

 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2022/0301			
Address	12 Foucart Street ROZELLE			
Proposal	Demolition of existing structures and construction of dual occupancy with strata subdivision			
Date of Lodgement	2 May 2022			
Applicant	Monument Plan Pty Ltd			
Owner	Miss Deana Mourad			
Number of Submissions	Initial: 6 After Renotification: 7 Total Unique Submissions: 8			
Value of works	\$633,000.00			
Reason for determination at Planning Panel	Variation to FSR development standard exceeds 10%			
Main Issues	<ul style="list-style-type: none"> • Permissibility under <i>Inner West LEP 2022</i> • Breaches all applicable development standards • Demolition of a contributory dwelling • Amenity impacts to neighbours • Loss of on-street parking 			
Recommendation	Refusal			
Attachment A	Reasons for Refusal			
Attachment B	Plans of proposed development			
Attachment C	Section 4.6 Exception to Development Standards - FSR			
Attachment D	Heritage Impact Statement			
Attachment E	Conditions in the event of approval			
				
LOCALITY MAP				
Subject Site		Objectors		 N
Notified Area		Supporters		
Note: Due to scale of map, not all objectors could be shown.				

1. Executive Summary

This report is an assessment of the application submitted to Council for the demolition of existing structures and construction of a dual occupancy with strata subdivision at 12 Foucart Street Rozelle. The application was notified to surrounding properties and 6 submissions were received in response to the initial notification. A further 7 submissions were received in response to renotification of the application equating to a total of 8 unique submissions.

The main issues that have arisen from the application include:

- Permissibility of a dual occupancy residence under the provisions of *Inner West LEP 2022* (Gazetted after lodgement of the subject application)
- Breaches to all development standards (FSR, Landscaped Area and Site Coverage)
- Demolition of a contributory building within the Easton Park heritage conservation area
- Design inconsistent with streetscape and desired future character
- Impacts to neighbours (visual bulk and scale)
- Loss of on-street parking

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

2. Proposal

The proposal seeks consent for the demolition of the existing single storey dwelling and construction of a new 2 storey attached dual occupancy with strata subdivision. The works are detailed as follows:

- Full demolition of the existing single storey cottage.
- New Lower ground level with parking for proposed Lot A and living area for Lot B.
- New Ground floor to mirror each other with front bedroom and bath. Rear to contain Kitchen living and dining areas.
- New first floor to provide 2 additional bedrooms each with ensuite for both Lot A and Lot B dwellings.
- Lot B to be provided with front facing balcony off ground floor bedroom.
- New associated landscape works at front and rear of property.
- New driveway and road opening for Lot A.

3. Site Description

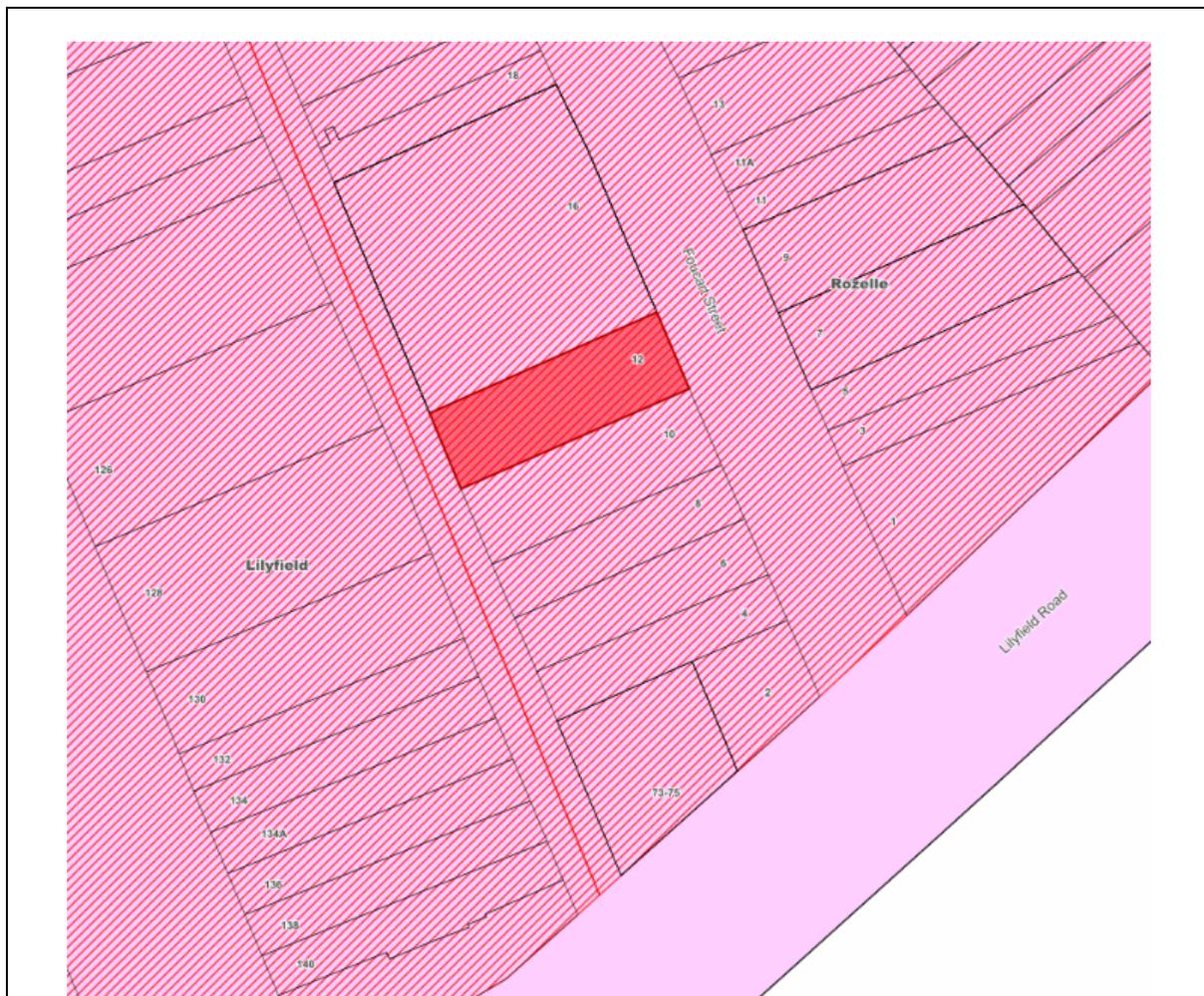
The subject site is located on the western side of Foucart Street, between Lilyfield Road and Joseph Street. The site consists of one (1) allotment and is generally rectangular in shape with a total area of 244.83 sqm.

The site has a frontage to Foucart Street of 9.08 metres. The site however is benefited by a rear lane (Joseph Lane) which measures approximately 8.97 metres.

The site supports a single storey dwelling house that contributes to the Easton Park HCA. The adjoining properties support single and 2 storey dwellings, including a 2 storey town house development to the north of the subject site approved in 1984.

The subject site is within the Easton Park Heritage Conservation Area.

There is little vegetation on the site and no prescribed trees.



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.

Surrounding properties

Application	Proposal	Decision & Date
DA/80/1984	Strata title of development – 16 Foucart Street	Approved
D/2009/224	Alterations and additions to an existing dwelling, including new first floor.	Approved – 26/08/14

4(b) Application history

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

Date	Discussion / Letter / Additional Information
25/10/2022	Request for withdrawal sent to the applicant detailing fundamental concerns for the application including demolition of contributory dwelling in HCA, Permissibility, Non-compliance with all development standards, Heritage Design, Neighbouring amenity, Parking
28/11/2022	Meeting with applicant re withdrawal request and extension of time to respond.
9/12/2022	Additional information provided by the applicant including additional heritage information, legal advice on permissibility and alternative design
11/01/2023	Renotification of amended design.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Leichhardt Local Environmental Plan 2013*
- *Draft Inner West Local Environmental Plan 2020*

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)(i) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Valid BASIX Certificates were submitted with the application and relating to the amended plans, and hence, the application satisfies the provisions of *SEPP BASIX*.

5(a)(ii) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of SEPP (Transport and Infrastructure) 2021 and has been referred to Ausgrid for comment who provided approval subject to Safe work guidelines which can be included as advisory notes. Notwithstanding the application is recommended for refusal with regard to other concerns.

5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 10 Sydney Harbour Catchment

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and as such only the aims of the plan are applicable. The proposal is consistent with these aims.

5(a)(iv) Local Environmental Plans

Inner West Local Environmental Plan 2022

The *Inner West Local Environmental Plan 2022 (IWLEP 2022)* was gazetted on 12 August 2022. Pursuant to Section 1.8A – Savings provisions, of this Plan, as the subject 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 draft Environmental Planning Instrument (EPI), and Section 4.15(1)(a)(ii) also requires consideration of any draft EPI that has been subject to public consultation. The subject application was lodged on 3rd May 2022, on this date, the *IWLEP 2022* was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

The draft EPI contained the following amended provisions:

- Dual occupancies are updated to the Prohibited development types within the R1 Zone.

The proposal which seeks consent for a dual occupancy development, is not permissible under the provisions of draft *IWLEP 2020*. The proposal fails to meet the desired future character of the area as envisioned by the land use provisions prescribed under draft *IWLEP 2020*. For this and other reasons discussed throughout this report, the proposal is not supported.

Leichhardt Local Environmental Plan 2013 (LLEP 2013)

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

- Section 1.2 - Aims of the Plan
- Section 2.3 - Zone objectives and Land Use Table
- Section 2.5 - Additional permitted uses for land
- Section 2.7 - Demolition
- Section 4.3A - Landscaped areas for Residential Accommodation in Zone R1
- Section 4.4 – Floor Space Ratio
- Section 4.5 - Calculation of Floor Space Ratio and Site Area
- Section 4.6 - Exceptions to Development Standards
- Section 5.10 - Heritage Conservation
- Section 6.1 - Acid Sulfate Soils
- Section 6.2 - Earthworks
- Section 6.4 – Stormwater Management
- Section 6.8 - Development in Areas Subject to Aircraft Noise

Section 2.3 Land Use Table and Zone Objectives

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

“dual occupancy (attached)” means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Note— Dual occupancies (attached) are a type of *dual occupancy*”

Whilst a permissible form of development in the zone, the proposal is inconsistent with the objectives of the R1 zone as it:

- Fails to provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- Fails to protect and enhance the amenity of existing and future residents and the neighbourhood.

Section 4 Principal Development Standards

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

Standard	Proposal	Non-compliance	Complies
Landscape Area Minimum permissible: 20% or 48.96 sqm	19.47% or 47.669sqm	1.29 sqm or 2.64%	No
Site Coverage Maximum permissible: 60% or 146.88 sqm	61% or 149.34sqm	2.46 sqm or 1.67%	No
Floor Space Ratio Maximum permissible: 0.8:1 or 195.84 sqm	0.98:1 or 238.71 sqm	42.87 sqm or 21.89%	No

Section 4.6 Exceptions to Development Standards

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

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

Clause 4.4 Floor Space Ratio

The applicant seeks a variation to the development standard under Section 4.4 of the *Leichhardt Local Environmental Plan 2013* by 21.89% or (42.87sqm).

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *Leichhardt Local Environmental Plan 2013* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *Leichhardt Local Environmental Plan 2013* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed dual occupancy is compatible with the desired future character of the area in terms of bulk, form and scale.*
- *The proposal will be viewed from the public domain as a singular dwelling and include a minimalistic frontage-built form to retain the cottage appearance as viewed from Foucart Street.*
- *The majority of the non-compliance is located in the lower ground level, which is not generally discernible from the public domain*
- *The development is compliant with the 20% landscaped area requirement with a total of 52.9m² of landscaped area proposed, or 21.16% of the site area. The development also complies with the maximum site coverage of 60% with a total of 59%.*
- *Additional landscaping that does not meet the required 1m in width to be added to the overall calculations has been provided throughout the property to break up the built form and provide natural articulation for the site.*
- *A suitable balance between landscaped areas and built form is achieved regardless of the technical and minor increase in the FSR.*
- *The proposed development is a dual occupancy, which has been designed to be viewed as a single dwelling as to maintain the desired character of low-scale dwellings in the immediate locality.*
- *The additional floor area does not create additional environmental impacts, including but not limited loss of solar access to neighbouring properties, visual or acoustic privacy, visibility and bulk and scale.*
- *The works, however, will enhance intensity, density, usability, functionality and design excellence than the previously underutilised structure and land use on the site.*

The applicant's written rationale does not adequately demonstrate compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

The objectives of the R1 Zone, in accordance with the *Leichhardt Local Environmental Plan 2013* are:

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

It is considered that the development is not in the public interest because it is not consistent with all the objectives of the R1 zone (as outlined above), in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposal does not provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.

- The proposal does not protect and enhance the amenity of existing and future residents and the neighbourhood.

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

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

It is considered that the development is not in the public interest because it is not consistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposal is not compatible with the desired future character of the area.
- Visual bulk and scale of the building has not been minimised, particularly when viewed from the private open space of No. 14 Foucart Street.
- The proposal seeks the removal of a contributory dwelling within a HCA which is not supported.
- The proposal fails to provide a suitable balance between landscaped and built form with breaches to the Landscaped Area and Site Coverage development standards.

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

The proposal does not comply with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the LLEP 2013. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the Floor Space Ratio development standard and it is recommended the section 4.6 exception be rejected.

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

The application has not been accompanied by the following:

- A Clause 4.6 Exceptions to Development Standards request providing a case for variation to the above Clause 4.3A(3)(a) - Landscaped Area standard of the *LLEP 2013* involving a breach of 2.64%.
- A Clause 4.6 Exceptions to Development Standards request providing a case for variation to the above Clause 4.3A(3)(b) - Site Coverage standard of the *LLEP 2013* involving a breach of 1.67%.

The supporting information accompanying the application contends that the proposal is in compliance with these standards. However, assessment demonstrates that the proposed works to the site removes the existing Landscaped Area on the site and also significantly increases Site Coverage. Council's Assessment Officer contends that the applicant's assessment includes Landscaped Area that does not have a minimum 1m dimension and the Site Coverage has excluded area where the floor level will exceed 500mm and has not yet reached 2.4m with the ability to landscape underneath.

In the absence of a Clause 4.6 exception, there is no power to consider the variation nor approve the subject development application.

Section 5.10 - Heritage Conservation

The property is located in the Easton Park Heritage Conservation Area (HCA).

The heritage significance of the Heritage Conservation Area is the building stock constructed between 1871 and 1891, with pockets of infill up to the end of the 1930s, which the subject dwelling is part of. The revised HIS mentions that the dwelling has been altered, however, it still retains its original form and style, making it contributory to the HCA.

The HIS provided also states that a Structural Report has not been viewed but the dwelling is reportedly highly susceptible to mould and dampness. No evidence has been provided to suggest that this is causing structural issues and the proposed demolition of the dwelling does not seem to be based on structural grounds. Council's Heritage Officer upon reviewing the application as lodged recommended that the existing dwelling be retained, this however was not implemented by the applicant in the revised proposal. An assessment of the proposed demolition against the Planning Principle from *Helou v Strathfield Municipal Council* was required to be included in the updated HIS. A justification has not been provided for the proposed complete demolition of the contributory dwelling, and as such, the proposal in its current form is recommended for refusal.

The proposal is not acceptable from a heritage perspective as it will detract from the heritage significance of the Easton Park Heritage Conservation Area and it is recommended the proposal be refused for the following reasons.

1. The proposal will result in the demolition of an existing contributory dwelling and an unsympathetic infill building within the Easton Park Heritage Conservation Area, having regard to the aims within Clause 1.2(2)(c), 1.2(2)(l), 1.2(2)(n) and 1.2(2)(o) and the objectives of Clause 5.10(1)(a) and 5.10(1)(b) of LLEP 2013. As such, it does not satisfactorily conserve the environmental heritage of Leichhardt or the heritage significance of the Easton Heritage Conservation Area, including its associated fabric.
2. The development does not satisfy Objective (O) O1 of C2.2.5.2 of LDGP 2013, as it is not consistent with the Desired Future Character and Controls for the Easton Park Distinctive Neighbourhood as follows:
 - i. The development fails to preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture, thereby contravening Control (C) C1 of Part C2.2.5.2.
 - ii. The proposal does not comply with C3 of Part C2.2.5.2, as it does not preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style, prevalence of hipped and pitched roofs or the established setbacks for the street.

- iii. The proposal does not comply with C3 of Part C2.2.5.2, as it does not preserve the consistency and simplicity in built form, style and materials of the Neighbourhood.
- iv. The proposed development does not comply with C8 of Part C2.2.5.2, as it does not avoid the cutting into rock face for the proposed garage at No. 12 and the breakout space for No. 12a.
- v. The development fails to preserve the existing pitched hipped roof form, thereby contravening C12 of Part C2.2.5.2.

3. The proposed demolition of the contributory dwelling is inconsistent with C2 of Part C1.2, which requires that a structural engineer’s report accompany the application for demolition, which identifies and explains the structural condition of the building, and a structural report was not submitted with the application. The report is required to be prepared by a qualified structural engineer or building surveyor and is to address the structural adequacy of the building, options for the building to be made structurally safe through rectification/remediation works and options for the conservation of the building to assist the assessment of the proposed demolition of the dwelling is required.

4. The infill building is inconsistent with the development controls in the LEP and DCP and will not be compatible with the Easton Park Heritage Conservation Area and streetscape in terms of scale, materials, details, design, style and impact on streetscape and is therefore inconsistent with C1 of Part C1.2.

5. The proposed infill building is inconsistent with C8 and C9 of Part C1.4 because it has not demonstrated the proposal respects for the form, scale and sitting of the immediate area and requires that new development comply with Part C Section 1.0; which requires that new development make a positive contribution to the character, scale, form, sitting, materials, colour and detailing within the streetscape.

Section 6.8 - Development in areas subject to aircraft noise - 25 to 30 ANEF

The site is located within the ANEF 20-25 contour, and as such an Acoustic Report was submitted with the application.

A condition could be included in a 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, thereby ensuring the proposal’s compliance with the relevant provisions of Cl 6.8 LLEP 2013. Notwithstanding, the proposal is recommended for refusal for other reasons outlined in this report.

5(c) Development Control Plans

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

LDCP 2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes

Part C	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	No – see discussion
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.11 Parking	No – see discussion
C1.12 Landscaping	Yes – see discussion
C1.14 Tree Management	Yes - see discussion
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	No – see discussion below
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.5.2 Easton Park Distinctive Neighbourhood	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
C3.5 Front Gardens and Dwelling Entries	No – see discussion
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
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	Yes
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	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
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

As discussed elsewhere in this report, the proposal is considered to be incompatible with the streetscape with impacts exacerbated by non-compliant landscaping, FSR, setbacks and Building Location Zones which result in bulk and scale impacts. The proposed development has not been appropriately designed with respect to the site context, scale, built form and density. Specifically, the proposal is inconsistent with Objectives O3, O4 and O6 pertaining to this Part.

C1.2 Demolition

The building is located within a HCA and has not been demonstrated to be structurally unsound and demolition of the existing contributory dwelling is not supported on heritage grounds. Specifically, the proposed demolition of the contributory dwelling is inconsistent with control C2 as a structural report was not submitted with the application for demolition that identifies and explains the structural condition of the building.

Furthermore, the infill building is inconsistent with the relevant development controls provided within both the LEP and DCP and will not be compatible with the Easton Park Heritage Conservation Area and streetscape in terms of scale, materials, details, design, style and impact on streetscape and is therefore inconsistent with Control C1.

Refer also to discussion under Clause 5.10 – Heritage Conservation of the *LLLEP 2013* for a detailed assessment in this regard.

C1.11 Parking

The proposal includes a new parking space serving the proposed southern dwelling (Lot A) accessed via Foucart Street. The parking space requires the creation of a new driveway where there is no existing layback and driveway to 12 Foucart Street.

The DCP does not prescribe a minimum requirement for parking with regard to dwelling houses. As such, any parking space must meet all DCP provisions and not reduce on street parking in higher demand areas. The creation of the driveway would, as confirmed in the applicants "parking certification", remove one (1) space from the existing on street parking provisions.

Further, the application has been forward to Councils' Development Engineer for consideration who have advised the following.

Parking from the frontage Street is not supported and must be relocated to the rear lane consistent with Control C46 of Section C1.11-Parking of Leichhardt DCP. Section C46 indicates that, where a site has access to a rear lane/road, vehicle parking is to be provided from the rear lane/road only. Access from the primary street frontage will not be supported.

As indicated above, the site benefits from a rear lane by which parking could be sought as the loss of street parking is contrary to Control C16 of this part of the DCP. This is particularly unacceptable given the high demand for street parking in the vicinity of the subject site.

Furthermore, the proposed garage is inconsistent with C2 a. and b. of Part C1.11 which requires that the layout and design of parking areas be sensitively located so that it does not dominate the streetscape appearance and minimises visual impacts to the building and street.

C1.12 Landscaping and C1.14 Tree Management

Inspection of the site and a review of the plans has revealed there are no prescribed trees within the site that will be affected by the proposal. The tree located in the rear yard which is shown for retention on the submitted plans has been identified as a Chinese Hackberry (*Celtis sinensis*). This species of tree is undesirable and exempt from the DCP Tree Management Controls.

A review of the submitted Landscape Plan prepared by Monument Design Partnership dated February 2022, notes new trees are proposed within the front and rear yards of the site. The proposed species are generally supported by the Urban Forest team. However, in the event of an approval, an additional tree is recommended in the rear yard of Dwelling B due to the existing tree being exempt and recommended for removal.

C1.18 Laneways

The subject site abuts a rear laneway (Foucart Lane) which provides a service lane function and character in terms of laneway hierarchy (approx. 5m in width).

The proposal retains the service laneway character prescribed for Narrow Lanes pursuant to Table C11 – Laneway Hierarchy.

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

The significant excavation of the site proposed to accommodate the garage and breakout room on the lower level is inconsistent with C1 a. and b. of Part C1.19 which requires that development in proximity to rock faces, rocky outcrops, escarpments, cliff faces or steep slopes is to be sympathetic to those landscape elements and the setting in terms of colour,

texture, materials, form and character and is to minimise on-site disturbance and be located where the rock features are not located.

