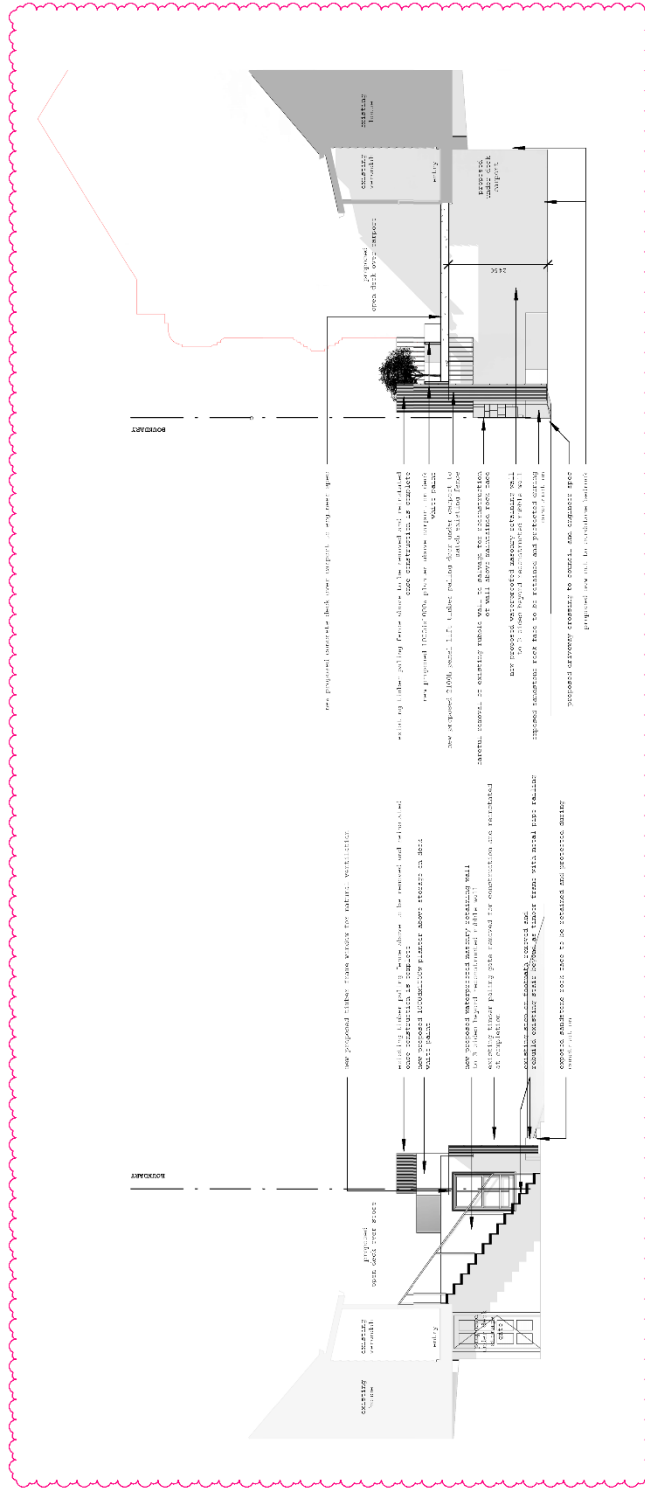
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 16 BATTERY ST, ROSKILL

15A BATTERY ST, ROSKILL
 16 BATTERY ST, ROSKILL
 17 BATTERY ST, ROSKILL
 18 BATTERY ST, ROSKILL

gmarchitects
 220508

f402

2 23/03/2022 6:45 10/06/22 01 001045
 1 23/03/21 06:45 10/06/21 01 001045
 Rev. - 000001 - Issue Description
 FRONT ELEVATION
 Document Setups/07/05/01
 Version: 1, Version Date: 16/11/2022



DATE: 11.10.22
 DRAWN BY: JG BATTY
 CHECKED BY: JG BATTY
 PROJECT NO: 2022-001

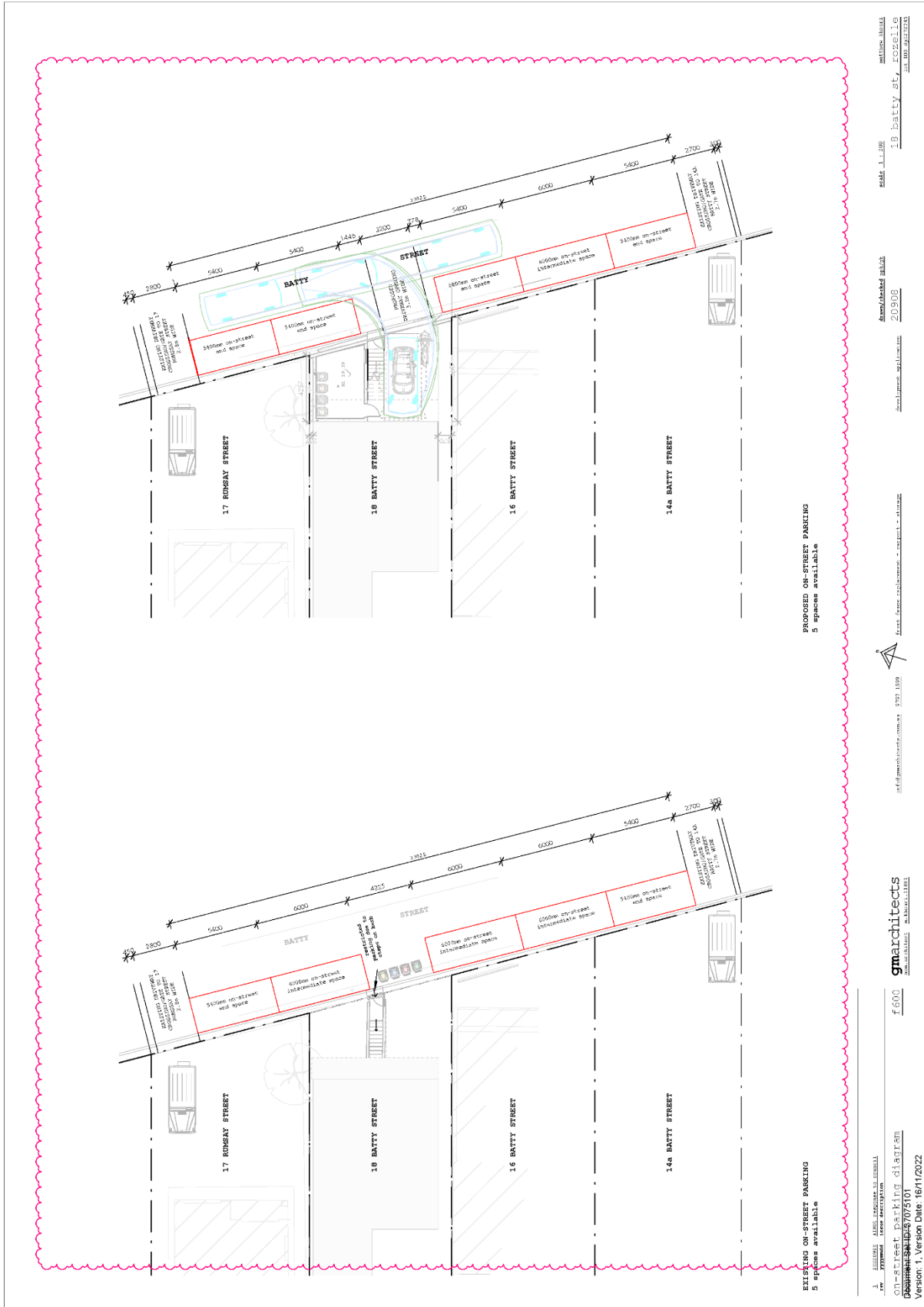
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 CHECKED BY: JG BATTY
 DATE: 11.10.22

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 CHECKED BY: JG BATTY
 DATE: 11.10.22