Notwithstanding, the proposed garage is not supported where it is inconsistent with the requirements of Control C1.11 of the LDCP 2013 as discussed above.

C1.4 Heritage Conservation Areas and Heritage Items and C2.2.5.2 Easton Park Distinctive Neighbourhood and C3.3 Elevation and Materials

The proposal is not acceptable from a heritage perspective as it will detract from the heritage significance of the Easton Park Heritage Conservation Area.

The proposed infill building is inconsistent with C8 and C9 of Part C1.4 because it has not demonstrated the proposal respects the form, scale and siting of the immediate area and nor does it comply with Part C Section 1.0; which requires that new development make a positive contribution to the character, scale, form, siting, materials, colour and detailing within the streetscape.

Furthermore, the development does not satisfy Objective O1 of C2.2.5.2, as it is not consistent with the Desired Future Character and Controls for the Easton Park Distinctive Neighbourhood as follows:

- I. The development fails to preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture, thereby contravening control C1.
- II. The proposal does not comply with control C3 as it does not preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style, prevalence of hipped and pitched roofs or the established setbacks for the street.
- III. The proposal does not comply with C3 as it does not preserve the consistency and simplicity in built form, style and materials of the Neighbourhood.
- IV. The proposed development does not comply with C8 as it does not avoid the cutting into rock face for the proposed garage at proposed lot No. 12 and the breakout space for proposed lot No. 12a.
- V. The development fails to comply with the maximum 3.6m building envelope requirement prescribed by C9.
- VI. The development fails to preserve the existing pitched hipped roof form, thereby contravening C12

Refer also to Part 5(a)(iv) Clause 5.10 for detailed assessment with respect to heritage considerations.

C3.2 Site Layout and Building Design

Building Location Zone (BLZ)

Building Location Zone (BLZ) is the part of the subject site where it can be reasonably expected that a building can be located. The BLZ is determined by having regard to the main building on the adjacent properties.

The proposal entails the provision of two (2) new semi-detached dwellings and proposes to bring forward the front building line and extend the rear building line from what is existing on the site. The proposal also establishes a first floor BLZ where the development at No. 10 Foucart Street is currently single storey.

The proposed front balcony to Lot B (northern-most allotment) results in a breach of the front BLZ where it extends beyond that of No. 14 Foucart Street to the north.

The proposed ground and first floor rear alignment extends beyond the rear primary-built form of No. 10 Foucart Street to the south and the rear alignment of No. 14 Foucart Street to the north.

Pursuant to Control C6, where a proposal seeks to encroach outside or establish a new BLZ, various tests need to be met. The proposal is not considered to meet this test as detailed below:

- a) Amenity to adjacent properties is not protected, with particular regard for bulk and scale from the private open space of No 14 Foucart Street.
- b) The proposed development will not be compatible with the existing streetscape, heritage conservation area and desired future character and scale for the area.
- c) The development does not comply with all principal development standards, including a significant breach with the FSR development standard and breaches to the site coverage and landscaping requirements of the Leichhardt LEP 2013 and thus will not provide a suitable balance between landscaping and built form.
- d) The proposal breaches the front building envelope requirement, exacerbating streetscape impacts.
- e) The minimum side setbacks are inadequate for the proposed wall heights as discussed below.

Given the above, the proposal is not considered acceptable with respect to the objectives and controls of the Clause regarding BLZ.

Side Setbacks

The proposal has side building wall heights of 5.8-6.18m on the North elevation and 6.3-7.02m on the South elevation and both are proposed with a 200mm setback to the boundary. This is inconsistent with the side setback controls provided in C7 of this part as outlined below:

Elevation	Wall height (m)	Required setback (m)	Proposed setback (mm)	Complies (Y/N)
Northern Elevation	5.8-6.18m	1-1.48m	200mm	No
Southern Elevation	6.3-7.02m	1.5-2m	200mm	No

The departure is not acceptable where the objectives of this Part are not met outlined as follows:

- The proposal is not acceptable on heritage grounds where it results in the demolition of a contributory building in the heritage conservation area nor does not provide infill housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape and landscaped areas.
- The proposal results in setbacks which are not commensurate to the existing dwelling or the immediate adjoining dwellings to the north and south.
- The departure places significant bulk when viewed from the private open space at the rear of 14 Foucart Street to the North.
- The development does not comply with all principal development standards, including significant breaches with the FSR development standard and breaches with the site coverage and landscaping requirements of the Leichhardt LEP 2013 and constitutes an overdevelopment of the site.
- The setbacks are inadequate for maintenance of the existing retaining wall to the northern boundary.

Building Envelope

The proposal does not comply with the prescribed 3.6m building envelope for the Easton Park Distinctive Neighbourhood. Refer to assessment under Control C2.2.5.2 above.

Part 3.5 Dwelling Entries

The location of the main entries to the sides of the dwellings do not comply with Control C1 of Part C3.5 which states that dwelling entries and windows are to be oriented to overlook the street. This results in a front entry which is not readily legible from the public domain and also presents potential safety and security concerns.

C3.9 Solar Access

Hourly solar access diagrams have been submitted for the proposal depicting shadows cast between 9am and 3pm mid-winter (worst case scenario).

The subject and adjoining dwellings provide an east-west orientation, with Private Open Space (POS) areas orientated to the west. The following controls apply:

New Dwellings

The following controls apply to solar access for new dwellings:

- New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.
- Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.

The solar access diagrams demonstrate that although the proposed dwelling on Lot B (northern-most allotment) may receive sufficient solar access to internal and external living areas (between 12pm and 3pm), the proposal will provide non-compliant solar access to both the rear private open space and the internal living area of the southern property proposed on Lot A.

Neighbouring Properties

The following controls apply for retaining solar access to neighbouring properties:

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

Due to existing built form and orientation of POS, there will be no significant overshadowing impact to the southern adjoining property located at No. 10 Foucart Street, where the majority of shadows cast will fall across roof of the adjoining dwelling. Furthermore, 10 Foucart Street does not appear to provide any living room glazing to its northern elevation, and thus, solar access to the main internal living room will not be impacted by the proposal.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality as detailed in this assessment report.

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 the character of the distinctive neighbourhood 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 and a further 14 days notifying the amended proposal.

Six (6) submissions were received in response to the initial notification. Seven (7) submissions were received in response to renotification of the application. A total of eight (8) unique submissions were received.

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

- Overshadowing - Discussed in Part 5(c), C3.9 Solar Access
- Removal of on-street parking - Discussed in Part 5(c) C1.11 Parking

- Impact on HCA – Discussed in Part 5(a)(iv), C5.10 Heritage Conservation
- Breach of maximum FSR and minimum landscaped area - Discussed in Part 5(a)(iv), Section 4.6 Exceptions to Development Standards
- Setbacks – Discussed in Part 5(c), C3.2 Site Layout and Building Design
- Building Location Zone - Discussed in Part 5(c), C3.2 Site Layout and Building Design
- Bulk and scale - Discussed in Part 5(c), C3.2 Site Layout and Building Design
- Impact on streetscape - Discussed in Part 5(a)(iv), C5.10 Heritage Conservation and Part 5(c) C1.4 Heritage Conservation Areas and Heritage Items.

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

Issue: Retaining wall stability, damage and maintenance

Comment: The proposal has been setback 200mm which is insufficient to provide access for ongoing maintenance of the retaining wall located to the northern most boundary.

Issue: Visual privacy

Comment: The proposal provides new windows at the first-floor level to the rear (western) elevation which serve bedrooms. These windows are highlight windows orientated towards the rear POS and will not result in overlooking impacts to neighbouring properties.

The proposal also includes windows to the north and south elevations at first floor level, however these serve bathrooms only and are comprised of louvred obscured glazing as illustrated in the Window and Door Schedule Plan.

New glazing to the ground floor side and rear elevations will not result in overlooking impacts to neighbouring properties where they will be obscured by boundary fencing.

Accordingly, the proposal is not considered to result in adverse overlooking impacts.

Issue: View loss of city skyline

Comment: A view loss assessment has not been undertaken in absence of any evidence of significant obstruction of city views from 124 Cecily Street to the west of the subject site. Notwithstanding, the proposal is recommended for refusal.

Issue: Westconnex tunnelling

Comment: It is not considered that ongoing tunnelling for Westconnex in the vicinity of the site will significantly impact the proposed development. It is assumed that the relevant mitigation measures associated with noise, dust, vibration etc will continue to be managed by the appropriate authority (Transport for NSW).

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.

- a. Heritage – Recommended refusal for the reasons outlined under Section 5(a)(iv), Clause 5.10 – Heritage Conservation
- b. Engineer – Proposed parking is not supported as outlined under Section 5(c), Part C1.11 - Parking
- c. Urban Forest – Acceptable subject to conditions requiring additional tree planting in rear yard of proposed “Dwelling B” as outlined under Section 5(c), Part C1.12 – Landscaping.

6(b) External

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

- AusGrid: Raised no objections for the proposed development subject to standard terms of approval.

7. Section 7.11 Contributions/7.12 Levy

In the event of an approval Section 7.11 contributions 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 is inconsistent 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 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/2022/0301 for the demolition of existing structures and construction of a dual occupancy with strata subdivision at 12 Foucart Street, Rozelle for reasons outlined in Attachment A.

Attachment A – Reasons for Refusal

1. The proposed development is inconsistent with and has not demonstrated compliance with the *Leichhardt Local Environmental Plan 2013*, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
 - a) Clause 1.2(2)(b)(c)(d)(e)(i)(l)(m)(n)(o)(s)(v) - Aims of Plan
 - b) Clause 2.1- Zone objectives and Land use table
 - c) Clause. 4.3A - Landscaped areas for residential accommodation in Zone R1
 - d) Clause. 4.4 - Floor Space Ratio
 - e) Clause 5.10 – Heritage Conservation
2. The applicant has not submitted a request under Clause 4.6 of *Leichhardt Local Environmental Plan 2013* to demonstrate sufficient environmental planning grounds to justify contravening the Site Coverage and Landscaped Area development standards and the development is considered contrary to the objectives of the standards in its proposed form. In the absence of a valid and well-founded Clause 4.6 objection, the consent authority cannot consider the proposed variation and is without power to approve such a development.
3. The proposed variation to the FSR development standard under Clause 4.6 of *Leichhardt Local Environmental Plan 2013* fails to demonstrate sufficient environmental planning grounds to justify contravening the standard and is considered contrary to the objectives of the standards in its proposed form with the proposal constituting an overdevelopment of the site.
4. The proposal is contrary to and is a prohibited form of development under the provisions of draft *Inner West Local Environmental Plan 2020* pursuant to Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, including:
 - a) Clause 1.2(2)(h) - Aims of Plan.
 - b) Clause 2.3 - Zone objectives and Land Use Table.
5. The proposed development is inconsistent with the *Leichhardt Development Control Plan 2013*, pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, including:
 - a) Part C1.0 General Provisions
 - b) Part C1.2 Demolition
 - c) Part C1.4 Heritage Conservation Areas and Heritage Items
 - d) Part C1.11 Parking
 - e) Part C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls
 - f) Part C2.2.5.2 Easton Park Distinctive Neighbourhood
 - g) Part C3.1 Residential General Provisions
 - h) Part C3.2 Site Layout and Building Design
 - i) Part C3.3 Elevation and Materials
 - j) Part C3.5 Front Gardens and Dwelling Entries

6. The proposed development will result in adverse impacts on the built environment in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
7. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
8. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment At 1979*.

Attachment B – Plans of proposed development



monument
design
partnership **[M]**

Drawing List			
DA-01	Cover page	NTS	
DA-02	Contextual analysis	1:500	
DA-03	Demolition plan	1:100	
DA-04	Site Analysis	1:100	
DA-05	Lower Ground	1:100	
DA-06	Ground floor plan	1:100	
DA-07	First floor plan	1:100	
DA-08	Roof plan	1:100	
DA-09	North / South elevation	1:100	
DA-10	East / West elevation	1:100	
DA-11	Section A-A B-B	1:100	
DA-12	Finishes schedule	1:50	
DA-13	Subdivision plan	1:100	
DA-14	Landscape plan	1:100	
DA-15	Window + Door schedule	NTS	
DA-16	Area Computations	1:200	
DA-17	Visualisation 1	NTS	
DA-18	Visualisation 2	NTS	
DA-19	RASIX commitments	NTS	
DA-20	Shadow Diagram Proposed	1:200	
DA-21	Shadow Diagram Existing	1:200	
DA-22	Sun Perspective Existing	NTS	
DA-23	Sun Perspective Proposed	NTS	
DA-24	Additional Information - On-street Parking	1:200	

Project address 12 Fowcett Street, Rozelle NSW
Description Demolition of existing structures and construction of strata titled dual occupancy
LGA Inner West Council | Leichhardt
Client Mourad

Drawing title DA-000 | Cover page
Scale nts

Revision
 Document Set ID: 19/22/2023

Version: 1, Version Date: 19/02/2023



LGA Inner West Council
 Drawing title: Contextual analysis
 Drawing No.: DA/22
 Lot area: 244.83m²

Legend
 01 Entry
 02 Dining
 03 Bedroom
 04 Kitchen
 05 Bathroom
 06 Laundry

07 Kitchen
 08 Living
 09 Ensuite
 10 Bedroom
 11 Breakout Room

Drawing title: Contextual analysis
 Drawing No.: DA/22
 Lot area: 244.83m²

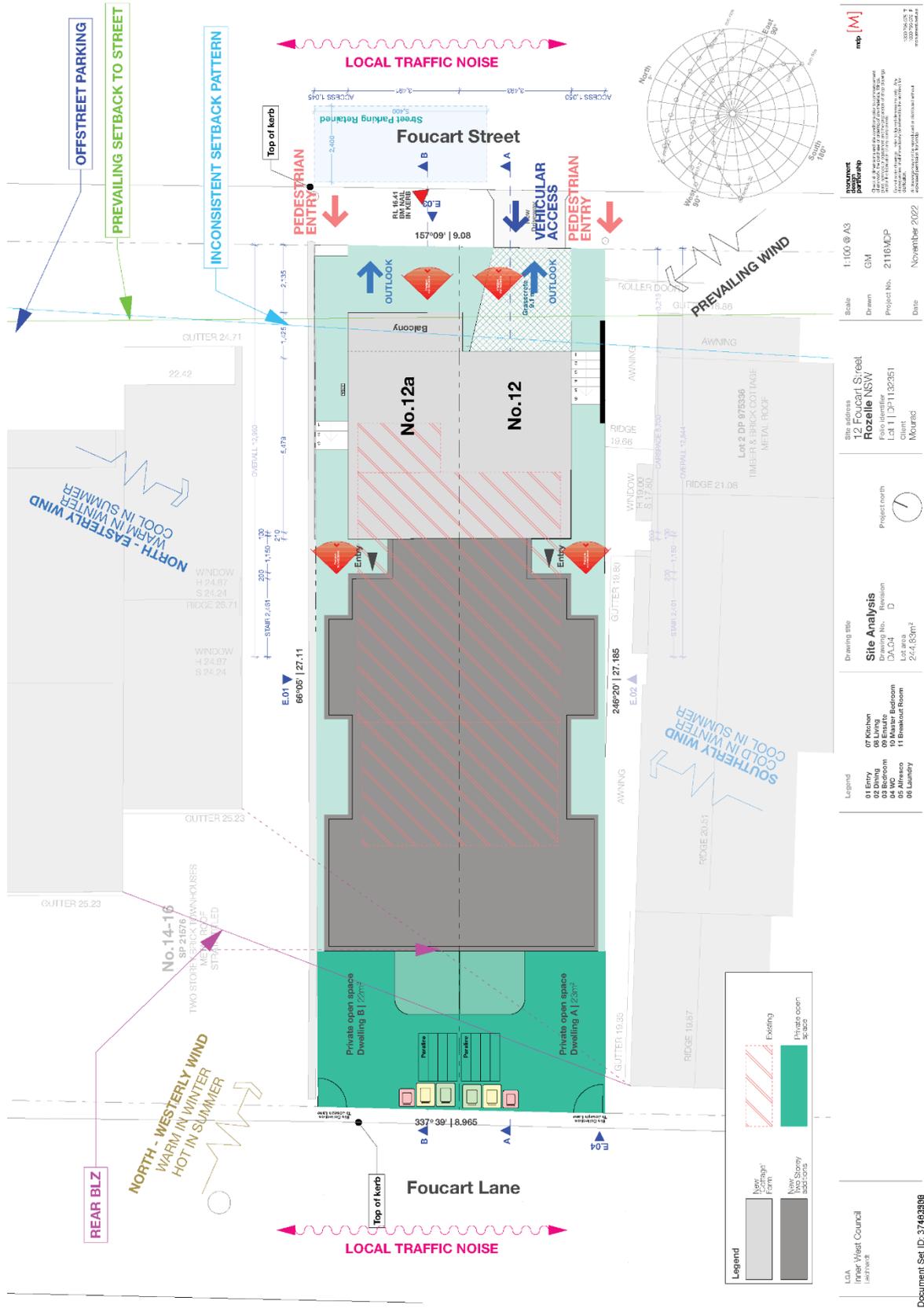
Project north

Site address: 12 Foucart Street
 Rozelle NSW
 Lot 1 | CP1132951
 Client: Moured

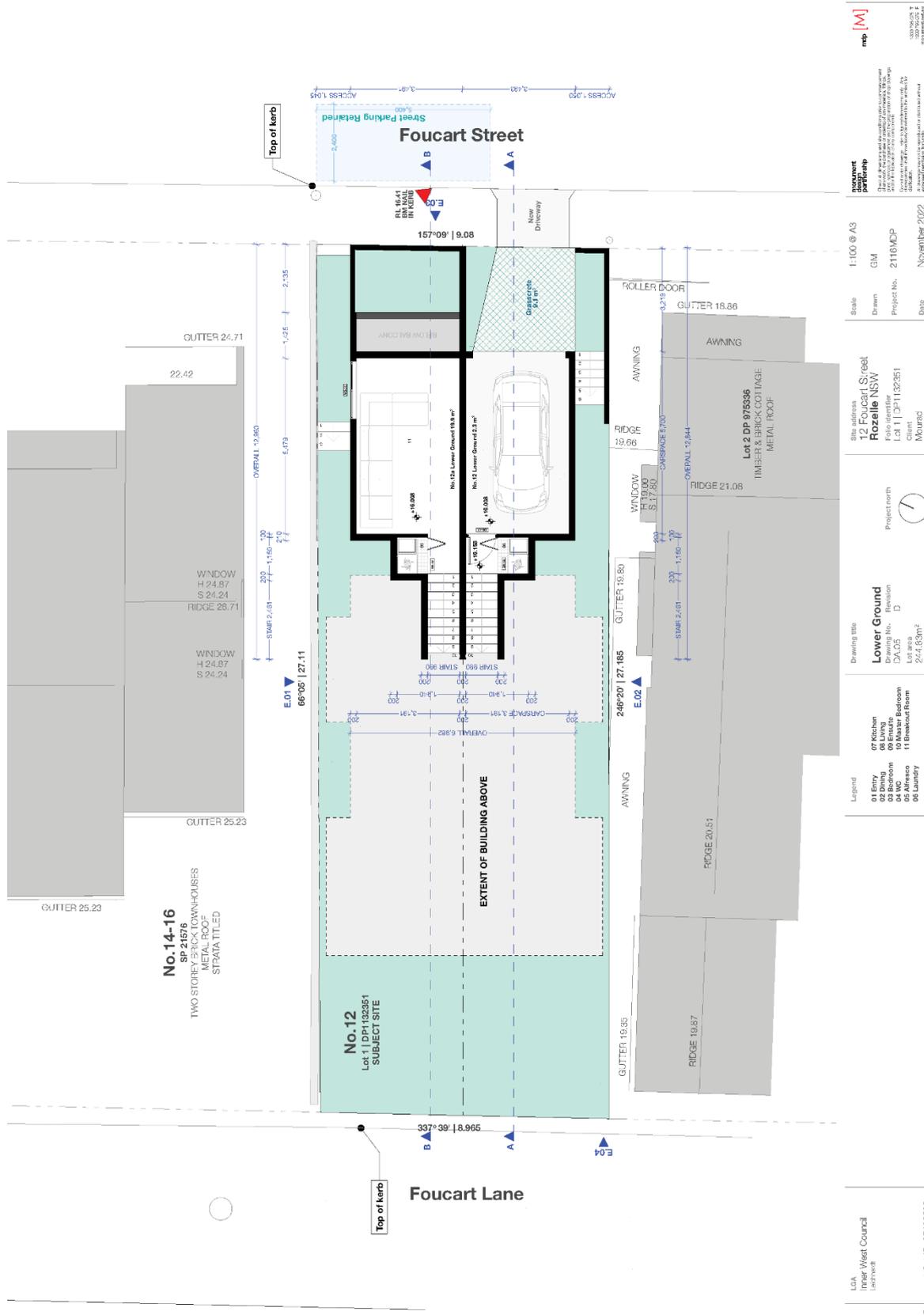
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 Drawn: GM
 Project No.: 2116MCP
 Date: November 2022