PROJECT NO: 2022-001
 DRAWN BY: JG BATTY
 CHECKED BY: JG BATTY
 DATE: 11.10.22



PROPOSED ON-STREET PARKING
5 spaces available

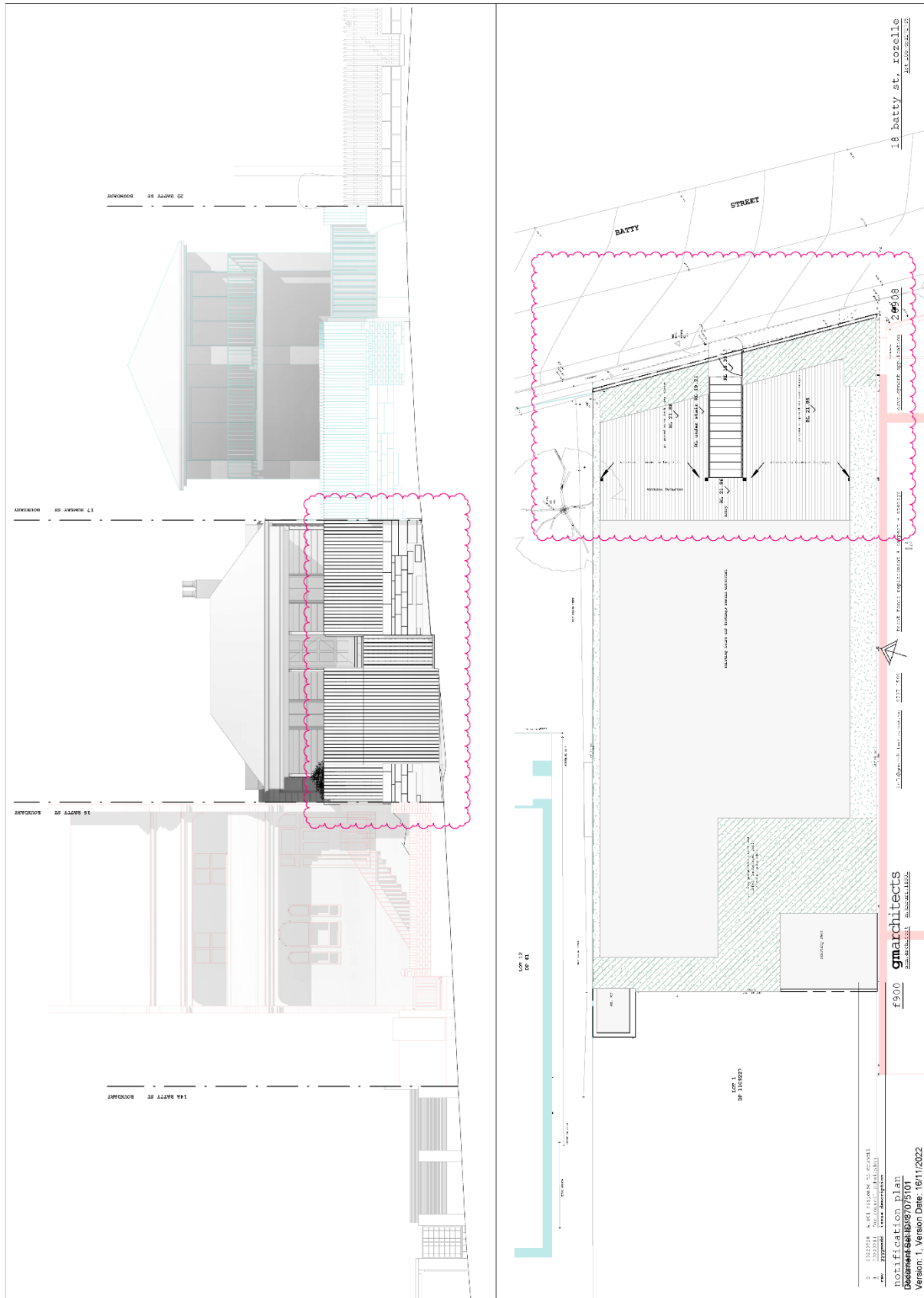
EXISTING ON-STREET PARKING
5 spaces available

1. ASSIGNED: ALMA-RODRIGUEZ, LAURENCE
 2. PREPARED: LAURENCE RODRIGUEZ
 ON-STREET PARKING: 01/04/2022
 Documents: 7075101
 Version: 1, Version Date: 16/11/2022

f600
gmar architects
 111/111 BATTY STREET
 SYDNEY NSW 2011

181 Fildes Street, Sydney NSW 2015
 Tel: (02) 9550 1399
 Email: info@fildes.com.au

Approved application: 2019/02
 Amended plans: 2019/02
 Section: 4444
 Scale: 1:100
 Section: 4444
 181 Fildes Street, Sydney NSW 2015



heritage impact statement introduction

This Statement of Heritage Impact (SHI) supports a development application to Inner West Council for the alterations and additions to the front setback of an existing residential building... The alteration introduces no visual impact to neighbours when compared to the current state, and replaces the existing fence and stair that is safer and more functional.

This report is designed to be read with the architectural drawings provided by the applicant as part of this application.

The subject site is a rectangular shaped allotment with a front boundary, comprising a site area of 191.5m2. The site has a frontage width to Batty Street of 9.45m, a rear boundary of 7.77m and side boundaries of 20.98m (north) and 21.94m (south). The site has a fall from rear to front - to Batty Street. There is no vehicle access to the site from the rear. The frontage contains a sandstone retaining wall, approximately 2m high with timber fence above.

Currently existing on the site is a single storey, weatherboard and clad residence with tile/metal roof. A separate storage shed and outbuilding are located in the rear yard, there is a small front verandah facing Batty Street that cannot be seen due to the front fence, there is no onsite parking. There are views of the Sydney CBD from the front of the site.

Figures 1 - 5 of the SHI show the location of the site and the front of the dwelling facing Batty Street.

The subject site is situated within the Valley Heritage Conservation Area however the site is not a heritage item and is not in the vicinity of any heritage items. The site is separated from the street by a front fence and is separated from the street by a house on the eastern side of Bumsay Street.

Refer to architectural drawings for site analysis and details.

- Removal of front sandstone and timber paling fence
Excavation and replacement of steps to footpath
Excavation and rock saw cut of sandstone to front yard
Construction of new driveway crossing
Construction of a carport providing simple vehicle onsite parking off Batty Street and storage under deck
Construction of stairs with timber struts to entry
Reconstruction of stairs with timber struts to entry
Construction of under deck storage adjacent the northern boundary

The carport is to be secured via a timber, electric, sliding gate. The carport is setback 300m from the northern boundary. Over the storage room and carport a deck is proposed to optimise views towards iconic features of Sydney Harbour and the Sydney CBD.

Please refer to architectural drawings forming part of this submission for details.

the assessment

The following clause of the LUPF is relevant to the assessment of the application:

5. Heritage items (ir any) are listed and described in Schedule 5, Heritage Conservation Schedule (HCS) and are shown on the Heritage Map as well as being conservation described in Schedule 5.

Note: (1) Objectives of this clause are as follows-

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

(2) Requirement for consent development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)-
(i) a heritage item,
(ii) an Aboriginal object.

- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged, destroyed, or removed.

- (d) erecting a building on land-

- (i) on which a heritage item is located or that is within a heritage conservation area, or
(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
(iii) on which a heritage item is located or that is within a heritage conservation area, or
(iv) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required however, development consent under this clause is not required if-

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development is in a category or burial ground and the proposed development-

- (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

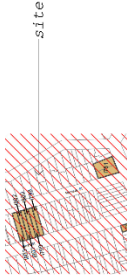
- (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance.

- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

- (d) the development is exempt development.

(4) Effect of proposed consent on heritage significance: The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage conservation management plan is submitted under subclause (6).

comment The site is visible. The Valley conservation area and heritage heritage conservation areas are relevant to this application.