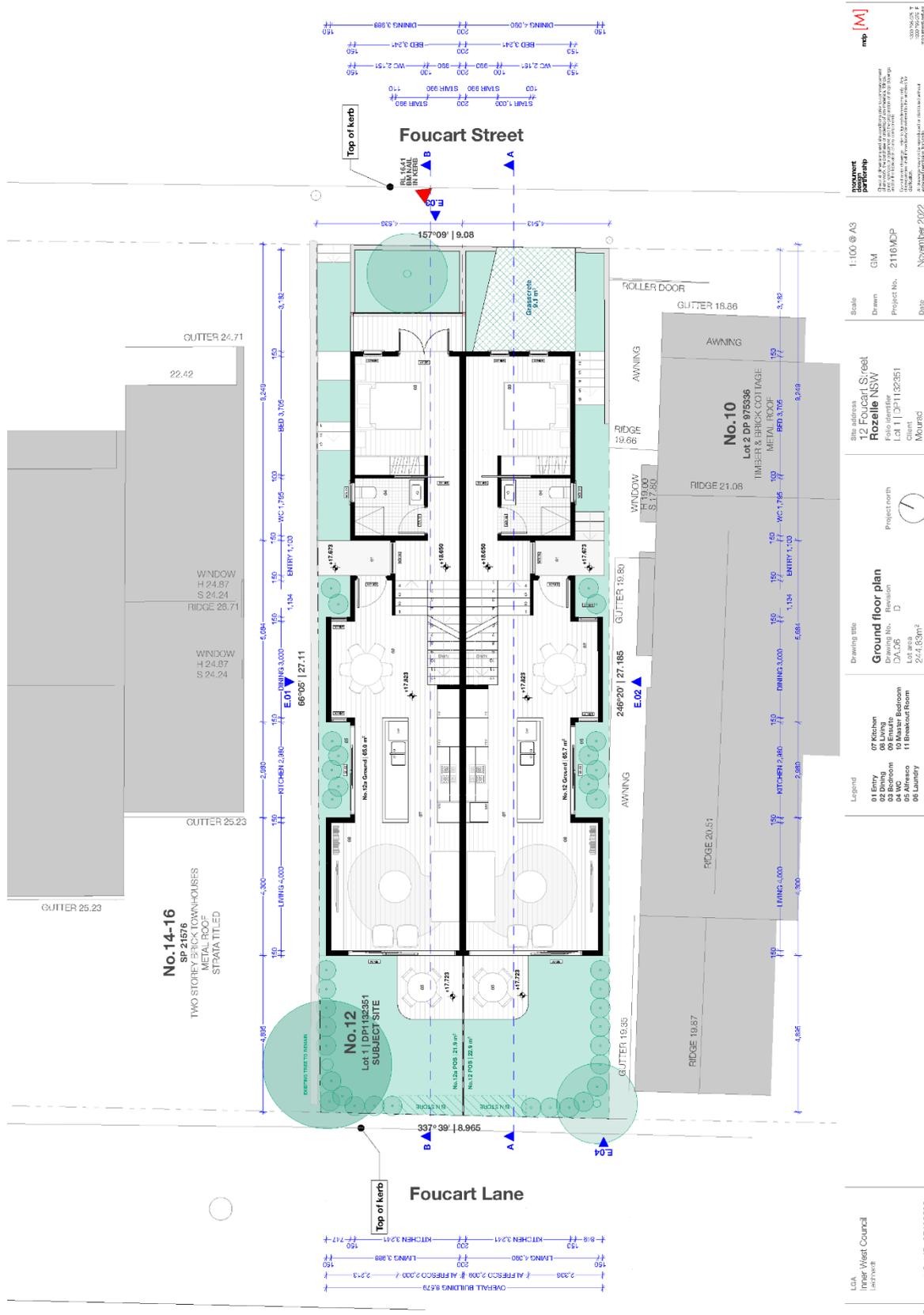
Document participants
 Prepared by: [M]
 Drawn by: [M]
 Checked by: [M]
 Approved by: [M]
 Date: 15/02/2023

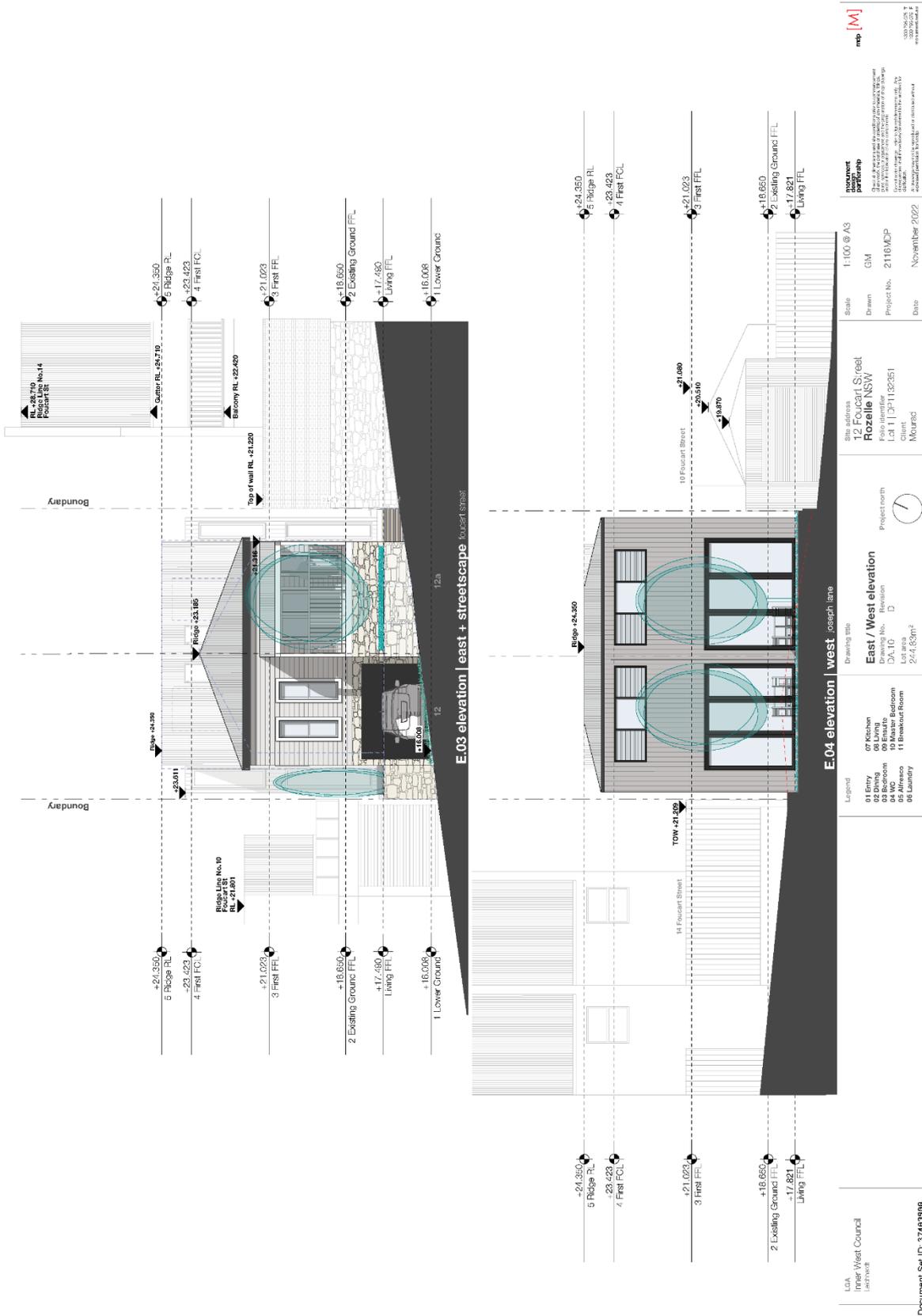
Document Set ID: 37462396
 Version: 1, Version Date: 15/02/2023

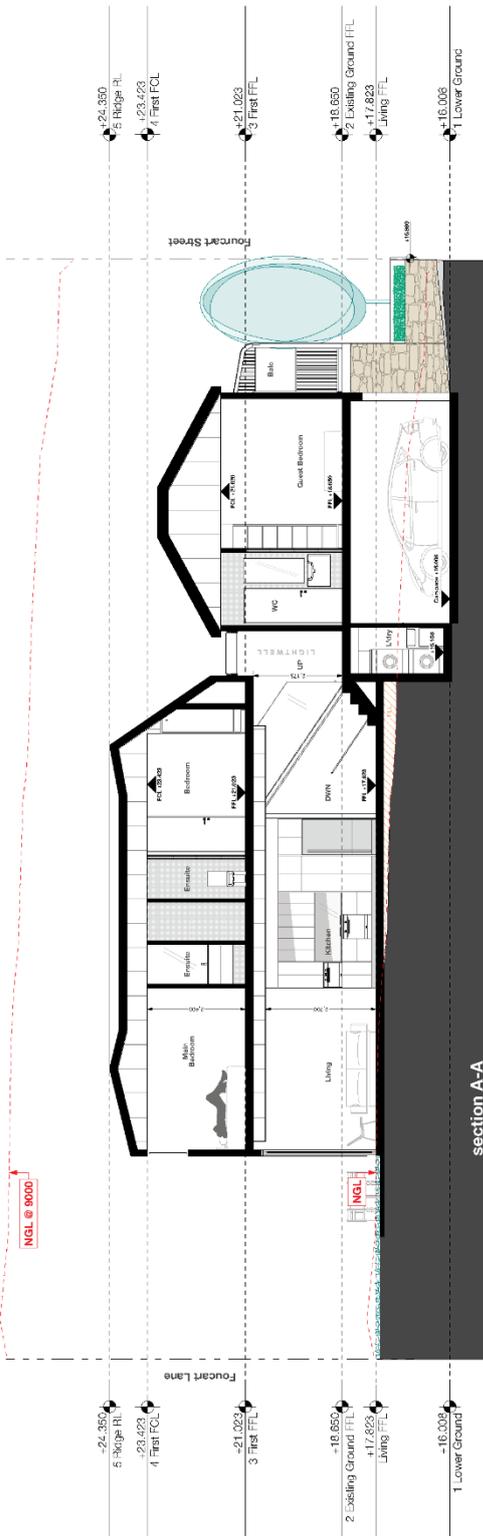


<p>Legend</p> <ul style="list-style-type: none"> New 'straggles' Form Existing New two storey additions Private open space 	<p>Site Analysis</p> <p>DA/CD Lot area 254.83m²</p>	<p>Project north</p>	<p>Site address 12 Foucart Street Rozelle NSW Lot 1 CP1132251</p> <p>Client Mourad</p>	<p>Scale 1:100 @ A3</p> <p>Drawn GM</p> <p>Project No. 2116MCP</p> <p>Date November 2022</p>	<p>Document Set ID: 37462396 Version: 1, Version Date: 15/02/2023</p>
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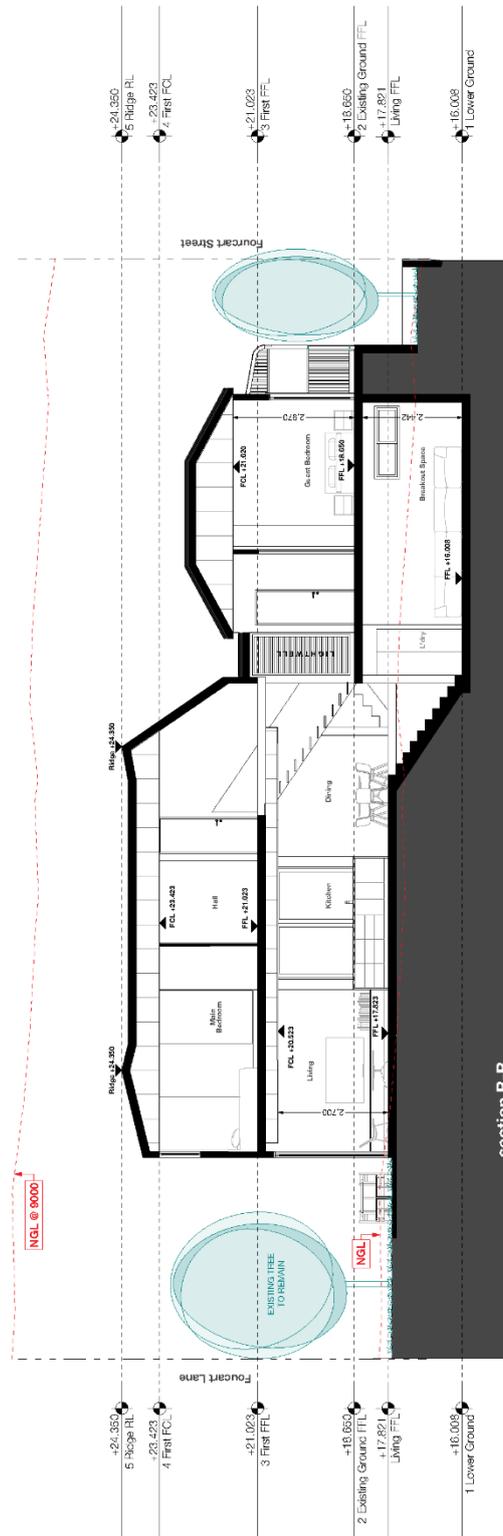






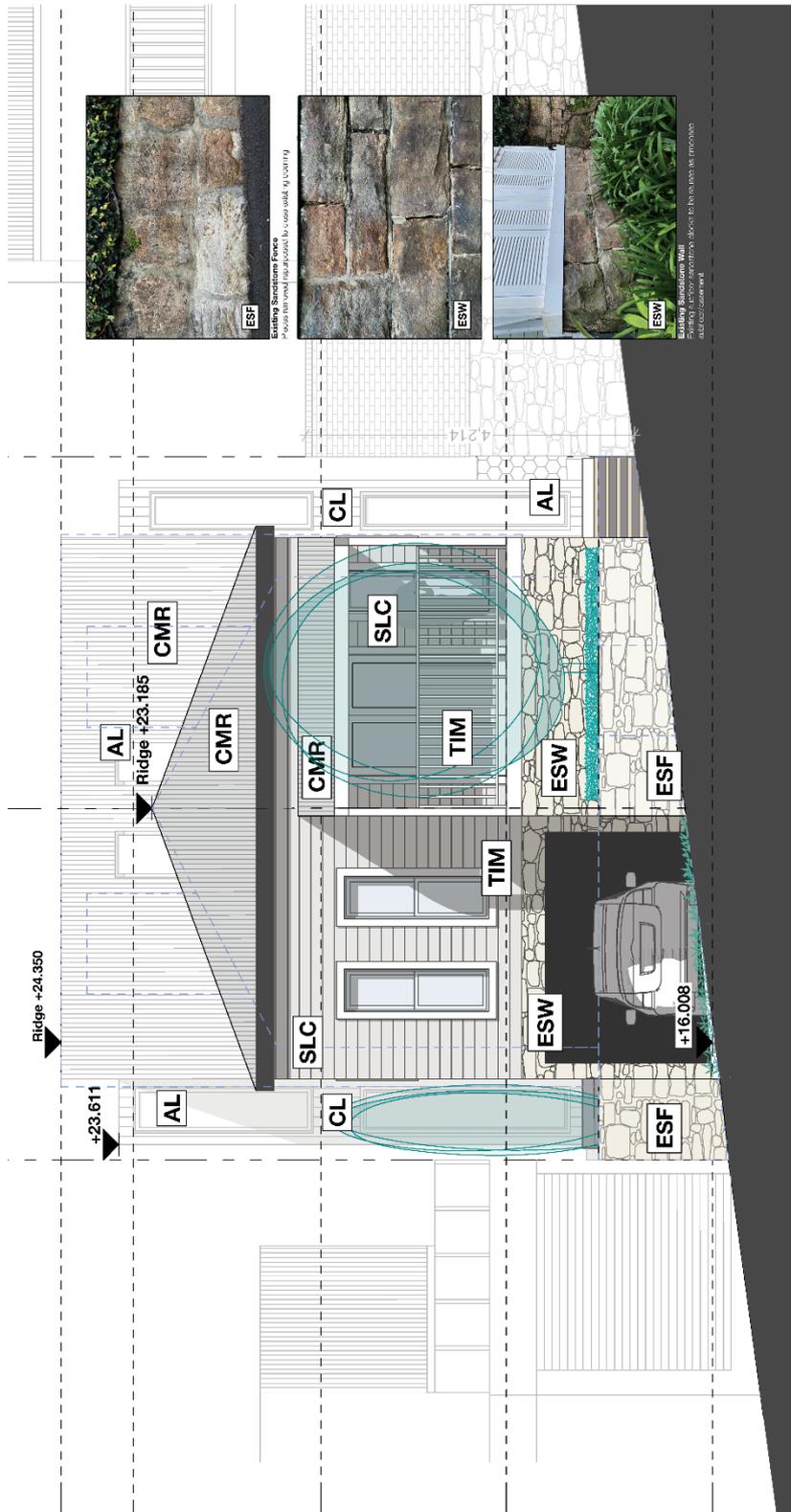


section A-A



section B-B

LGA Inner West Council
 Drawing title Section A-A | B-B
 Drawing No. DA11
 Lot area 254.83m²
 Legend
 01 Entry
 02 Dining
 03 Bedroom
 04 Kitchen
 05 Alfresco
 06 Laundry
 07 Kitchen
 08 Living
 09 Ensuite
 10 Bedroom
 11 Breakout Room
 Project north
 Scale 1:100 @ A3
 Drawn GM
 Project No. 2116MCP
 Date November 2022
 mp (M)
 Document Set ID: 37462386
 Version: 1, Version Date: 15/02/2023



Legend

- 01 Entry
- 02 Dining
- 03 Bedroom
- 05 Afrisco
- 06 Laundry
- 07 Kitchen
- 08 Living
- 09 Ensuite
- 10 Bedroom
- 11 Breakout Room

Drawing title

Finishes schedule

Room No. Description Lot area

2/44, 83m²

Project north

Project north

Site address

12 Foucart Street
 Rozelle NSW
 LGA: I LEP1132351
 Client: Mound

Scale 1:50 @ A3

Drawn GM

Project No. 2718MDP

Date November 2022

Document participation

Project No. 2718MDP
 Date: 11/11/2022
 Drawn: GM
 Checked: [M]
 Approved: [M]

AL Powdercoated Aluminum Windows
 Color: RAL 9005

CL Clay Tiles

CMR Cemented Metal Roofing
 Color: V07124242

ESW Exposed Stone Wall
 Finish: 1500mm x 1000mm

ESF Exposed Stone Finish

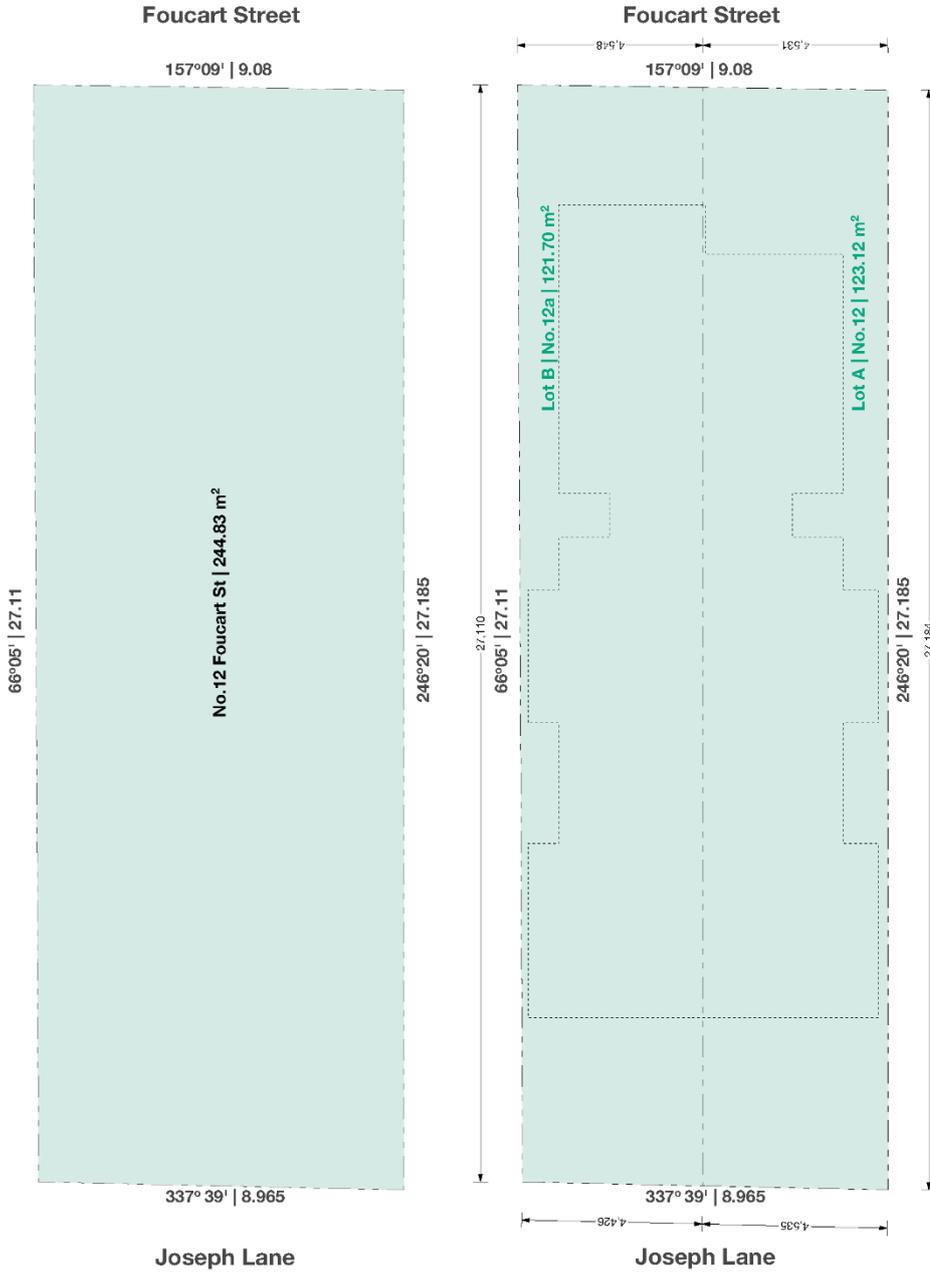
SLC Solid Timber Slatwork
 Finish: 1500mm x 1000mm

TIM Timber Cladding
 Finish: 1500mm x 1000mm

CMR Cemented Metal Roofing
 Color: V07124242

Painted Finish
 Finish: 1500mm x 1000mm

Painted Finish
 Finish: 1500mm x 1000mm



mp [M]
 1000 00 00 0
 1000 00 00 0

document
 participant
 This is a preliminary drawing and is not to be used for construction purposes. It is subject to change without notice. The client is responsible for the accuracy of the information provided. The drawing is the property of the architect and shall remain confidential. All rights reserved.

Scale: 1:100 @ A3
 Drawn: GM
 Project No.: 2116MCP
 Date: November 2022

Site address:
 12 Foucart Street
 Rozelle NSW
 Lot 1 | 321132951
 Client: Moured

Project north

Drawing title
Subdivision plan
 Drawing No.: D
 Division: D
 Lot area: 244.83m²

Legend
 07 Kitchen
 08 Living
 09 Ensuite
 10 Bedroom
 11 Breakout Room
 06 Laundry

LGA: Inner West Council
 Drawing ID: 3746396
 Version: 1, Version Date: 15/02/2023



PLANTING AND PROPAGATION SCHEDULE

No.	Plant Name	Qty	Plant Size	Plant Source	Comments/Notes
1	Blue Fescue	5	45cm	100%	Plant in 100% shade
2	Black Hedgers	36	75cm	100%	Plant in 100% shade
3	Slender Waxedges	48	45cm	100%	Plant in 100% shade
4	Monardella	15	200mm	100%	Plant in 100% shade
5	Blue Fescue	25	15cm	100%	Plant in 100% shade
6	Black Hedgers	20	15cm	100%	Plant in 100% shade
7	Slender Waxedges	20	15cm	100%	Plant in 100% shade
8	Monardella	20	15cm	100%	Plant in 100% shade
9	Blue Fescue	20	15cm	100%	Plant in 100% shade
10	Black Hedgers	20	15cm	100%	Plant in 100% shade
11	Slender Waxedges	20	15cm	100%	Plant in 100% shade
12	Monardella	20	15cm	100%	Plant in 100% shade

PLANTING AND PROPAGATION SCHEDULE

No.	Plant Name	Qty	Plant Size	Plant Source	Comments/Notes
1	Blue Fescue	5	45cm	100%	Plant in 100% shade
2	Black Hedgers	36	75cm	100%	Plant in 100% shade
3	Slender Waxedges	48	45cm	100%	Plant in 100% shade
4	Monardella	15	200mm	100%	Plant in 100% shade
5	Blue Fescue	25	15cm	100%	Plant in 100% shade
6	Black Hedgers	20	15cm	100%	Plant in 100% shade
7	Slender Waxedges	20	15cm	100%	Plant in 100% shade
8	Monardella	20	15cm	100%	Plant in 100% shade
9	Blue Fescue	20	15cm	100%	Plant in 100% shade
10	Black Hedgers	20	15cm	100%	Plant in 100% shade
11	Slender Waxedges	20	15cm	100%	Plant in 100% shade
12	Monardella	20	15cm	100%	Plant in 100% shade

Additional Notes:

1. Material, quantity, location, and built structure details shall be provided to the Council.
2. All material and built structure details shall be provided to the Council.
3. Material, quantity, location, and built structure details shall be provided to the Council.
4. Material, quantity, location, and built structure details shall be provided to the Council.
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8. Material, quantity, location, and built structure details shall be provided to the Council.
9. Material, quantity, location, and built structure details shall be provided to the Council.

Additional Notes:

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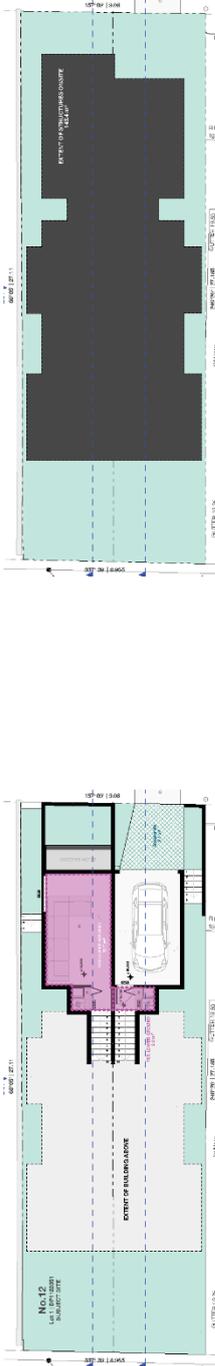
Window Schedule

Win ID	WIN.01	WIN.02	WIN.03	WIN.04	WIN.05	WIN.06	WIN.07	WIN.08	WIN.09	WIN.10
Window type	Louvre Obscure	Sliding Clear Glass	Top Hung Clear Glass	Louvre Obscure	Louvre / Fixed Clear Glass					
Glass type	Obscure	Clear Glass	Clear Glass	Clear Glass	Clear Glass	Clear Glass	Clear Glass	Clear Glass	Obscure	Clear Glass
Quantity	2	1	3	2	1	2	2	2	2	2
W x H Size	600x900 1,200	1,800x600 1,542	600x1,900 200	1,000x2,400 300	600x2,700 2,700	500x2,700 2,700	600x2,300 2,400	500x2,100 2,200	600x1,200 1,200	3,000x1,000 1,400
Window sill height	2,100	2,142	2,100	2,700	2,700	2,700	2,400	2,200	2,400	2,400
Window head height										
Plan View										
Elevation View										

Glazed Door Schedule

Door Name	SD.01	SD.02	SD.03	SD.04
Quantity	1	1	1	1
W x H Size	1,600x2,100	2,700x2,773	3,417x2,773	3,264x2,773
Orientation	L	R	L	R
Nominal Head Height	2,100	2,773	2,773	2,773
2D Symbol				
3D Back View				

<p>LGA Inner West Council Urbanist</p> <p>Document Set ID: 37462986 Version: 1, Version Date: 15/02/2023</p>	<p>Legend</p> <ul style="list-style-type: none"> 01 Entry 02 Dining 03 Bedroom 04 Kitchen 05 Terrace 06 Laundry 	<p>Drawing title</p> <p>Window + Door schedule</p> <p>Project No. DA/15/010 Lot area 2/4,83m²</p>	<p>Site address 12 Foucault Street Rozelle NSW Lot 1 CP1132951 Client Mound</p>	<p>Scale NTS Drawn GM Project No. 2116MCP Date November 2022</p>	<p>participant participants</p> <p>mp [M]</p> <p>1500 NW 108 1500 NW 108 1500 NW 108</p>
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LGA
Inner West Council
Marrickville

Document Set ID: 37462886
Version: 1, Version Date: 15/02/2023

Legend

- 01 Entry
- 02 Dining
- 03 Kitchen
- 04 Bedroom
- 05 Attic/Loft
- 06 Laundry
- 07 Kitchen
- 08 Living
- 09 Bath
- 10 Bedroom
- 11 Breakout Room

Drawing title

Visualisation 1

Drawing No. DA-17
Lot area 2/4,831m²

Site address
32 Foulden Street
Rozelle NSW
Lot: DP1 32351
Client: Murrumbidgee

Scale: NIS
Drawn: GM
Project No.: 2110M/JP
Date: November 2022

Document participants

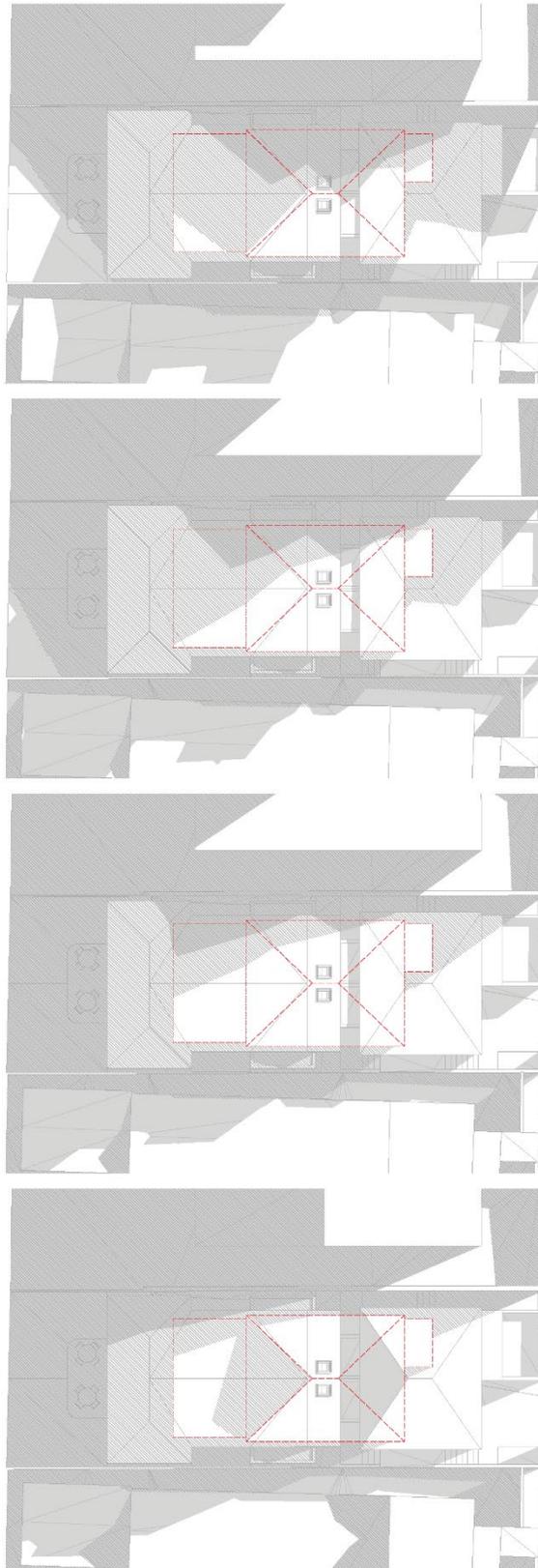
mb. [M]

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<p>LGA: Inner West Council LGA Ward:</p>	<p>Legend</p> <ul style="list-style-type: none"> 01 Entry 02 Drivng 03 Bedroom 04 Kitchen 05 Living 06 Ensuite 07 Balcony 08 Living 09 Bedroom 10 Bathroom 11 Breakfast Room 06 Laundry 	<p>Drawing title</p> <p>Visualisation 2</p> <p>Drawing No. Revision DA 15 10</p> <p>Lot area 244.53 m²</p>	<p>Site address 12 Foucart Street Rozelle NSW</p> <p>Lot No. DP1132851 Client: Moulton</p>	<p>Scale: NTS Drawn: GM Project No. 2718MLP- Date: November 2022</p>	<p>newport interiors</p> <p>27 Park Rd, Rozelle NSW 1585 Tel: 02 9550 2000 www.newportinteriors.com.au</p> <p>NSW Registered Architect No. 15850 NSW Registered Interior Designer No. 15850</p>
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Document Set ID: 37493288
Version: 1, Version Date: 15/02/2023



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LEGEND

- EXISTING BUILDING LINE
- PROPOSED SHADOW
- EXISTING SHADOW

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Inner West Council
Urban West
Document Set ID: 37463986
Version: 1, Version Date: 15/02/2023

- Legend**
- 01 Entry
 - 02 Bedroom
 - 03 Ensuite
 - 04 Kitchen
 - 05 Terrace
 - 06 Laundry
 - 07 Reception
 - 08 Living
 - 09 Bedroom
 - 10 Bedroom
 - 11 Bedroom

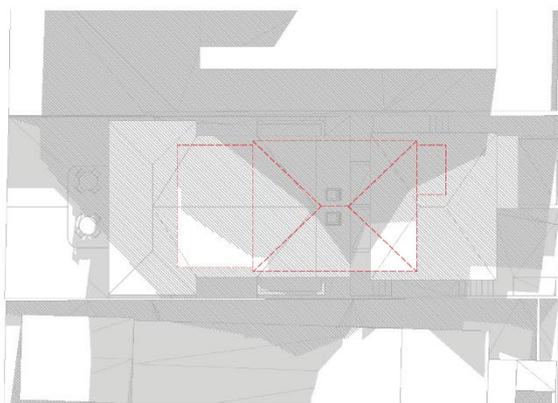
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 Drawing title
 Project No. DA 20
 Lot area 254.83m²
 Client Mouned

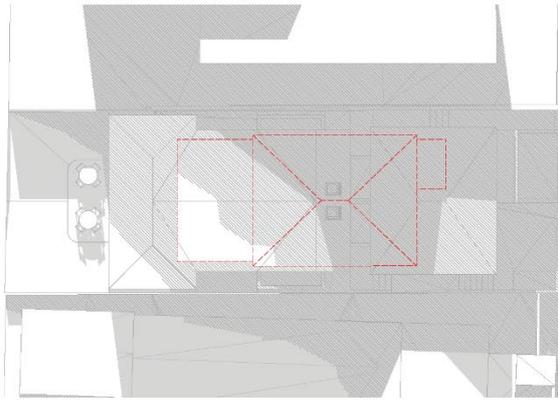
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Rozelle NSW
 Lot 1 | 1211 32951
 Client Mouned

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 Project No. 2116MCP
 Date November 2022

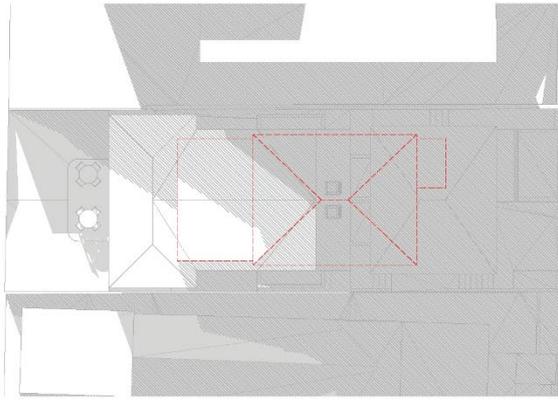
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LEGEND

- EXISTING BUILDING LINE
- PROPOSED SHADOW
- EXISTING SHADOW

LGA
Inner West Council
Urbanform

Document Set ID: 37463986
Version: 1, Version Date: 15/02/2023

- Legend
- 01 Entry
 - 02 Dining
 - 03 Bedroom
 - 04 Kitchen
 - 05 Terrace
 - 06 Laundry
 - 07 Reception
 - 08 Living
 - 09 Ensuite
 - 10 Bathroom
 - 11 Breakout Room

Drawing title

Shadow Diagram Proposed

Project No. DA 21
Lot area 254.83m²

Project north

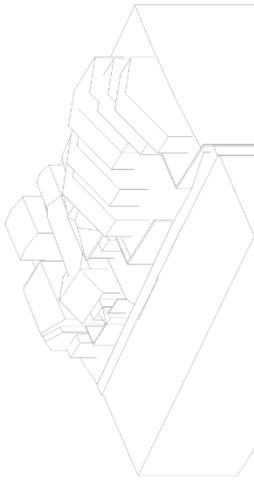
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Client
Mourad

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Date November 2022

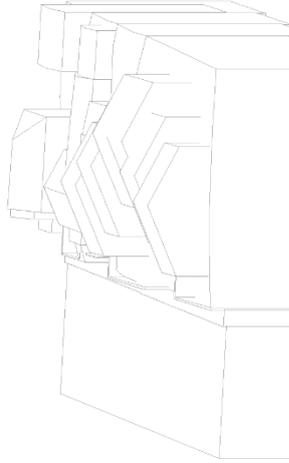
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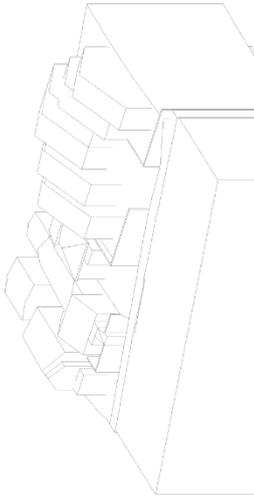
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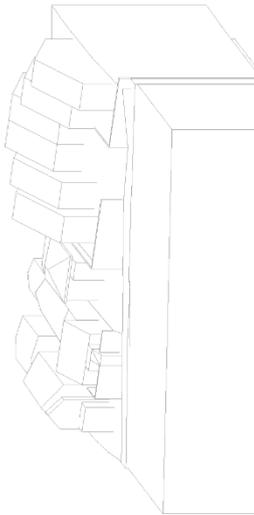
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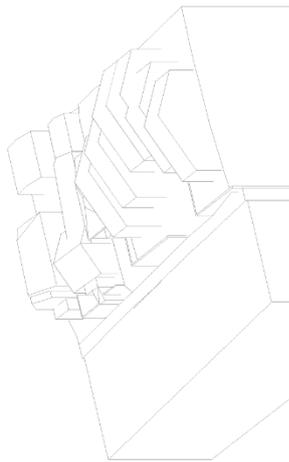
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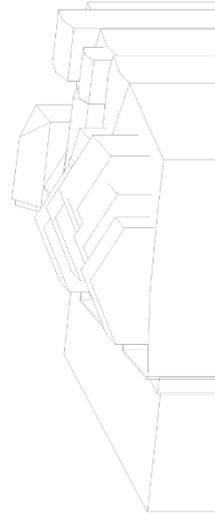
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Urbanism
Document Set ID: 3742396
Version: 1, Version Date: 15/02/2023

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02 Dining
03 Bedroom
05 Kitchen
06 Laundry

07 Reception
08 Living
09 Ensuite
10 Bathroom
11 Bedroom

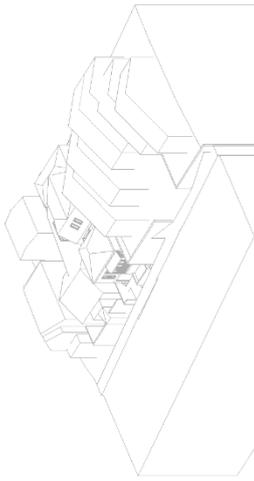
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Lot area 254.83m²

Site address
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Rozelle NSW
Lot 1 | CP1132951
Client Mounad

Scale
Drawn GM
Project No. 2116MCP
Date November 2022

document
participate

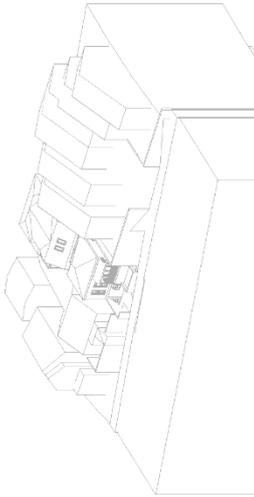
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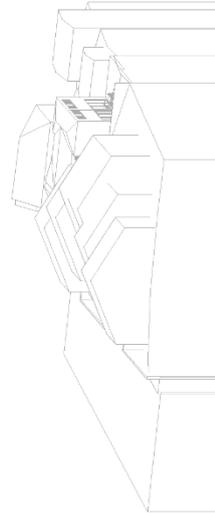
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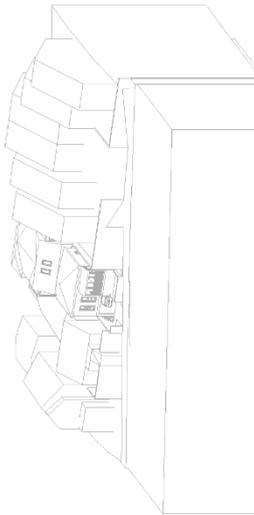
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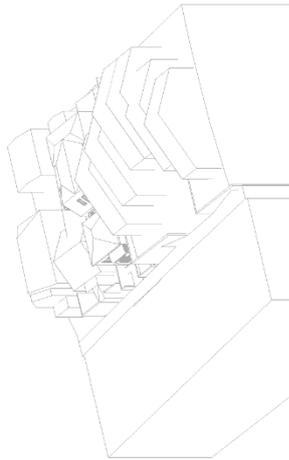
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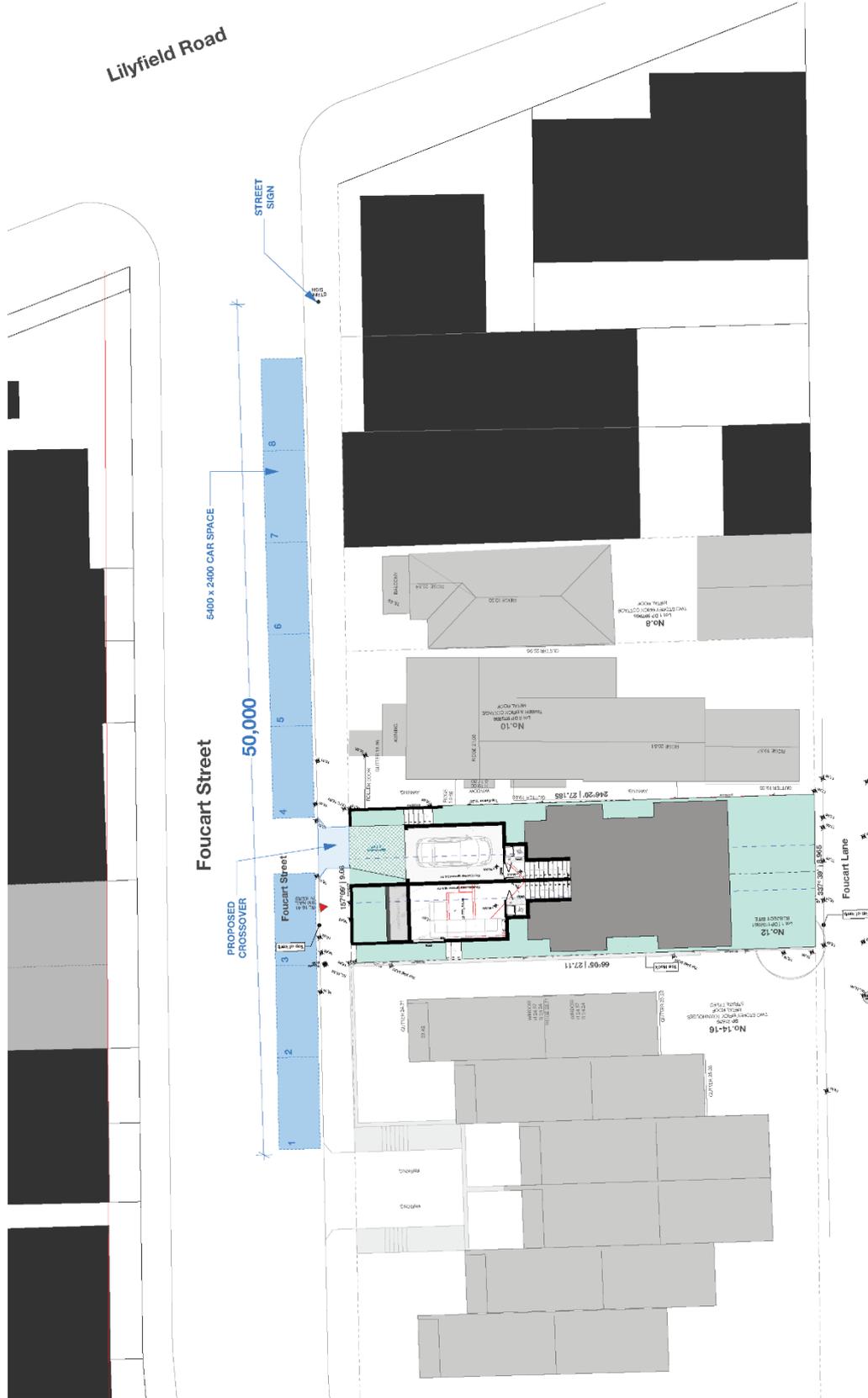
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Version: 1, Version Date: 15/02/2023