The site is not a heritage item, is not located in the immediate vicinity of any heritage item. It is mapped as located in The Valley Heritage Conservation Area, as shown in the HIF assessment in the SEP provided as part of this application.

The proposal contains no change to the existing dwelling. The only works that are part of this application comprise works within the front setback area. These are detailed in the DA plan set submitted with the DA package.

The existing old timber fence and wall are demolished and in lieu of that a new masonry wall is proposed. The new wall will be constructed to the same height as the existing wall. However they do not seek to raise the height of the structure and deck beyond that of the top of the old timber fence. Therefore, the built form and envelope of the proposal is similar to the existing fence and wall. The function of the heritage is changed and the appearance modernised, however this is an improvement when compared to the old fence as the house was hidden by the old fence and vegetation. The timber and old masonry wall structure can be able to contribute in a positive manner to the Bally Street Streetscape.

The proposed materials, colours, finishes result in a 'receptive, sensitive' structure that has an acceptable visual fit with the Valley Heritage Conservation Area. The proposed schedule of colours, materials and finishes being clearly dominant, either re-producing imagery when viewed from the public domain in Bally Street.

The color theme and materials proposed are not considered to detract from the heritage significance of the conservation area. The dwelling will retain its current identity and presence in the streetscape. The streetscape presentation will be impacted by the new works and function of the carport and storage up to the front boundary, however the site is not heritage listed and the proposed works are not considered to be of a nature that character is not visually impacted. Therefore, there is minimal impact on the heritage significance of the conservation area as the historic building of Bally Street is not altered by the development. The narrow grain of the subdivision pattern is maintained by the proposal. The dwelling remains as the most prominent element on the site.

On this basis, a heritage assessment report and conservation management plan to assess the impact of the proposed development on the heritage significance of the Valley Heritage Conservation Area, is not considered warranted for this application. Overall, the proposal is considered to be appropriate to the heritage significance of the Valley Heritage Conservation Area and will not detract from the heritage context of the surrounding area. Materials and finishes have been selected to ensure the works are compatible with the local context and aesthetically as well as to ensure the historic evolution of the site is retained.

(6) Heritage assessment The consent authority may, before granting consent to any development—

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage assessment document to be prepared that assesses the heritage significance of the proposed development and the impact of the proposed development on the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites The consent authority may, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register) or to which an interim heritage order under the Heritage Act 1977 applies) notify the Heritage Council of its intention to grant consent, and the Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance The consent authority may, before granting consent to any development on the carrying out of development in an Aboriginal place of heritage significance

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) seek Aboriginal consent, in writing, as in each other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items The consent authority may, before granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Consent incentives The consent authority may grant consent to development for any purpose that is a heritage item or of heritage significance, or to the carrying out of development in an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Table, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) any necessary conservation work identified in the heritage management document is carried out, and

(11) The proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(12) The proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Assessment of Heritage Conservation

The LDC provides specific character area given the diversity of the built form and natural landscape in the LCA.

CI.4 Heritage Conservation Areas and Heritage Items

Objectives +/or Development

- a. does not represent an unsympathetic alteration or addition to a building;
- b. the cottage is not a heritage item, the alterations and additions respect the character, identity and development of Batty Street and the LCA; and
- c. the alterations and additions do not detract from the single storey scale and character as maintained by the proposal when viewed from Batty Street.
- d. encourages the protection, restoration, continued use and viability of buildings for their original purpose;
- e. The use of the site for a dwelling is acceptable.
- f. encourages the removal of unsympathetic elements;
- g. N/A
- h. is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the character of the area; and
- i. the alterations and additions do not detract from the character of the conservation area and will be read from Batty Street as a single dwelling within a row of mixed single and two storey dwellings. The additions have an acceptable visual fit when considered as part of the Batty Street streetscape.
- j. conserves and enhances the fabric and detail of a building that is deemed a heritage item;
- k. The proposed works are compatible with the surrounding built form; selected materials complement the existing dwelling. It is acceptable to make the additions appear different to the main dwelling as it would not be possible to match the exact materials with the existing.
- l. maintains the visual unity of groups of buildings, in particular semi-detached and attached tenements;
- m. The alterations and additions do not detract from the character of the area from Batty Street. The dwelling retains its presentation to the street and its relationship with adjoining dwellings.
- n. makes an appropriate visual and physical distinction between the existing building and new parts of the building and
- o. N/A.
- p. protects and enhances views of the existing building from the public domain.
- q. No visual impact will be caused as a result of the proposed works.
- r. new buildings are sympathetic in scale, form, architectural detail, presentation and siting to the Heritage Conservation Area or Heritage Item
- s. The dwelling is sympathetic in scale, form, architecture and siting in relation to the conservation area and the streetscape setting on Batty Street. There are many examples in the street and LCA where additions are permitted to read as clearly identifiable extensions to an existing cottage. The design does not mimic period detailing, but creates a compatible form of development enhancing the residential character of the conservation area, while providing additional amenity to its residents.