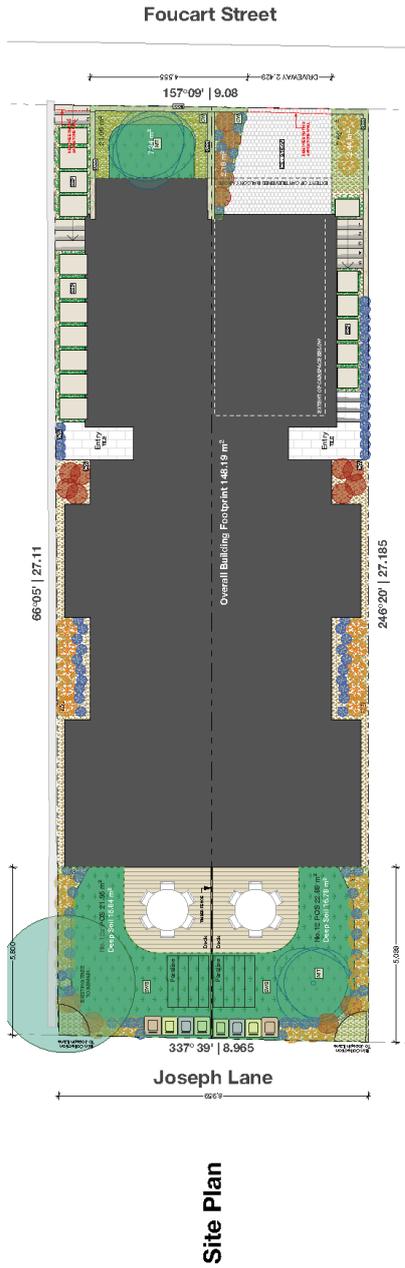
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Drawn GM
Project No. 2116MCP
Date November 2022

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Rozelle NSW
 LGA Inner West Council
Client Mound

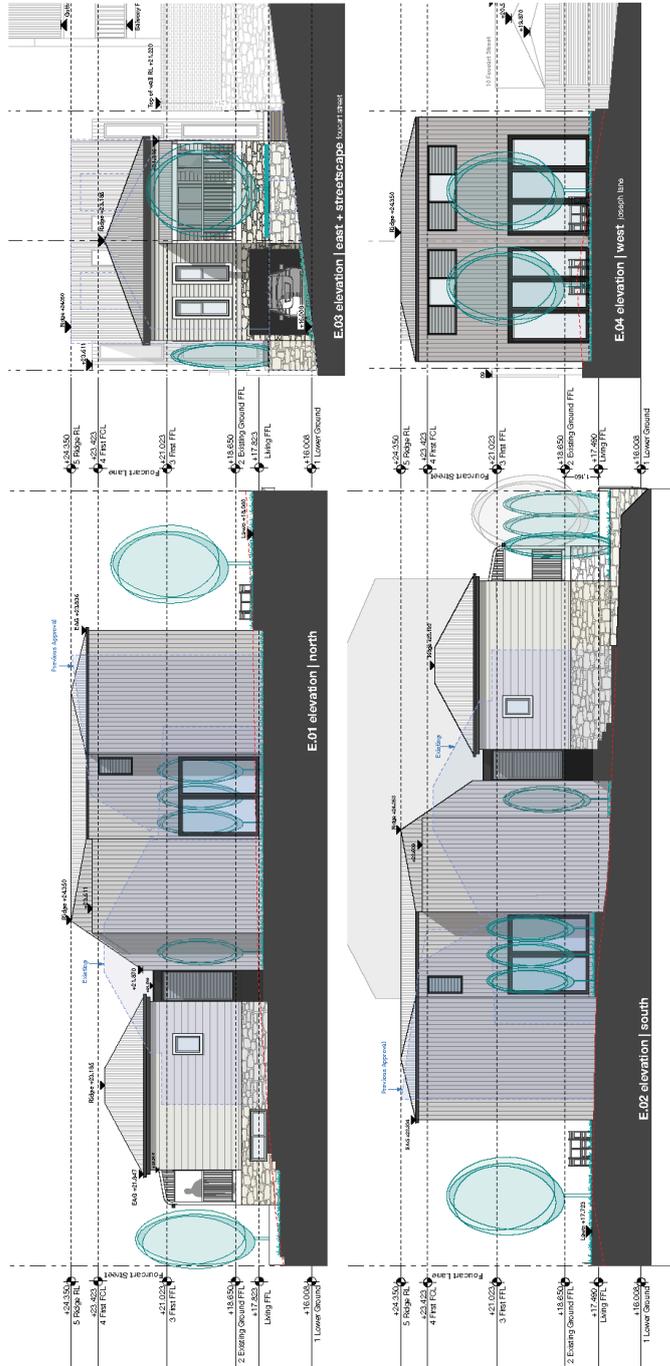
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Parking Project north
 DA No. D
 Lot area 2/4,83m²

- Legend**
- 01 Entry
 - 02 Kitchen
 - 03 Living
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 - 05 Bedroom
 - 06 Bathroom
 - 07 Terrace
 - 08 Porch
 - 09 Staircase
 - 10 Balcony
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 - 12 Laundry

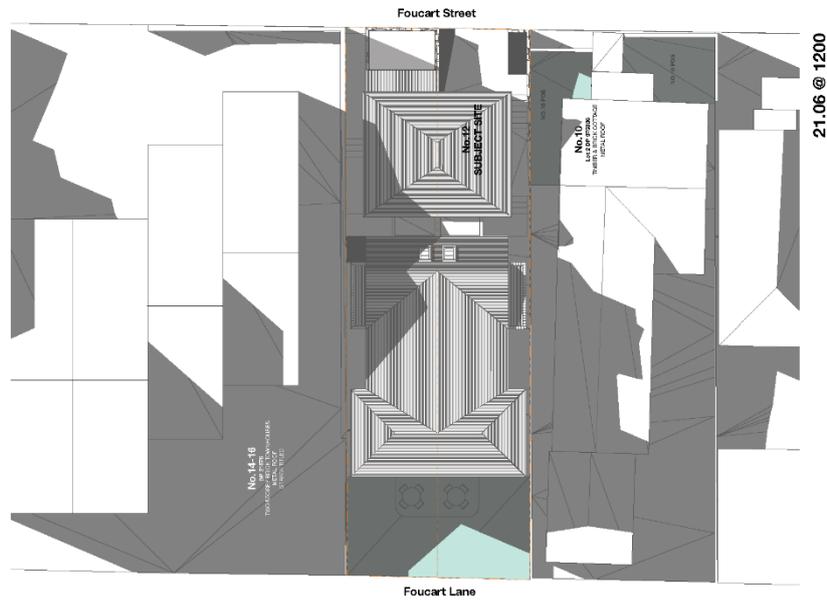
LGA Inner West Council
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 Version: 1, Version Date: 15/02/2023



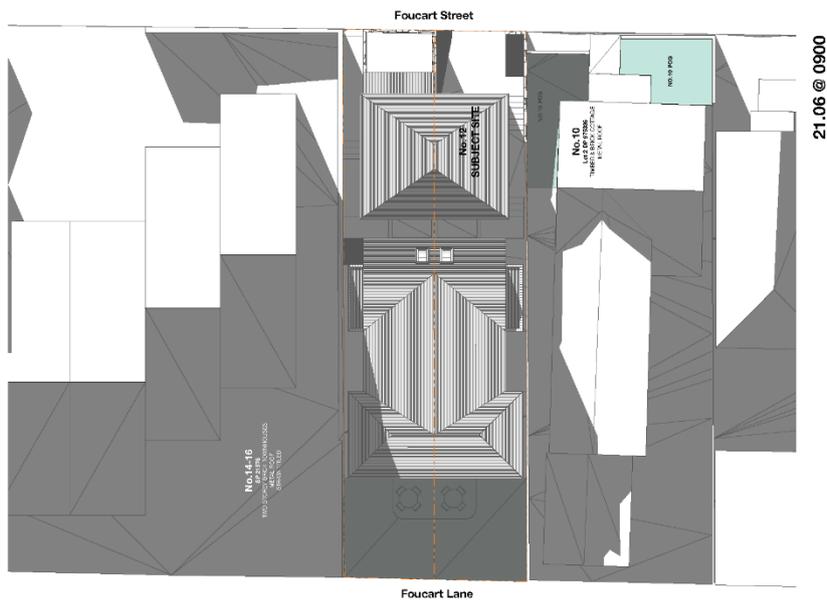
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Revision	B	Scale	NTS
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Client	Lot 1 DP-1132351	Date	JULY 2021
Mourad		monument partnership	



Elevations
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 Version: 1, Version Date: 13/02/2023



21.06 @ 1200



21.06 @ 0900



document participants
 Project No. 2116MCP
 Date November 2022

Scale 1:500 @ A3
 Drawn GM
 Project No. 2116MCP
 Date November 2022

Site address
 12 Foucart Street
 Rozelle NSW
 LGA Inner West Council
 Client Mounsd

Drawing title
Shadow diagrams 0900 - 1200
 Project room
 07 Kitchen
 08 Living
 09 Ensuite
 10 Bedroom
 11 Breakout Room
 Lot area 244.83m²

Legend
 01 Entry
 02 Dining
 03 Bedroom
 04 Terrace
 05 Alfresco
 06 Laundry
 07 Kitchen
 08 Living
 09 Ensuite
 10 Bedroom
 11 Breakout Room

LGA Inner West Council
 Document Set ID: 37463986
 Version: 1, Version Date: 15/02/2023



21.06 @ 1500

LGA
Inner West Council
Council
Document Set ID: 37463986
Version: 1, Version Date: 15/02/2023

Legend

- 01 Entry
- 02 Dining
- 03 Bedroom
- 05 Terrace
- 06 Laundry
- 07 Kitchen
- 08 Living
- 09 Ensuite
- 10 Bedroom
- 11 Breakout Room

Drawing title

Shadow Diagram 1500

Site address
12 Foucart Street
Rozelle NSW
LGA | L21132951
Client
Mourad

Scale
1:500 @ A3

Drawn
GM

Project No.
2116MCP

Date
November 2022

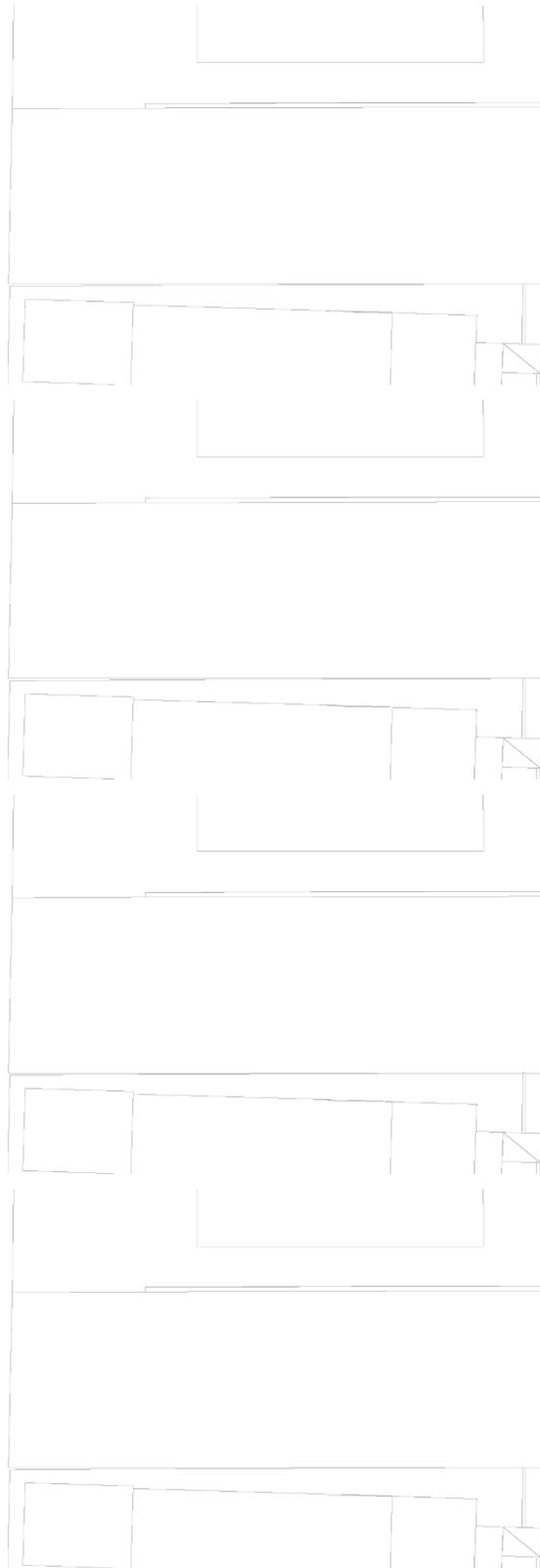
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Site address
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Rozelle NSW
LGA | L21132951
Client
Mourad

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Version: 1, Version Date: 15/02/2023

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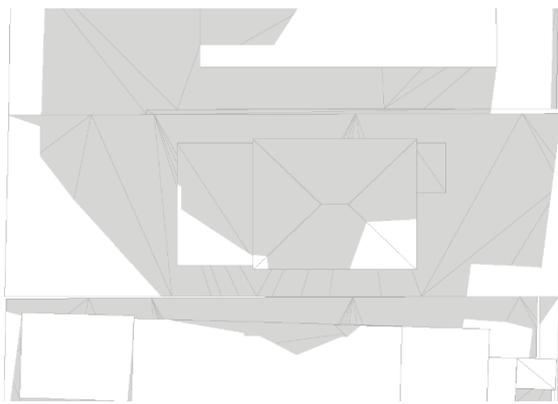
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- 11 Bedroom Room

Drawing title
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Drawing No. 10
Lot area 254.83m²
Project north

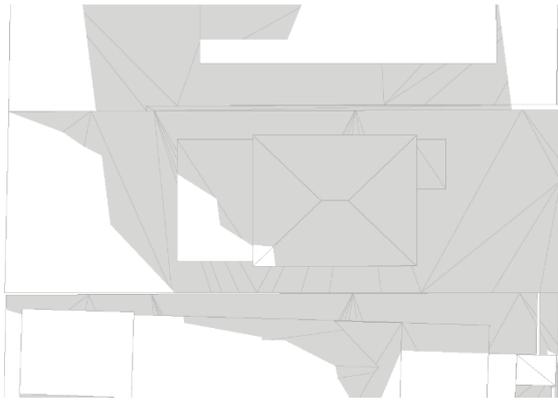
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LGA | L21 | 32951
Client | Mound

Scale @ A3
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Project No. 2116MCP
Date November 2022

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LGA
Inner West Council
Urbanism

Document Set ID: 37463986
Version: 1, Version Date: 15/02/2023

Legend

- 01 Entry
- 02 Kitchen
- 03 Dining
- 04 Bedroom
- 05 Ensuite
- 06 Bathroom
- 07 Bedroom
- 08 Living
- 09 Terrace
- 10 Kitchen
- 11 Breakout Room
- 00 Laundry

Drawing title
Shadow Diagram Existing
Drawing No. 02
Lot area 264.83m²
Project north

Site address
12 Foucher Street
Rozelle NSW
LGA | I21 | 32951
Client
Mourad

Scale 1:200 @ A3
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Project No. 2116MCP
Date November 2022

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Attachment C- Section 4.6 Exception to Development Standard

1

CLAUSE 4.6 VARIATION TO CLAUSE 4.4 – FLOOR SPACE RATIO OF THE LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

1. Introduction

This Clause 4.6 variation letter seeks a variation to Clause 4.4 of the Leichhardt Local Environmental Plan 2013, which relates to the Floor Space Ratio.

This submission has been prepared with regard to the submission of Development Application for the demolition of existing structures and construction of a two-storey dual occupancy with car parking and associated Strata Subdivision at 12 Foucart Steet, Rozelle.

Reference should be made to the architectural plans prepared by Monument Design Partnership which have formed the basis of this submission.

As detailed in this written request for a variation to the floor space ratio for under the Leichhardt Local Environmental Plan 2013, the development meets the requirements prescribed under Clause 4.6 of the Leichhardt Local Environmental Plan (LEP) 2013.

2. Site Background

The subject site is located on the western side of Foucart Street and is bounded to the north by Joseph Street, Lilyfield Road to the south and at the rear by Joseph Lane. The site is legally defined as Lot 1 in Deposited Plan 132351 and is commonly referred to as 12 Foucart Street, Rozelle.

The site is generally rectangular in shape. It provides for a primary frontage to Foucart Street of 9.08 metres and a rear boundary of 8.965 metres in width. The northern side boundary is 27.11 metres and the southern is 27.185 metres. The overall site area is 244.83m².

The subject site is affected by a slope from the rear, western boundary to the front, eastern boundary, being RL18.25 to 15.78 for a difference of 2.47m.

Located on the subject site at present is a one storey hardi-plank cottage with metal roof detached dwelling that addresses Foucart Street. A gate provides access to the rear laneway.

There is no existing dedicated parking space. This dwelling has undergone numerous renovations prior to our client purchasing the site. These renovations have removed numerous original features, for example removing original weatherboard cladding and replacing it with Hardiplank cladding. It is considered that the existing dwelling has minimum heritage features and is proposed for demolition. This will be further discussed later in this statement.

Reference should be made to Figure 1 – Site Location Map.

Figure 1: Site location map



Source: SIX Maps, 2018

Development within the area is typically characterised by low density residential forms, generally of an older housing stock with some sites having modern rear and/or first storey additions. Some examples of contemporary semi-detached development can be seen in the street.

Dwellings in the immediate locality comprise a mix of single and two storeys which are both attached and detached in their nature. Directly adjoining the site to the north is a six-dwelling townhouse development at No.16 Foucart Street. To the south is a single storey dwelling house at No. 10. Opposite the site is a semi-detached development at No. 7 and 7A, No. 9 and 9A, and at No. 11 and No. 11A Foucart Street.

Located within proximity of the site is Easton Park, a large public open space, situated 170m walking distance to the north-east of the site. The site is within 700m walking distance of the Lilyfield Light Rail station, providing connections to the more extensive public transport network.

The subject site is zoned R1 General Residential. The proposed development is permissible with consent in this zone under the Leichhardt Local Environmental Plan 2013. Refer to Figure 2 Land Zoning Map.



Figure 2: Land Zoning Map

Source: Leichhardt Local Environmental Plan 2013

3. Clause 4.6

This submission is made under Clause 4.6 of the Leichhardt LEP 2013 - Exceptions to development standards. Clause 4.6 states the following:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (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*

This submission has been prepared having regard to the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)*
- *Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Environmental Planning Instrument to which this variation relates is the Leichhardt LEP 2013.

The development standard to which this variation relates is to Clause 4.4 – Floor space ratio, which reads as follows:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that residential accommodation—*
- (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
 - (ii) *provides a suitable balance between landscaped areas and the built form, and*
 - (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.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*
- (2A) *Despite subclause (2), the floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential is not to exceed 1:1.*
- (2B) *Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation—*
- (a) *on land shown edged black or pink on the Floor Space Ratio Map is not to exceed—*
- (i) *in the case of development on a lot with an area of less than 150 square metres—0.9:1,*
 - or*
 - (ii) *in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.8:1, or*

6

(iii) in the case of development on a lot with an area of 300 square metres or more but less than 450 square metres—0.7:1, or

(iv) in the case of development on a lot with an area of 450 square metres or more—0.6:1, or

(b) on land shown edged red or green on the Floor Space Ratio Map is not to exceed—

(i) in the case of development on a lot with an area of less than 150 square metres—1.0:1, or

(ii) in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.9:1, or

(iii) in the case of development on a lot with an area of 300 square metres or more but less than 450 square metres—0.8:1, or

(iv) in the case of development on a lot with an area of 450 square metres or more—0.7:1, or

(c) on land shown edged brown on the Floor Space Ratio Map is not to exceed—

(i) in the case of development on a lot with an area of less than 150 square metres—0.8:1, or

(ii) in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.7:1, or

(iii) in the case of development on a lot with an area of 300 square metres or more but less than 450 square metres—0.6:1, or

(iv) in the case of development on a lot with an area of 450 square metres or more—0.5:1, or

(d) on land shown edged yellow on the Floor Space Ratio Map is not to exceed—

(i) in the case of development on a lot with an area of less than 150 square metres—0.9:1, or

(ii) in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.8:1, or

(iii) in the case of development on a lot with an area of 300 square metres or more—0.7:1."

The subject site is identified on the Floor Space Ratio Map as being within Area 7 and edged in yellow. Refer to the map in Figure 3 below.

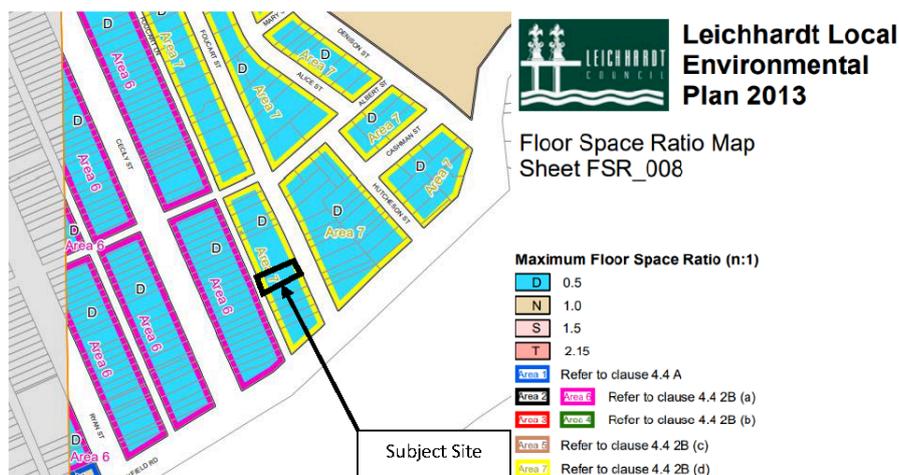


Figure 3: Floor Space Ratio Map

Source: Leichhardt Local Environmental Plan 2013

The subject site area is 244.83m² and thusly in accordance with Clause 4.4 (2B)(d)(ii), the maximum permitted FSR is 0.8:1.

A maximum gross floor area (GFA) permitted is 195.86m². The proposed GFA is 228.69m² (0.93:1).

A written justification is therefore required for the proposed variation to the development standard, in accordance with Clause 4.6 of the Leichhardt Local Environmental Plan 2013.

4. Extent of Non-Compliance

As noted above, in accordance with Clause 4.4 of the Leichhardt Local Environmental Plan 2013 a maximum FSR of 0.8:1 is prescribed to the subject site.

A maximum GFA of 195.86m² is permitted, with a total of 195.86m² being sought for an FSR of 0.93:1. A variation of 32.74m² is proposed over the standard, a variation of 16.7%.

The application before Council only seeks to provide suitable GFA to ensure the highest and best use of a previously underutilised site.

Whilst a variation is sought, the proposed works have no negative impacts to surrounding properties and the broader locality. The majority of the non-compliance is located in the lower ground level, which is not generally discernible from the public domain, as will be detailed within this written justification.

A degree of flexibility is considered reasonable in this instance.

5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of Four2Five, the Commissioner stated within the judgement the following, in reference to a variation:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

First	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i>
Second	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
Third	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
Fourth	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i>
Fifth	<i>A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the floor space ratio standard, the first method is invoked.

The objectives supporting the floor space ratio standard identified in Clause 4.4 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standard would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.4.

- (1) The objectives of this clause are as follows—*
 - (a) to ensure that residential accommodation—*
 - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*

The proposed dual occupancy is compatible with the desired future character of the area in terms of bulk, form and scale. The proposal will be viewed from the public domain as a singular dwelling and include a minimalistic frontage-built form to retain the cottage appearance as viewed from Foucart Street. The remainder of the dwelling is a contemporary addition that is sympathetic to the character of the adjoining dwellings through minimising any adverse privacy impacts and protecting the solar access of adjoining properties.

The proposed dual occupancy has been designed to be compatible with the existing and desired future character through appearing as a single dwelling as viewed from the public domain and protecting the visual and acoustic privacy on neighbouring properties. .

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

Aside from the FSR standard, the best measures of an appropriate balance of landscaped areas and built form are compliance with the landscaped area and site coverage development standards. In this case, the development is compliant with the 20% landscaped area requirement with a total of 52.9m² of landscaped area proposed, or 21.16% of the site area. The development also complies with the maximum site coverage of 60% with a total of 59% (145.40m²).

Further to the above, additional landscaping that does not meet the required 1m in width to be added to the overall calculations has been provided throughout the property to break up the built form and provide natural articulation for the site.

In view of the above, a suitable balance between landscaped areas and built form is achieved regardless of the technical and minor increase in the FSR.

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

As discussed under the (i), the bulk and scale of the dwelling is sympathetic to the existing locality.

As illustrated in the submitted Statement of Environmental Effects the development and its bulk and scale is respectful to adjoining development through maintaining solar access provisions to adjoining sites. The rear box-built form will not be generally discernible from the public domain as viewed from Foucart Street. As previously mentioned, the majority of the non-compliance relates to a lower ground level which does not add any unnecessary bulk or scale to the development.

Inclusive of the variation to the standard, the impact of the bulk and scale of the buildings on the site has been minimised.

(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 proposed development is a dual occupancy, which has been designed to be viewed as a single dwelling as to maintain the desired character of low-scale dwellings in the immediate locality.

Considering the above, the proposed development aligns with the objectives of Clause 4.4.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard.

6. Are there Sufficient Environmental Planning Grounds?

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory. Moreover, the additional floor area does not create additional environmental impacts, including but not limited loss of solar access to neighbouring properties, visual or acoustic privacy, visibility and bulk and scale.

As illustrated in the SEE, the additional overshadowing impact is negligible as specially No. 10 Foucart Street is significantly overshadowed by its own devices. No impact from our development is felt to the passive recreational areas.

The works, however, will enhance intensity, density, usability, functionality and design excellence than the previously underutilised structure and land use on the site.

It is submitted that a positive planning outcome will result through improved amenity to the existing dwelling without compromising those of the surrounding properties. Generally, and inclusive of the variation, the proposal is considered to provide an appropriate bulk, scale, alignment, and architectural features which positively contribute to the Rozelle locality. The additional floor space has not jeopardised this outcome.

In this case, strict compliance with the development standard within the Leichhardt Local Environmental Plan 2013 is unnecessary and unreasonable.

7. Is the Variation in the Public Interest?

Clause 4.6 states that development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.4.

Contextually the building has regard to surrounding properties and is considered to provide a positive outcome of improving enhance intensity, density, usability, functionality and design excellence than the previously underutilised structure and land use on the site without compromising those of the neighbouring properties or the public domain.

Furthermore, it is important to also consider the objectives of the R1 General Residential zone in relation to the development. Each objective is addressed individually to demonstrate the objectives have been met.

Zone R1 General Residential

Objectives of zone

- *To provide for the housing needs of the community.*

The proposed Dual Occupancies will provide for a greater supply of housing to meet the growing needs of the community.

- *To provide for a variety of housing types and densities.*

The proposed Dual Occupancies will provide a well sought-after variety of housing types and continue to provide for low-density housing needs of the Inner West.

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

There are no other land uses proposed as part of this application. The proposed land use does not impact other land uses from providing facilities or services to meet the day to day needs of residents.

- *To improve opportunities to work from home.*

Each dwelling has ample space to be utilised as desk space to improve opportunities for residents to work from home.

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*

The proposal is compatible with the existing and desired character of the locality, through providing a dual occupancy that is well suited to the locality. The proposal retains the original cottage form of the existing dwelling albeit a more contemporary version.

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

The proposal provides a rear yard for both proposed dwellings that provides adequate landscape area for the use and enjoyment of future residents of the site.

- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*

No changes are sought to the subdivision pattern. The proposed strata subdivision of the site retains the existing subdivision character along Foucart Street.

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

The proposal serves to enhance the amenity of the existing and future residents of the site, while also protecting the amenity of those adjoining. Shadow diagrams have been prepared demonstrating a minimal impact while maintaining compliance with controls, and no privacy concerns are raised.

The proposed development therefore meets the objectives of the zone.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard, noting the development will be in the public interest.

8. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard.

The proposal provides improvements to the amenity of the existing dwelling and studio without comprising the amenity of the surrounding development or the public domain. The limited to no consequence of the variation to the standard ensures that the standard and its objectives are not eroded but preserved.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

The departure from the floor space ratio control within the Leichhardt LEP 2013 allows for the orderly and economic development of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

9. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 5 and 6 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the Leichhardt LEP 2013 in that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standard;
- The development meets the objectives of the standard to be varied and objectives of the R1 General Residential zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the character of the locality, predominantly being dwelling house with rear two storey ancillary structures.

Based on the above, the variation is considered to be well founded.

10. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

***Note.** When this plan was made it did not include any these zones.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4*
- (caa) clause 5.5.”*

This variation does not relate to the subdivision of land in the stated land use zones. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate is submitted with this application.

Clause 5.4 does not apply to the proposal.

Clause 5.5 does not apply to the proposal.

11. Conclusion

The proposal does not strictly comply with the maximum floor space ratio prescribed for the subject site as detailed in Clause 4.4 of the Leichhardt Local Environmental Plan 2013. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the Leichhardt Local Environmental Plan 2013 are satisfied as the breach to the standard does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of Clause 4.6 of the Leichhardt Local Environmental Plan 2013 to vary this development standard is appropriate.

Based on the above, it is sensible to conclude that strict compliance with the maximum floor space ratio development standard is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Should you have any questions, please do not hesitate to contact me.



James Corry
Town Planner
GAT & Associates
Plan 3300

Attachment D – Heritage Impact Statement

STATEMENT OF HERITAGE IMPACT

Proposed Development at

**12 Foucart Street
Rozelle**



Job No. 9800
December 2022

Heritage 21
CULTURAL BUILT HERITAGE IN THE 21ST CENTURY

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Statement of Heritage Impact - 12 Foucart Street, Rozelle

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Acknowledgement of Country

Heritage 21 wishes to acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and community. We pay our respects to them and their cultures; and to elders both past and present.

Cover page: Subject site at 12 Foucart Street, Rozelle, from Foucart Street looking to front façade. (Source: Heritage 21, 10.10.2021)

The following Table forms part of the quality management control undertaken by Heritage 21 regarding the monitoring of its intellectual property as issued.

Issue	Description	Date	Written by	Reviewed by	Issued by
1	Draft report (D1) issued for comment (Job no.9326)	8.11.2021	NO	PR	KM
2	Report Issued (RI) (Job no. 9326)	16.11.2021	NO	-	KM
3	Draft report (D1) issued for comment. (Job no. 9800)	10.12.2022	NO	PR	MO
4	Report Issued (RI) (Job no. 9800)	09.12.2022	NO	-	KM

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Statement of Heritage Impact • 12 Foucart Street, Rozelle

1.0 INTRODUCTION

1.1 Background

This Statement of Heritage Impact ('SOHI' or 'report') has been prepared on behalf of Monument Environments who have been engaged by the owner of the site to submit a development application for a new development at the site.

In November 2021, Heritage 21 prepared a Statement of Heritage Impact as part of Development Application (DA) DA-2022/031, for the proposed demolition of the existing dwelling and construction of a dual occupancy and strata subdivision located at 12 Foucart Street, Rozelle ('subject site'). The Statement of Heritage Impact has been amended to assess the impact of the revised proposal in response to Inner West Council's request for additional information, dated 25 October 2022.

1.2 Site Identification

The subject site is located at 12 Foucart Street, Rozelle, which falls within the boundaries of the Inner West Council Local Government Area (LGA) and it comprises Lot 1 DP1132351. As depicted in Figure 1 below, the site is located on the western side of Foucart Street, north of the intersection with Lilyfield Road. The overall site is rectangular in configuration and is oriented in a north-east, south-west direction. The site has built upon it a single storey cottage. The setting and topography of the site will be more fully described in Section 3.0 below.



Figure 1. Contemporary aerial view of the site highlighted in yellow and surrounding urban environment (Source: NSW Land and Property Information, 'SIX Maps', n.d., <http://maps.six.nsw.gov.au/>, annotated by Heritage 21).

Statement of Heritage Impact • 12 Foucart Street, Rozelle

1.3 Heritage Context

1.3.1 Heritage Listings

The subject site is **not** listed as an item of environmental heritage under Schedule 5 of the Leichhardt Local Environmental Plan 2013 ('LLEP').

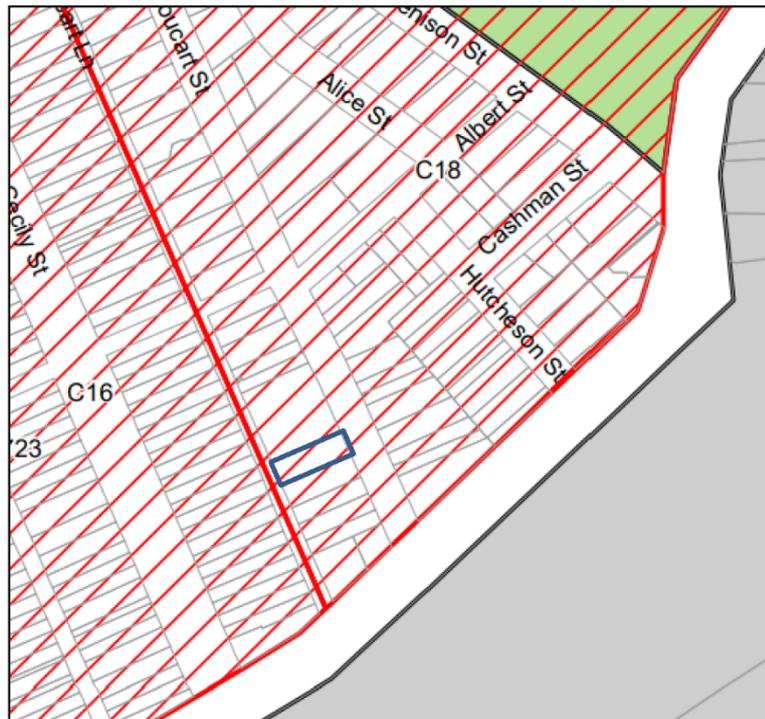


Figure 2. Detail from Heritage Map HER_008 the subject site is indicated by the blue outline and heritage items, some of which are within the vicinity of the site, are marked brown. The Easton Park HCA is cross hatched red (Source: NSW Legislation Online, <http://www.legislation.nsw.gov.au/#/view/epi/2013/313/maps>).

1.3.2 Heritage Conservation Areas

As depicted in Figure 2 above, the site is situated within the boundaries of the Easton Park Heritage Conservation Area C18 ('the HCA'), listed under Schedule 5 of the LLEP.

Properties located within the HCA fall into one of the three following classifications:

- Contributory Item – the property makes a positive contribution to the character and heritage significance of the HCA.
- Neutral Item – the property does not contribute nor detract from the character and heritage significance of the HCA.
- Non-Contributory Item – the property detracts from the character and heritage significance of the HCA.

Statement of Heritage Impact - 12 Foucart Street, Rozelle

The Leichhardt Development Control Plan, 2013 ('LDCP') has not classified the subject site. However, it is Heritage 21's assessment that the existing single-storey dwelling is a neutral item within the Easton Park HCA (refer Section 4.2.1).

1.3.3 Heritage Items in the Vicinity

As depicted in Figure 2 above, there are no heritage listed items or heritage conservation areas situated in the vicinity of the subject site.

1.4 Purpose

The subject site is located within the Easton Park Heritage Conservation Area, which is listed under Schedule 5 of the LLEP. Sections 5.10(4) and 5.10(5) of the LLEP require Inner West Council to assess the potential heritage impact of non-exempt development, such as the proposed works (refer to Section 5.0), on the heritage significance of the abovementioned heritage conservation area and, also, to assess the extent (whether negative, neutral or positive) to which the proposal would impact the heritage significance of that heritage conservation area. This assessment is carried out in Section 6.0 below.

Accordingly, this SOHI provides the necessary information for Council to make an assessment of the proposal on heritage grounds.

1.5 Authors

This Statement of Heritage Impact ('SOHI' or 'report') has been prepared by Nicole O'Connell and overseen by Paul Rappoport, of Heritage 21, Heritage Consultants.

1.6 Limitations

- This SOHI is based upon an assessment of the heritage issues only and does not purport to have reviewed or in any way endorsed decisions or proposals of a planning or compliance nature. It is assumed that compliance with non-heritage aspects of Council's planning instruments, the BCA and any issues related to services, contamination, structural integrity, legal matters or any other non-heritage matter is assessed by others.
- This SOHI essentially relies on secondary sources. Primary research has not necessarily been included in this report, other than the general assessment of the physical evidence on site.
- It is beyond the scope of this report to address Indigenous associations with the subject site.
- It is beyond the scope of this report to locate or assess potential or known archaeological sub-surface deposits on the subject site or elsewhere.
- It is beyond the scope of this report to assess items of movable heritage.
- Heritage 21 has only assessed aspects of the subject site that were visually apparent and not blocked or closed or to which access was not given or was barred, obstructed or unsafe on the day of the arranged inspection.

Statement of Heritage Impact • 12 Foucart Street, Rozelle

1.7 Copyright

Heritage 21 holds copyright for this report. Any reference to or copying of the report or information contained in it must be referenced and acknowledged, stating the full name and date of the report as well as Heritage 21's authorship.

Statement of Heritage Impact - 12 Foucart Street, Rozelle

2.0 HISTORICAL CONTEXT

2.1 Local History

2.1.1 Pre-European Settlement

Traditional owners of land in this area were the Gadigal and Wangal groups of the Eora nation. The area adopted the name of Wanne County after the Wangal group and originally extended from what are now Balmain and Birchgrove to Auburn and Silverwater, with the Parramatta River to the north.

2.1.2 General Historical Development

Rozelle forms part of the Balmain peninsula. The suburb of Rozelle is located four kilometres west of Sydney city on Victoria Road between Iron Cove and Rozelle Bay. The name of the suburb is thought to derive from the wild native parrot, the rosella. Early European settlers called the birds 'Rose Hill parrots' as they were common around Rose Hill, near Parramatta. The name eventually became 'rosehiller', then 'rosella'. The parrots were also common in the bay near the modern suburb of Rozelle, which became known as 'Rozella', later Rozelle Bay.

The suburb of Rozelle was included in the 550-acre land grant issued to colonial surgeon, William Balmain, on 26 April 1800 by Governor Hunter; at this time the area was known as Gilchrist Place. Balmain arrived in NSW on board the convict transport *Alexander* with the First Fleet.¹ He was given the land, amongst other parcels, for civic responsibility and excellence. Balmain acted as magistrate, customs collector and gentleman farmer as well as serving as a member of the Orphan House Committee. In 1801, Balmain transferred ownership of the 550 acres to John Borthwick Gilchrist for a token sum in a surreptitious manner. It is believed that this was payment to Gilchrist for debts incurred through illegal trade. Gilchrist possibly aided Balmain to acquire goods from India such as sugar and tea and other basic supplies.²

¹ Reynolds, P. & Irving, R., 1971, *Balmain in Time: A Record of an Historic Suburb and some of its Buildings*, p. 5.

² Reynolds, P. & Flottmann, P.V., 1976, *Half a Thousand Acres: Balmain, a history of the land grant*, p. 29.

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Figure 3. Willian Balmain By Richard Earlom (Source: National Library of Australia)

Balmain died in 1803 and his heir advertised the first sale and subdivision of 22 lots of the *Balmain Estate* in 1836.³ Gilchrist died in 1841. The secret holding of the property by Gilchrist was unknown to Balmain's family and heirs and legal debates ensued for several years. Gilchrist's heirs discovered that the land was to be used "...for the benefit, and advancement, and propagation of education and learning in every part of the world." The trustees of the *Gilchrist Estate* sold allotments of land for a 30-year period dating from 1852.⁴

At the time of European invasion, the shores of the Rozelle area were thickly lined with iron bark trees, giving the locale its original name, Iron Bark Cove. Ferries were used to cross the cove before a bridge was opened in 1882, connecting Drummoyne and Rozelle. Afterwards the cove and bridge became simply, Iron Cove, the reference to the iron bark trees lost.⁵

The channel of Rozelle Bay is a greater depth than neighbouring harbours, so it was a perfect location for timber-handling wharves. Imported logs of timber floated in the bay. Timber yards lined the shores; sawmills operated beside the wharves, as did other related industry, including furniture manufacturers. In c.1920 a viaduct was constructed at the head of Rozelle Bay for the goods railway.⁶

³ Ibid, p. 58.

⁴ Ibid, p. 65.

⁵ Pollon, F., (Compiler), 1996, *The Book of Sydney Suburbs*, p. 231.

⁶ Lawrence, J. & Warne, C., 1999, p. 68.

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Rozelle Hospital has been a major local institution in the area for over 120 years. Occupying a large site south of the Iron Cove Bridge, the psychiatric centre was established in the late 1870s when *Callan Park* was purchased to ease the overcrowding at the Gladesville asylum. The house known as *Callan Park* was constructed in 1839 by John Brenan and called *Garry Owen House*. The mansion was purchased by John Gordon in 1864 and the name changed. James Barnett designed a complex around the house for the institution; this was completed in 1885. The grounds were laid out by Charles Moore then curator of the Botanic Gardens. Another house of Brenan construction, *Broughton Hall*, was used during WWI as a hospital for shell shocked soldiers. It was acquired by the Commonwealth Government in 1918 and became a psychiatric clinic in 1921. This is now a state-owned property and is part of Rozelle Hospital.⁷

The establishment of the Callan Park Mental Hospital brought many new residents to the suburb of Rozelle. Mechanics and artisans moved into the locality to work on the construction of the hospital creating demand for local accommodation. Local subdivision resulted in quick development. The Rozelle Public School opened in 1878 to cater for the ever-increasing working-class population. The original building was designed by J. Horbury Hunt.⁸

From the mid-19th century Rozelle, like nearby Balmain, took on an increasingly industrial aspect. In 1854 Thomas Sutcliffe Mort established a drydock in Waterview Street, Balmain and later introduced coal sheds, engineering shops and ship-building yards. This, associated with the timber industry of Rozelle Bay, changed the character of the district which was previously somewhat isolated. Between 1870 and 1880 the local population increased 150 percent. The area was associated with timber, engineering, the waterfront, Glebe Island abattoir as well as Callan Park hospital. Houses built in the community were more commonly made of timber rather than brick⁹ and this served to distinguish the area as predominantly working class.

During the 1920s the pursuit of the suburban dream of freestanding homes and gardens saw many families from the inner suburbs of Sydney relocate to the outer suburbs to capture the dream and escape the pollution and high-density living of the industrialised areas. As a result, the population of Rozelle declined for several years and it developed a stigma as a 'slum suburb'. In 1936 a planning ordinance was developed to mitigate the suburbs further urban decay. This plan aimed to demolish and rebuild according to specific guidelines.¹⁰ The post-war era saw a change in the locality with signs of rejuvenation facilitated by the Cumberland Planning Scheme.¹¹ Gentrification of the locality was recommenced in the 1960s.¹² The 'slum' stigma was gone by the end of the 1970s.

⁷ Pollon, F., (Compiler), 1996, pp. 231 – 232.

⁸ Lawrence, J. & Warne, C., 1999, pp. 70 - 72.

⁹ Ashton, P., et al, 2000, *Sydney takes Shape: A History in Maps*, p. 32.

¹⁰ Spearrit, P., 1999, *Sydney's Century: a history*, p. 70.