controls +/or Development

Comments C3 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.

- C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:
 - a. retention of original detail and finishes such as:
 - i. original face brick which should not be painted over or rendered;
 - ii. original decorative joinery and iron work which is not to be removed;
 - b. conservation of original elements;
 - c. reconstruction or reinstatement of original elements where deemed appropriate;
 - d. retention of the original cladding material of original roofs where original materials are retained;
 - e. consideration of suitable replacement materials should be based on original materials, and
 - f. where a property is part of a group or row, replacement materials should have regard to the integrity of the group.

The fabric of the existing dwelling is preserved with limited upgrades to the Batty Street facade. The dwelling remains easily read in terms of its original fabric, finishes, street presentation, architectural elements.

- C3 Development of dwellings within Heritage Conservation Areas must:
 - a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;
 - b. retain the major form, scale and materials of the existing structure as depicted in the original drawings;
 - c. not include any addition which does not detract the existing building or substantially change the relationship of the building to the street when viewed from the street; and
 - d. retain significant, established gardens and plantings including early fences.
- The proposed works does not include any modification to the existing dwelling.

The existing scale, form and appearance of dwellings within Batty Street will not be adversely impacted by the proposal. Overall the addition strikes a balance between the owners requirement for additional storage and off street parking and retention of a suitable single storey form to the street. The proposal retains the rear garden area.

roof form +/or Development

Comments No modification to the existing dwelling is proposed, therefore this clause materials is not applicable

new/No modification to the existing dwelling is proposed, therefore this clause buildings is not applicable

Conservation Management Plans

Comments C16 Conservation Management Plans shall be required when:

- a. the site is a Heritage Item identified in Schedule 5 of the Leichhardt Local Environmental Plan 2013 as having State significance; OR
- b. the site is a heritage item that predates 1840; OR
- c. the site is a heritage item that predates 1840; OR
- d. the site is a heritage item that predates 1840; OR
- e. the site is a heritage item that predates 1840; OR
- f. the site is a heritage item that predates 1840; OR
- g. the site is a heritage item that predates 1840; OR
- h. the site is a heritage item that predates 1840; OR
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- q. the site is a heritage item that predates 1840; OR
- r. the site is a heritage item that predates 1840; OR
- s. the site is a heritage item that predates 1840; OR
- t. the site is a heritage item that predates 1840; OR
- u. the site is a heritage item that predates 1840; OR
- v. the site is a heritage item that predates 1840; OR
- w. the site is a heritage item that predates 1840; OR
- x. the site is a heritage item that predates 1840; OR
- y. the site is a heritage item that predates 1840; OR
- z. the site is a heritage item that predates 1840; OR

The existing dwelling is not a heritage item, therefore a conservation management plan is not required.

Statements of Heritage Impact

Comments C17 Consent must not be granted for any development in respect of a Heritage Item unless a Statement of Heritage Impact is submitted to Council for consideration, except for the following:

- a. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- b. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- c. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- d. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- e. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- f. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- g. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- h. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
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- q. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- r. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- s. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- t. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- u. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- v. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- w. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- x. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- y. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or
- z. the removal of a tree or trees where the ages and relationship of the tree or trees to the site are appropriate to the development; or

Heritage Conservation Areas

Comments C18 The requirement based on alterations and additions within the conservation area.