¹¹ Reynolds, P., et al, 1971, p. 4.

¹² Hughes, J., (Ed), 1999, *Demolished Houses of Sydney*, p. 97.

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Figure 4. Weston Road, Balmain from Darling Street towards Sydney before reconstruction (Source. Government Printing Office, State Library of NSW)



Figure 5. Rozelle Post Office at the crossing of Weston Road and Darling Street, 1895 (Source. Inner West Council Library)

2.1.3 Balmain Estate

Surgeon William Balmain was granted 550 acres and most of the area now encompassing Balmain and parts of Rozelle and Birchgrove in 1800. In 1801 the entire grant was transferred to fellow surgeon John Gilchrist. Gilchrist never actually lived in NSW and advertised the land for sale in 1823. However, the sale was not a success. He gave power of attorney to his Sydney-based agent and merchant, Frank Parbury, who commissioned Surveyor John Armstrong to subdivide part of the land. This subdivision and sale of this land took place in 1836 and commenced from the eastern end of the suburb (East Balmain) due to its proximity and convenient water access and later spread west. The early subdivision was suspended in 1841 due to difficulties associated with Gilchrist's will but was resumed in 1852 when Surveyor Langley divided it into 46 later 47 sections. Langley used existing routes such as Darling Street and other tracks such as Beattie and Mullens Streets, which followed the local topography and contours, to delineate the parcels. The sections were purchased over the next 30 years by wealthy investors, local speculators and builders.

2.2 History of the Subject Site

The subject site was originally part of William Balmain's 550-acre grant which was in its entirety transferred to John Gilchrist in 1801. This land was referred to as the Balmain Estate. The remainder of Gilchrist's unsold land was subdivided into 46 sections in 1852.¹³

The site is located in the part of Rozelle that was within the 1852 land release of the Balmain Estate, being part Section 22 (refer Figure 6). The site is part of Lot 11 of the Brockleigh (Brockley) Estate, a subdivision made by Mr. Hancock and Mr. Foucart of the Balmain Estate.

¹³ Inner West Council. 'The Valley (Rozelle and Balmain)', Heritage Conservation Areas, n.d., <https://www.innerwest.nsw.gov.au/develop/planing-controls/heritage-and-conservation/heritage-conservation-areas>.

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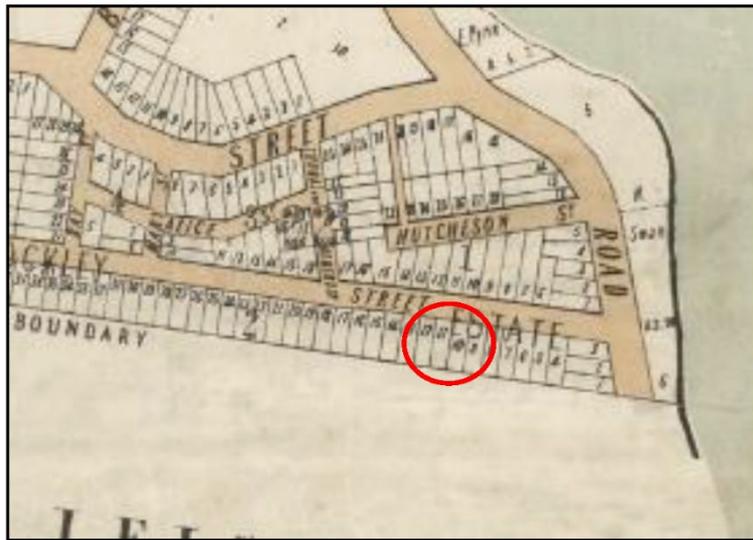


Figure 6. Detail from Higinbotham, Robinson & Harrison's commercial map of the Municipality of Balmain published in 1883. The survey depicted the extent of suburban subdivision that occurred after 1852 in this western part of Balmain. At Glebe Island was the government abattoir. (Source: State Library of New South Wales (Z/ M4 811.1821/1883/1)

T R. SMITH has received instructions from the
 • Burwood Land Building and Investment Company to
 sell by auction, on the Ground, **SATURDAY, February 23, at**
 3 o'clock sharp,

133 LOTS.
 19 allotments of Brockley Estate, Balmain
 44 ditto of Orange Grove Estate, Garryowen, Balmain
 70 allotments of Leichhardt Hill Estate, fronting
 Catherine, Piper, and other streets.

Terms, £1 per lot deposit.
Balance, 72 equal monthly payments.
Interest, 6 per cent.

**The sale will commence corner of Catherine and Piper
 streets, Leichhardt, close to North Annandale Estate, at 8
 o'clock sharp.**

Figure 7. SMH 14 Feb 1889 Advertising sale of 19 allotments of Brockley Estate (Source: Trove)

Historically, the properties in this part of Balmain were associated with the maritime industries and rail yards beside Rozelle Bay that developed from the 1910s.

Statement of Heritage Impact • 12 Foucart Street, Rozelle

Land Title records sourced from the NSW Land and Registry Services website show that in 1885 Robert Cassidy purchased Lot 11 from Dr Louis Foucart. It is noted from the record that in 1921 a probate of will for Ellen Cassidy, wife of Robert Cassidy, is recorded (refer Figure 8).

THE SCHEDULE HEREBINFORM REFERRED TO.		
12th January	1885	Conveyance, Dr. Louis Foucart & Anor to Robert Cassidy Reg. No. 213 Book 302.
12th January	1885	Mortgage, Robert Cassidy to The Trustees of St. Joseph's Investment and Building Society Reg.No. 214 Book 302.
10th March	1897	Discharge of above mortgage endorsed thereon Reg. No. 389 Book 595.
21st September	1885	Conveyance of Equity of Redemption, Robert Cassidy to Michael McNamara Trustee for Mrs. Cassidy Reg.No. 894 Book 323.
2nd April	1908	Mortgage, Ellen Cassidy to The Trustees of St. Joseph's Investment and Building Society Reg. No. 760 Book 852.
9th July	1921	Discharge of above mortgage endorsed thereon Reg. No. Book
2nd August	1887	Conveyance, Alfred Hancock and Ors. to Michael McNamara Reg. No. 889 Book 368.
21st March	1905	Conveyance, Michael McNamara to Mrs. Ellen Cassidy Reg. No. 711 Book 777.
18th May	1921	Probate of Will of Ellen Cassidy deceased No. 106627.

Figure 8. 1867 Land Title Record Vol. 45 Folio. 123 (Source: NSW Land Registry Services, *Historical Land Records Viewer*, <https://hlrv.nswlrs.com.au/>).

No 12 Foucart Street is first listed in the Sands' Directory in 1931, with the listed occupant being Mrs Priscilla Fisher (refer Figure 11).

	8 Hobbs Mrs. S.	
	10 Cassidy Robert	
	12 Fisher Mrs. Priscilla	
	16 Woodford John H.	
	18 Cooar Julius H.	

Figure 9. Sands Directory listing for 1931 (Source: City of Sydney Archive)

The architectural detailing of the existing dwelling is consistent with a construction date of the early 1930s.

A comparison between aerial images of the building from 1943 and contemporary images indicates that the rear of the dwelling has been modified. In addition, it is also noted that the front portico and raised entrance is absent in the 1943 image (refer Figure 10 and 11).

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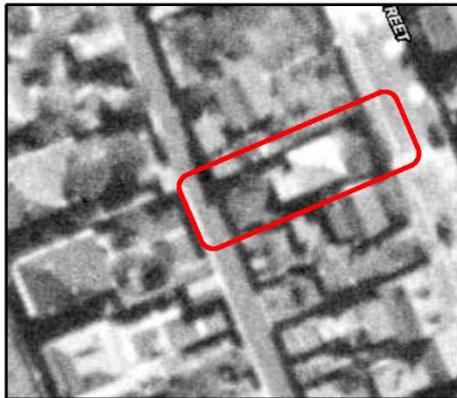


Figure 10. Aerial image of the subject site, 1943 (Source: Six Maps).



Figure 11. Contemporary image of the subject site (Source: Six Maps).

Bordering to the north of 12 Foucart Street are a group of six townhouses constructed during the 1980s. The fencing/ garage facades facing Foucart Street in front of 16 Foucart Street also appear to incorporate remnant sandstone blocks (refer Figure 12).



Figure 12. Recently constructed townhouses at 16 Foucart Street, Rozelle, 1989 (Source: Getty Images)

3.0 PHYSICAL EVIDENCE

3.1 The Setting

The site is located at 12 Foucart Street, Rozelle. The suburb of Rozelle is located 4 kilometres west of the Sydney central business district.

3.2 Physical Description

The subject site No. 12 Foucart Street is located on the west side of the street between Lийfield Road and Albert Street. The site is occupied by a small, freestanding elevated cottage. The existing house is of timber construction, with masonite hardiplank cladding. The roof is a relatively new corrugated metal sheeting and windows largely aluminium framed. The house appears to be partly intact in form and layout but has been altered with much of the original fabric removed or replaced.

A comparison between aerial images of the building from 1943 and contemporary images indicates that the rear of the dwelling has been modified. In addition, it is also noted that the front portico and raised entrance is absent in the 1943 image. The cottage is elevated and sits on sandstone block piers.

The front door is located on the north side and opens to a hallway with access to the main bedroom from the left. The hallway leads to the living/ kitchen area. A second smaller bedroom, bathroom and laundry occupy the rear of the dwelling.

Internally the floorboards are timber and appear to be original. The brick fireplace in the lounge room appears to be original, however the hearth and fireplace itself are a recent modification. The timber frieze between the living and hall appears to be original, however it is evident that a timber frieze between the living and kitchen has been removed. The walls and ceilings appear to be largely fibro.

Additions were carried out to the subject dwelling in the early 1980s including the construction of a bedroom to the rear and carport (BA 21623). The file describes the dwelling as being clad in Weather Tex for the exterior walls and galvanised iron for the roof.

3.3 Condition and Integrity

It is the understanding of Heritage 21 that a Structural Report has not as yet been prepared. However, during the site inspection and subsequent discussions with the owner it is our observation and understanding that the dwelling is highly susceptible to mould and dampness.

The current building envelope has retained some legibility of the original footprint and scale of the residence. However, the impact of poor construction techniques, low quality materials and a general lack of maintenance has overtime greatly affected the structure and finishes of the building. The internal linings have been largely replaced along with the doors and windows. The house would have been quite modest when built but now has little amenity and is in average condition.

Some of the works are reversible but, considering its condition, these are unlikely to be carried out without considerable replacement of fabric. Much of the house has fibro linings that may contain asbestos and would require replacement. Any works to the house to upgrade it to current standards would likely involve considerable change.

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3.4 Views

The subject site is a readily visible item within the context of the Easton Park HCA. As depicted in Figure 2 above, the primary view lines to the primary elevation of the site are made from Foucart Street and the Easton Park HCA. The proposed works would be visible from this perspective and would alter views from the site to those places.

The secondary view lines into the rear and side elevations of the site are made from Foucart Lane and within the Easton Park HCA. These secondary view lines would be affected by the proposal.

Accordingly, the impact of the proposal on the Easton Park HCA is discussed in the Heritage Impact Assessment below.

3.5 Images

The following photographs have been taken by Heritage 21 at the site inspection undertaken on 11 October 2021, unless stated otherwise.



Figure 13. View of the subject dwelling looking west towards the front façade.



Figure 14. View of the subject dwelling looking west towards front façade.



Figure 15. View of the subject site from Foucart Street looking west showing the front sandstone fence which may date from an earlier occupation of the site.

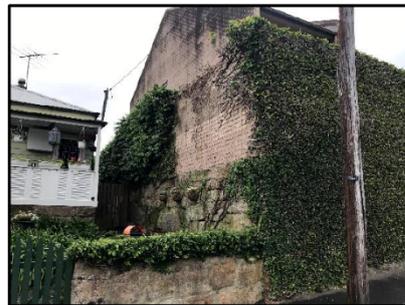


Figure 16. View looking west from Foucart Street, showing the façade of the subject dwelling and the adjacent townhouses at 16 Foucart Street.

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Figure 17. Internal view of the subject dwelling showing the main bedroom.



Figure 18. Internal view of the subject dwelling showing the kitchen/ living area.



Figure 19. Internal view of the subject dwelling showing fireplace.



Figure 20. View from the rear of the site looking east towards the rear elevation of the subject dwelling, showing rear extension.



Figure 21. View of the subject dwelling showing the side southern elevation.



Figure 22. View from within Foucart Lane showing the mixed character of the rear lane.

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Figure 23. View from within Foucart Lane showing the character of the rear lane.



Figure 24. View from Foucart Street of the recent infill development located opposite the subject site.



Figure 25. View from Foucart Street showing the varied streetscape character of the Easton Park HCA.



Figure 26. View from Foucart Street showing typical single storey Victorian-era cottages.



Figure 27. View from Foucart Street of the recent infill development located opposite the subject site.

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4.0 HERITAGE SIGNIFICANCE

In order to assess the impact of the proposed works on the heritage significance of the Easton Park HCA (in which the subject site is located), it is necessary to first ascertain the heritage significance of the places. Accordingly, Statements of Significance for the Easton Park HCA (refer to Section 4.1.1) is provided below. The significance of these places, will form part of our considerations in the assessment of heritage impact, undertaken in Section 6.0 below.

4.1 Established Significance

4.1.1 The Easton Park HCA

While the significance of the site has not been assessed by Heritage 21, the following Statement of Significance for the Easton Park HCA, dated 21 March 2012 is an extract from Inner West Council:¹⁴

One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area illustrates development of workers' and tradesmen's housing from the 1880s-1930s in response to nearby industry. It is significant for its surviving development from the pre-World War II period (ie pre-1939).

In its now rare weatherboard buildings, it can continue to demonstrate the nature of an important/major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards in Whites Bay.

Through the mixture of shops, and nearby industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.

Of aesthetic value for the valley siting and mature plantings of Easton Park, and the relationship of adjoining and enclosing anchor buildings with verandahs such as the playground which overall make a positive contribution to the local area.

It demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

4.2 The Subject Site

4.2.1 Assessment of Significance

In order to make an assessment of whether or not the proposed development to the subject site would have either a negative, neutral or positive impact upon the significance of the subject place, it is necessary first to ascertain the significance of the subject site. The assessment is based upon criteria specified by the NSW Office of Environment and Heritage.¹⁵

Criterion	Assessment
A. Historical Significance <i>An item is important in the course, or pattern, of NSW's (or the local area's) cultural or natural history.</i>	12 Foucart Street is an example of a single storey cottage erected in the early 1930s. The area illustrates development of workers' and tradesmen's housing from the 1880s-1930s in response to nearby industry. However, the house is not a good representation of the development of the area and

¹⁴ <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1940802>

¹⁵ NSW Office of Environment and Heritage, 'Statements of Heritage Impact' (Heritage Office and Department of Urban Affairs & Planning, 1996), NSW Heritage Manual, <http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/hmstatementsofhi.pdf>.

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Criterion	Assessment
	<p>has no known connections with historically important activities and processes.</p> <p>The site includes an early sandstone fence.</p> <p>Accordingly, the subject site (dwelling) does not attain the requisite standard of significance under this criterion. The front stone fence has contributory value in terms of historical significance.</p>
<p>B. Associative Significance <i>An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's (or the local area's) cultural or natural history.</i></p>	<p>There is no known significant human occupation or any event, person or group of importance that lived in the residence or who were associated with it since its construction.</p> <p>Accordingly, the subject item does not attain the requisite standard of significance under this criterion.</p>
<p>C. Aesthetic Significance <i>An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (or the local area).</i></p>	<p>The house is a modest and modified example of an early 1930s Inter War cottage and has no architectural features of note. The front and rear have been altered and the external weatherboards and most of the interior replaced or overlaid. Removal of the original cladding is an unsympathetic incremental change that has reduced its heritage significance.</p> <p>Additionally, the building cannot be said to be of any particular creative achievement – the materials and finishes used for the dwelling were very common at the time. The building is not considered a landmark or important example of an Inter War cottage.</p> <p>It is noted that the front sandstone fence has some aesthetic interest which increases the potential for the site to be contributory to the HCA.</p> <p>Notwithstanding the site's contributory characteristics to the Easton Park HCA, which is of some aesthetic interest, the dwelling in its totality does not meet the threshold to be assessed as demonstrating aesthetic significance.</p> <p>Accordingly, the subject site (dwelling) does not attain the requisite standard of significance under this criterion.</p>
<p>D. Social Significance <i>An item has a strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.</i></p>	<p>To our knowledge, the subject site has no known association with an identifiable group in the area or was used by a particular community for social, cultural or spiritual purposes.</p> <p>Accordingly, the subject item does not attain the requisite standard of significance under this criterion.</p>
<p>E. Technical/Research Significance <i>An item has potential to yield information that will contribute to an understanding of NSW's (or the local area's) cultural or natural history.</i></p>	<p>There is no evidence to suggest that the building demonstrates construction techniques other than those commonly employed at the time.</p> <p>It is noted that the front sandstone fence holds the potential to yield further information.</p> <p>Notwithstanding the site's contributory characteristics to the Easton Park HCA, the dwelling in its totality does not meet the threshold to be assessed as demonstrating technical/ research significance. The front sandstone fence does have contributory value in terms of technical/ research significance.</p>
<p>F. Rarity <i>An item possesses uncommon, rare or endangered aspects of NSW's (or the local area's) cultural or natural history.</i></p>	<p>Inter War cottages are not currently rare in Sydney and there are numerous more intact examples in the surrounding area.</p> <p>Accordingly, the subject item does not attain the requisite standard of significance under this criterion.</p>

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Criterion	Assessment
<p>G. Representativeness <i>An item is important in demonstrating the principal characteristics of a class of NSW's (or the local area's) cultural or natural places or cultural or natural environments.</i></p>	<p>The subject building does not showcase important principal characteristics of a class within Rozelle's cultural or natural places or environment.</p> <p>Accordingly, the subject item does not attain the requisite standard of significance under this criterion.</p>

4.2.2 Statement of Cultural Significance

12 Foucart Street is an example of a modest single storey cottage erected in the early 1930s in an area that illustrates the development of workers' and tradesmen's housing from the 1880s – 1930s in response to nearby industry. However, the subject dwelling is not considered a good representation of the development of the area and has no known connection with historically important activities and processes. Further, it is one of the later dwellings in the street, with other more intact dwellings being more representative of the time period.

The house is a modest and modified example of an early 1930s Inter War cottage. The front and rear have been altered. Removal of the original cladding is an unsympathetic incremental change that has reduced its heritage significance and potential to be contributory to the conservation area.

The site (building) does not have any known significant associations with historical people or socio-cultural groups, nor does it exhibit the potential to yield any significant information that could contribute to a new understanding of the cultural history of the area.

The front sandstone fence is considered to have contributory value in terms of historical, aesthetic and technical/ research significance.

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5.0 WORKS PROPOSED

5.1 Proposal Description

The proposed development would include:

- Demolition of all existing structures;
- Proposed subdivision of the subject site into two allotments;
- Construction of single-storey terraces, with two-storey rear additions; and
- Landscaping works, including modifications to the front sandstone fence.

5.2 Drawings

Our assessment of the proposal is based on the following drawings by Monument Design Partnership dated November 2022 and received by Heritage 21 on 7 December 2022. These are reproduced below for reference only; the full set of drawings accompanying the development application should be referred to for any details.