C2.2.5.1 The Valley 'Rozelle' Distinctive Neighbourhood

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

The proposal is consistent with the existing and desired future character of The Valley 'Rozelle', Distinctive Neighbourhood.

Control Conserve and complement the existing styles of housing with special regard to the single timber cottages and Victorian terraces

The alterations and additions supports the general urban residential form of the area and timber picket fence to conceal the uses of the street frontage and to provide a sense of enclosure within the streetscape.

The proposed works will not affect the character or identity of the neighbourhood.

Control Conserve and complement the established streetscape with regard to setbacks, street lines and general lack of driveway crossings.

The proposal maintains the scale and character of the area. The single storey residential buildings and terraces within Batty Street and this relationship will remain with the proposal.

The proposed driveway crossing is consistent with other properties in the street benefiting from this, and is demonstrated in the streetscape opening drawings provided in the architectural plans.

Control Buildings should step with the slope in order to facilitate view sharing.

No change to the existing building is proposed.

Control Preserve the consistency and simplicity of built form, style and materials of the neighbourhood

The proposed works to the existing dwelling does not alter the rhythm of development along Batty Street.

Control Complement the existing picket fence or gabbed board fences as well as setbacks and fencing styles prevalent in each street.

No change to the existing building is proposed.

Control Conserve stone cottages and stone walls throughout the neighbourhood

Not applicable to this site.

Control Maintain the established open low timber and iron picket front fences.

The existing streetscape presents with a two storey element immediately adjacent to the road. The proposal is consistent with the scale and type of the existing streetscape and does not introduce any elements competitive with the existing dwelling, and similar dwellings in the vicinity.

Control Features of the street should be retained or protected balconies/verandahs where such elements were original features.

Not applicable to this site.

Control Maintain the presence of mature trees in both private and public spaces. Preserve and integrate natural rocky outcrops into the landscaping of the area, particularly where visible from public places. Cutting into such outcrops for any purpose including parking is to be avoided.

The proposal includes the excavation to make way for off street parking. The natural rock is to be retained and the new street wall is to be a fall risk to visitors and passers by to the property. The proposal is to remove this rock to the left hand side to make provision for off street parking, and to promote a safer, more accessible entry to the dwelling.

The right hand side will maintain the natural rock form so as to demonstrate the process that has taken place in the excavation, and the new fence will be integrated into this rock.

Control A maximum building wall height of 3.0m applies to the neighbourhood. Not applicable to this site.

Control A maximum building wall height of 6m applies along Evans Street Not applicable to this site.

Control Even front building setbacks within the neighbourhood are to be a minimum of 1m. However, where the prevailing setbacks in the immediate locality (i.e. rear to the adjoining three buildings either side of the subject site) is different, the setback for new development should be compatible with the prevailing setbacks

No change to front building setback. Setback is greater than the adjoining sites.

Control The use of traditional timber, stone or masonry finishes as well as iron roofing and timber windows is encouraged

The proposal comprises of a timber picket fence that will act both as security and a screen to the functions of the carport and garage store beyond. The timber fence will be painted to match the existing dwelling, which also consists of natural timber window finish. The fence will be founded on the natural sandstone found on site which will be exposed for the public to view from the streetscape.

conclusion

The proposal is consistent with the existing and desired future character of the Valley Hoestsle' Distinctive Neighbourhood.

It comprises of alterations and additions to the front setback of an existing dwelling, that is not a heritage item.

The bulk, scale, character of Batty Street varies from single storey to double storey dwellings, including a power station on heavy steep terrain. The front of each of the properties to Batty Street present as a double storey street wall with openings for garages, double garages and pedestrian gate entries.

The proposal is consistent with this by proposing an opening for a carport, and an opening for pedestrian access to the site. The proposed fence and deck does not change the perceived bulk and scale from the street, has no visual impact on any neighbouring property, and is a replacement for what is currently on site that will provide a greater use for the residents.

The proposed carport will remove vehicles from the street, making it easier for pedestrians to navigate the tight negotiation of Batty Street's lack of footpath. The garbage store will remove the bins from the street where they are currently stored, due to the difficulty in taking them up and down the staircase.

The proposed staircase is to replace the inconsistent, poorly constructed and unsafe staircase that is currently on site. It is proposed as timber frame to match the character of the existing dwelling on site.

The proposed deck allows for the residents to take advantage of the views available, while not impacting the views of neighbours, not altering the perception of a single storey dwelling from the street, and provides opportunity for additional landscaping above, given the ripe orientation of the site.

Based on the sympathetic and compatible design, the heritage value of the site and conservation area is maintained.

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Attachment D - Conditions in the event of approval

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
F000/2	Cover Sheet	28/9/2022	GM Architects
F200/2	Cut & Fill	28/9/2022	GM Architects
F300/2	Street Level	28/9/2022	GM Architects
F301/2	Site/ Ground Floor	28/9/2022	GM Architects
F402/2	Front Elevation	28/9/2022	GM Architects
F500/2	Fence Section A + B	28/9/2022	GM Architects
F600/1	On-Street Parking Diagram	28/9/2022	GM Architects
F900/2	Notification Plan	28/9/2022	GM Architects
20670001/00	Survey	12/1/2021	Axiom Spatial Surveyors
20908	Heritage Impact Statement	5/7/2022	GM Architects

As amended by the conditions of consent.

FEES

2. 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.

3. Security Deposit - Custom

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

Security Deposit:	\$1806.50
Inspection Fee:	\$350.00

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

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

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

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

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

GENERAL CONDITIONS**4. 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.

5. 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.

6. Works Outside the Property Boundary

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

7. 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.

8. 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 a public road including stormwater runoff from proposed new or altered roof areas.

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

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

PRIOR TO ANY DEMOLITION**9. 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.

10. Advising Neighbours Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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. 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.

13. 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

14. Dilapidation Report – Pre-Development – Minor

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

15. Alignment Levels

The internal vehicle hardstand area shall be redesigned such that the level at the boundary shall match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above Alignment Levels. Amended plans shall be submitted to and approved by Council before the issue of the Construction Certificate.

The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.

DURING DEMOLITION AND CONSTRUCTION

16. Protection of Significant Fabric

Significant original fabric of the existing sandstone base to the front fence and the sandstone kerb is to be protected during site preparation and construction works from potential damage. Significant original fabric is not to be removed. Equipment laydown areas and contactor vehicles must be located away from the heritage structures and areas of heritage significance to minimise any potential impact to the external or internal fabric. Contactor's vehicles must not be parked near heritage structures or landscaped areas which could inadvertently be

damaged. Protection measures are to be specified in the construction management plan. Details of the protection plan must be submitted to and approved by Council's Heritage Specialist prior to the issue of the Construction Certificate.

17. Reconstruction of the random rubble sandstone retaining wall

During construction works, the reconstruction of the random rubble sandstone retaining wall on the front boundary and the stairs to the front entry is supported from a heritage perspective providing the random rubble sandstone blocks are numbered and recorded as they are carefully dismantled and stored safely until the wall is reconstructed like for like.

18. Heritage Architect Supervision

An experienced suitably qualified & experienced Heritage Architect must be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the reconstruction of the random rubble sandstone retaining wall.

The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Details of the engagement of the experienced Heritage Architect in accordance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

19. Construction Hours – Class 1 and 10

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

20. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**21. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

22. Protect Sandstone Kerb

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

23. Light Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.

ADVISORY NOTES**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

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

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

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
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660

			To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments	131441	www.lspc.nsw.gov.au
NSW Food Authority		1300 552 406	www.foodnotify.nsw.gov.au
NSW Government			www.nsw.gov.au/fibro www.diysafe.nsw.gov.au
			Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555	www.environment.nsw.gov.au
Sydney Water		13 20 92	www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)			www.waterrating.gov.au
WorkCover Authority of NSW		13 10 50	www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

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.

Public Domain and Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.