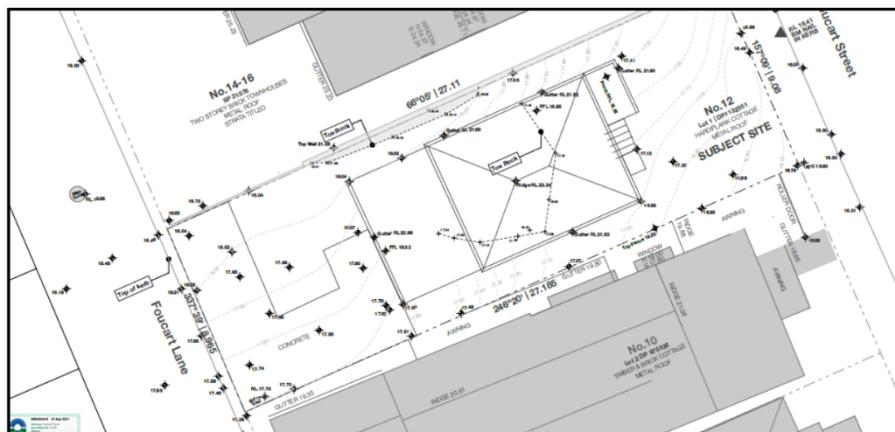


Figure 30. Survey Plan

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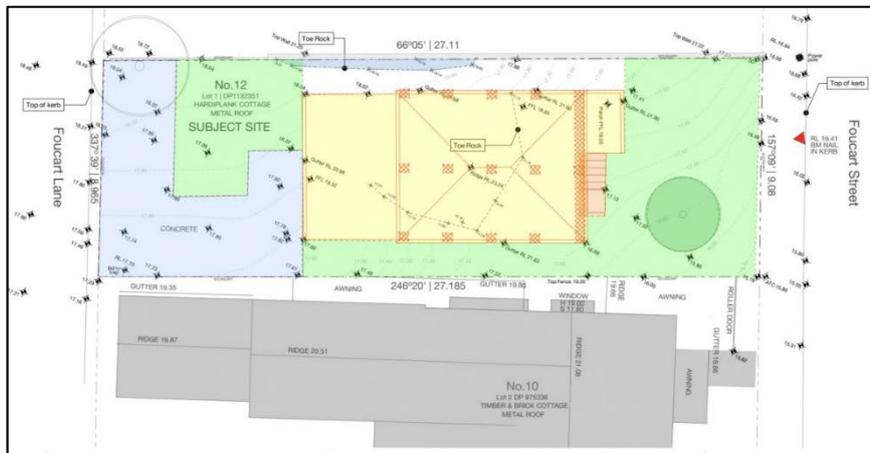


Figure 31. Demolition Plan



Figure 32. Site Analysis

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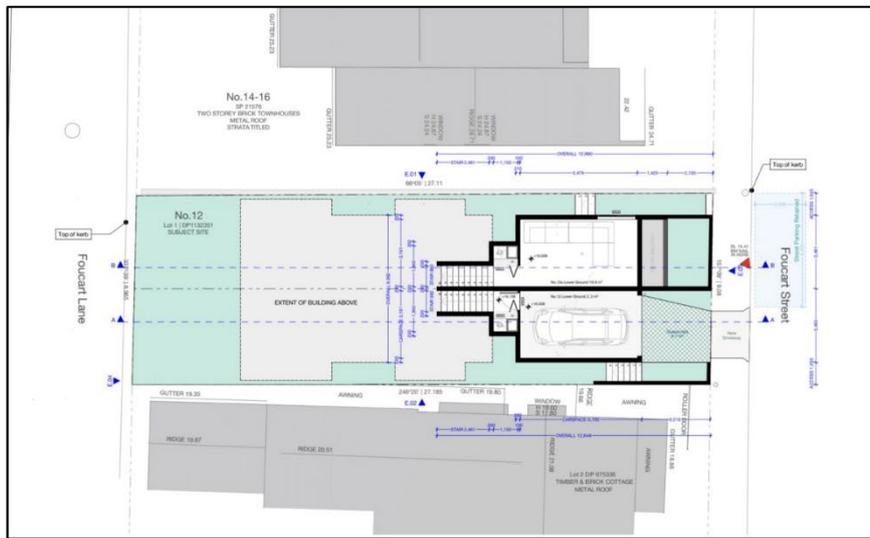


Figure 33. Proposed Lower Ground Plan

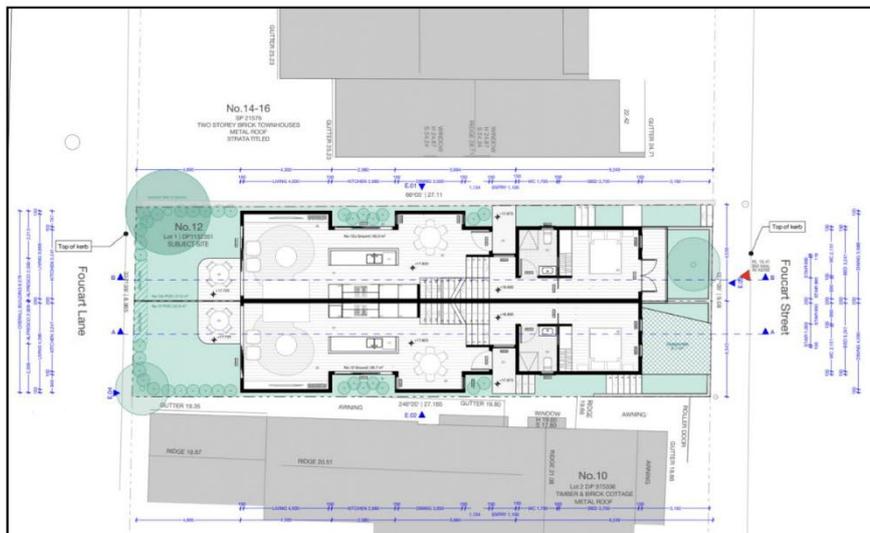


Figure 34. Proposed Ground Plan

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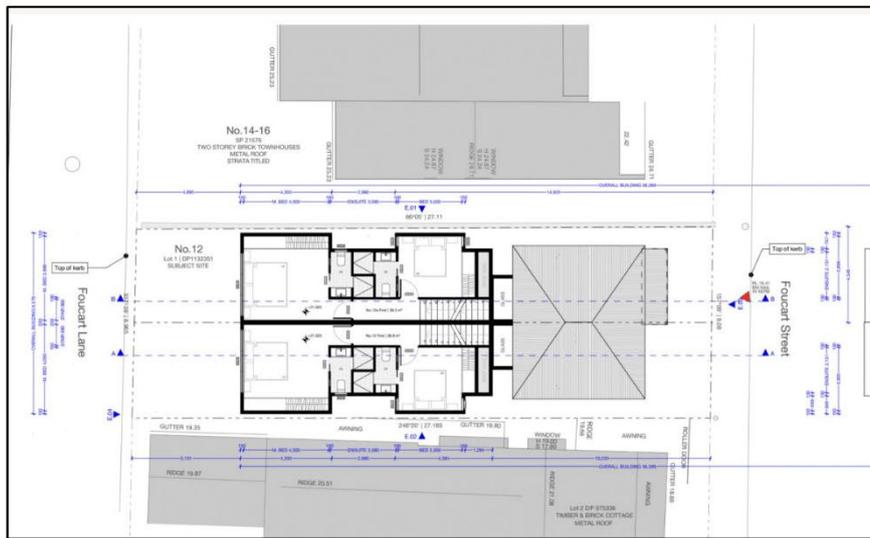


Figure 35. Proposed First Floor Plan

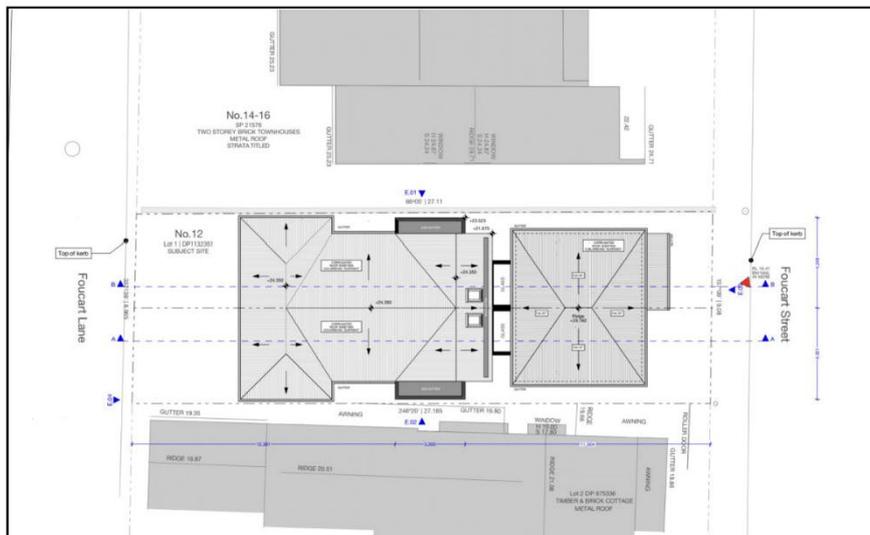


Figure 36. Proposed Roof Plan

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Figure 37. Proposed North South Elevation



Figure 38. Proposed East West Elevation

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Figure 39. Proposed Sections



Figure 40. Proposed Finishes Schedule

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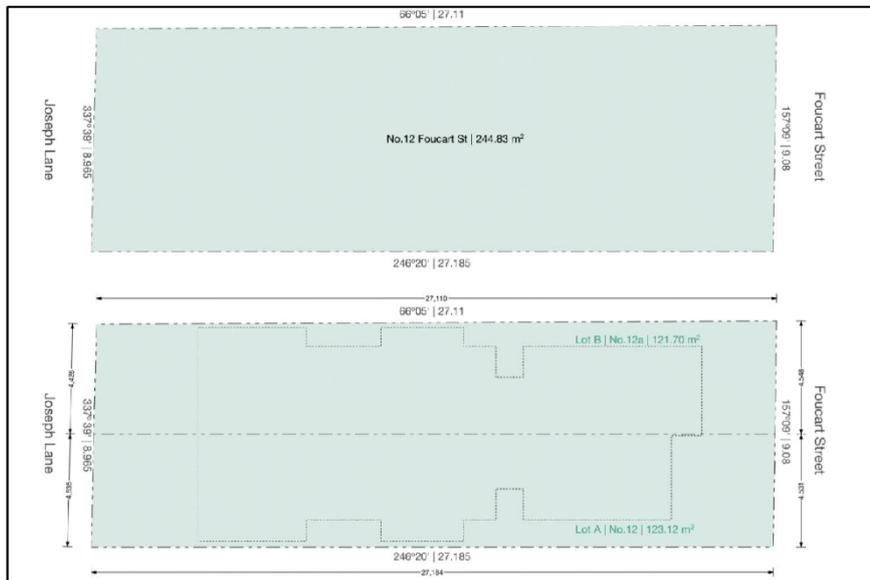


Figure 41. Proposed Subdivision Plan

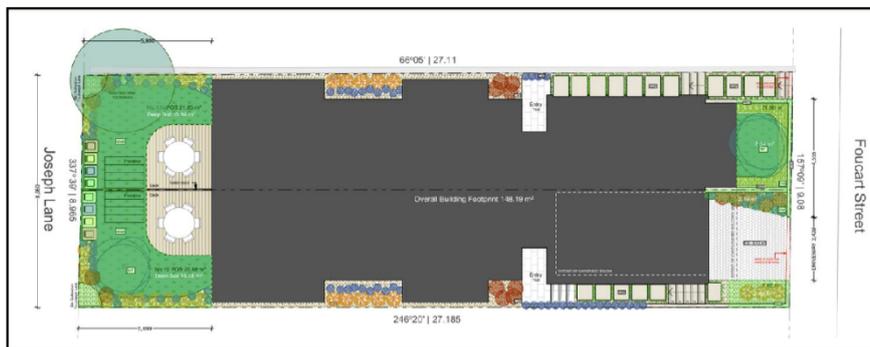


Figure 42. Proposed Landscape Plan

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Figure 43. Proposed Montage



Figure 44. Proposed Montage

6.0 ASSESSMENT OF HERITAGE IMPACT

6.1 Heritage Management Framework

Below we outline the heritage-related statutory and non-statutory constraints applicable to the subject site including the objectives, controls and considerations which are relevant to the proposed development as described in Section 5.0 above. These constraints and requirements form the basis of this Heritage Impact Assessment.

6.1.1 Leichhardt Local Environmental Plan 2013

The statutory heritage conservation requirements contained in Section 5.10 of the Leichhardt LEP 2013 are pertinent to any heritage impact assessment for future development on the subject site. The relevant clauses for the site and proposal are outlined below:

- (1) Objectives
- (2) Requirement for consent
- (4) Effect of proposed development on heritage significance
- (5) Heritage assessment

6.1.2 Leichhardt Development Control Plan 2013

Our assessment of heritage impact also considers the heritage-related sections of the Leichhardt Development Control Plan (LDCP) 2013 that are pertinent to the subject site and proposed development. These include:

Our assessment of heritage impact also considers the heritage-related sections of the LDCP 2013 that are pertinent to the subject site and proposed development. These include:

Part C – Place Section 1 - General Provisions

- | | |
|-------|--|
| C1.0 | General Provisions |
| C1.2 | Demolition |
| C1.4 | Heritage Conservation Areas and Heritage Items |
| C1.6 | Subdivision |
| C1.18 | Laneways |

Part C – Place Section 2 – Urban Character

- | | |
|-----------|---------------------------------------|
| C.2.2.5.2 | Easton Park Distinctive Neighbourhood |
|-----------|---------------------------------------|

6.1.3 NSW Office of Environment & Heritage guidelines

In its guidelines for the preparation of Statements of Heritage Impact, the NSW Office of Environment & Heritage provides a list of considerations in the form of questions aiming at directing and triggering heritage impact assessments.¹⁶ These are divided in sections to match the different types of proposal that may occur on a heritage item, item in a heritage conservation area or in the

¹⁶ Ibid.

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vicinity of heritage. Below are listed the considerations which are most relevant to the proposed development as outlined in Section 5.0 of this report.

Demolition of a building or structure

- *Have all options for retention and adaptive re-use been explored?*
- *Can all of the significant elements of the heritage item be kept and any new development be located elsewhere on the site?*
- *Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible?*
- *Has the advice of a heritage consultant been sought? Have the consultant's recommendations been implemented? If not, why not?*

New development adjacent to a heritage item (including additional buildings and dual occupancies)

- *How is the impact of the new development on the heritage significance of the item or area to be minimised?*
- *Why is the new development required to be adjacent to a heritage item?*
- *How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?*
- *How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects?*
- *Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected?*
- *Is the new development sympathetic to the heritage item? In what way (e.g. form, siting, proportions, design)?*
- *Will the additions visually dominate the heritage item? How has this been minimised?*
- *Will the public, and users of the item, still be able to view and appreciate its significance?*

6.1.4 Planning Principle Helou v Strathfield Municipal Council

Further to Inner West Council's request an assessment of the proposed demolition needs to be made against the Planning Principle from Helou v Strathfield Municipal Council, the questions are listed below.

1. *What is the heritage significance of the conservation area?*
2. *What contribution does the individual building make to the significance of the conservation area?*
3. *Is the building structurally unsafe?*

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4. *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*

5. *Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?*

6. *Is the replacement of such quality that it will fit into the conservation area?*

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6.2 Heritage Impact Assessment

Below we assess the impact that the proposed development would have upon the subject site and the Easton Park heritage conservation area in which it is located. This assessment is based upon the Historical Context (refer to Section 2.0), the Physical Evidence (refer to Section 3.0), Heritage Significance (refer to Section 4.0) the Proposal (refer to Section 5.0), a review of the Heritage Management Framework (refer to Section 6.1).

6.2.1 Impact Assessment against the LLEP 2013

The statutory heritage conservation requirements contained in Section 5.10 of the Leichhardt LEP 2013 are pertinent to any heritage impact assessment for future development on the subject site.¹⁷ We assess the proposal against the relevant clauses below.

CLAUSE	ASSESSMENT
(1) Objectives	<p>The proposal does not entail any work to sites and places listed as heritage items under Schedule 5 of the Leichhardt LEP 2013. It is our general assessment that the proposed height, scale, massing and materials proposed (as detailed in Section 5.0 above) would not engender a negative impact on the heritage significance of the Easton Park HCA.</p> <p>This report has found that the subject site (dwelling) does not reach the threshold for Local heritage listing. The subject site (dwelling) makes some contribution to the Easton Park HCA for historic and aesthetic value, but the dwellings visual character and quality in the streetscape has depreciated due to a number of alterations which are irreversible to its former original character and quality. Further, it is one of the later dwellings in the street, with other more intact dwellings being more representative of the significant period of development for the area.</p> <p>The front sandstone fence has been assessed by Heritage 21 to have contributory value in terms of historic, aesthetic and technical/ research significance. It is noted that sandstone would remain a key feature of the site and the front fence would continue to be interpreted as an early street boundary wall.</p>
(2) Requirement for consent	This Development Application is lodged to Council to gain consent for the works proposed in the vicinity of heritage items listed under Schedule 5 of the Leichhardt LEP 2013.
(4) Effect of proposed development on heritage significance	This Statement of Heritage Impact accompanies the Development Application in order to enable the Inner West Council, as the consent authority, to ascertain the extent to which the proposal would affect the heritage significance of the Easton Park heritage conservation area.
(5) Heritage assessment	

6.2.2 Impact Assessment Against the LDCP 2013

Part C – Place Section 1 – General Provisions	
C.1.2 Demolition	
Controls	Assessment
C1 Council will not approve a development application for the demolition of: a. a Heritage Item; or	C1 As detailed in Section 4.2, the subject building has been assessed by Heritage 21 to not embody heritage value and, in addition, should be treated as a neutral item to Easton Park HCA. It is the assessment of Heritage 21 that its removal would

¹⁷ Woollahra Municipal Council, 'Woollahra Local Environment Plan', 2014, <http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+20+2015+cd+0+N>.

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<p>b. a building in a Heritage Conservation Area that contributes positively to the conservation area; or</p> <p>c. a building that makes a positive contribution to the desired future character of the area</p> <p>Unless:</p> <ul style="list-style-type: none"> i. the existing building is found to be structurally unsafe; and ii. cannot be reasonably repaired; and iii. the proposed replacement building is consistent with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan; and iv. the quality of the proposed replacement building will be compatible with the Heritage Conservation Area or streetscape in terms of scale, materials, details, design style and impact on streetscape. 	<p>not have an adverse impact upon the established heritage value of the HCA.</p> <p>As outlined in Section 4.2, the front stone fence has been assessed to have contributory value in terms of historic, aesthetic and technical/ research significance. It is noted that the stone wall would remain a key feature of the site and would continue to be interpreted as an early street boundary fence. In addition, it is noted that the sandstone foundations of the existing dwelling would be reused within the new building to suit the new configuration.</p>
<p>C2 A development application for the demolition of a Heritage Item or building in a Heritage Conservation Area must be lodged with Council and be accompanied by the following information:</p> <ul style="list-style-type: none"> a. statement of significance of the item (significance of the item itself and the significance of the Heritage Conservation Area in which it is located (if applicable); b. a report or statement which identifies and explains the current structural condition of the building. The report is to be prepared by a qualified structural engineer or building surveyor and is to address: <ul style="list-style-type: none"> i. structural adequacy of the building; ii. options for the building to be made structurally safe through rectification/remediation works; iii. options for the conservation of the building; c. details of the proposed replacement building, including the proposed elevations, materials, detail, design style and compliance with the development controls contained in the Leichhardt Local Environmental Plan 2013 and this Development Control Plan. 	<p>C2 a. This Statement of Heritage Impact has been prepared by Heritage 21 and accompanies the Development Application in order to enable the Inner West Council, as the consent authority, to ascertain the extent to which the proposal would affect the heritage significance of the Easton Park heritage conservation area.</p> <p>b. Heritage 21 has not viewed a specialist’s report outlining the structural adequacy of the existing building. However, non-structural observations pertaining to the condition of the subject building are provided in Section 3.2 of this report.</p> <p>c. It is the opinion of Heritage 21, that the proposed replacement building would be compliant with the development controls contained in the Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. See Heritage 21’s assessment of the proposal against the relevant controls throughout this table.</p>
<p>C3 In determining development applications for the demolition of a Heritage Item or a building in a Heritage Conservation Area, Council will consider the following:</p> <ul style="list-style-type: none"> a. heritage status of the building and its context as outlined in: <ul style="list-style-type: none"> i. the Statement of Significance of the Heritage Item or building in a Heritage Conservation Area as outlined in the relevant Council heritage study or expert opinion; 	<p>C3 a. b. As previously discussed, it is the assessment of Heritage 21 that the subject building is not considered to embody heritage value and, in addition, should be treated as a neutral item to Easton Park HCA.</p> <p>The front sandstone fence constitutes heritage fabric. Heritage 21 notes from the plans depicted in Section 5.2 that the fence would be retained but modified to provide vehicular access from Foucart Street. Sandstone blocks removed to provide the driveway access would be reused within the fence to fill-in openings. It is also noted that the existing</p>

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<p>b. the contribution that the existing Heritage Item or building in a Heritage Conservation Area makes to the heritage significance of the Conservation Area by virtue of its age, scale, materials, details, design style or intactness;</p> <p>c. the structural adequacy of the existing building;</p> <p>d. options for the conservation of the existing building under current controls;</p> <p>e. consistency of the proposed replacement building with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan, including those relating to amenity impacts on surrounding properties;</p> <p>f. the quality of the proposed replacement building and its fit with the Heritage Conservation Area in terms of scale, materials, details, design style and impact on streetscape.</p>	<p>sandstone subfloor walls and sandstone piers would be reused as building material in the new terraces. In Heritage 21s opinion, the sandstone would remain a key feature of the site and the front fence would continue to be interpreted as an early street boundary fence.</p> <p>c. Heritage 21 has not viewed a specialist’s report outlining the structural adequacy of the existing building. However, non-structural observations by Heritage 21 are provided in Section 3.2 of this report.</p> <p>d. It is the opinion of Heritage 21 that options for the conservation of the existing building are limited. Some of the previous alterations would be reversible however, these are unlikely to be carried out without considerable replacement of fabric. Any works to the house to upgrade it to current standards would likely involve considerable change. Furthermore, much of the house has fibro linings that may contain asbestos and would therefore require replacement.</p> <p>e. f. The proposed new terraces are noted to be modest, two-storey dwellings. The height, scale and bulk of the proposal, in our assessment, is commensurate with the overall scale of built forms along Foucart Street. We also note the presentation of the dual occupancy as a single dwelling via the use of recessed entry points, one entry stair exposed to the street, as well as one off-street parking space.</p> <p>As detailed in Section 3.2, both sides of Foucart Street are characterised by a mix of single storey and two storey dwellings from a diverse range of architectural styles and periods. Heritage 21 is satisfied that similar to these existing dwellings, the proposal is of an appropriate scale and would not compete with or undermine the visual primacy of the contributory items and Easton Park HCA.</p> <p>It is the opinion of Heritage 21 that the proposed modified colour scheme and materials, including a selection of traditional and contemporary materials – timber cladding and glazing, sympathetically reflects the range of diverse materials and colours of the heritage items in the vicinity and the surrounding streetscape. It is our opinion that that this would comply with <i>Article 22. New Works of the Burra Charter</i> which states that <i>New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.</i></p> <p>Additionally, we note that the proposed material palette has been amended in accordance with Council’s recommendations and would be considered sympathetic to the surrounding built</p>
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	<p>form and would be effective in creating a design that would not be visually dominant.</p> <p>Heritage 21 considers the proposed replacement building to comply with Section C1.2, as well as Section C1.4, of the LDCP. The new dwellings are appropriately scaled to blend into the streetscape and their form subtly references the style of neighbouring buildings. Foucart Street is quite mixed in terms of architectural style and form and has a considerable mix of housing types. The streetscape is not consistent; with Victorian cottages ranging from the 1880s and many examples of contemporary infill especially at the southern end of the street. It is the opinion of Heritage 21, that modest, well-mannered, contemporary buildings, such as the proposed, would not be out of context within the streetscape. Diversity of the streetscape means that sensitive infill construction would be easily accommodated within the existing streetscape.</p>
C.1.4 Heritage Conservation Areas and Heritage Items	
Controls	Assessment
C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B ± Building Typologies of this Development Control Plan.	C1 It is the opinion of Heritage 21, that the proposal would have regard to the provision within Appendix B – Building Typologies of the LDCP. See Heritage 21’s assessment of the proposal against the relevant controls of Appendix B – Building Typologies throughout this table.
New buildings C8 Development need not seek to replicate period details of original buildings in proximity to the site, but rather, demonstrate respect for the form, scale and siting of the immediate area.	C8 Heritage 21 notes from the plans depicted in Section 5.2 that the proposed design of the two-storey terraces does not overly replicate the style of the Victorian, Inter-war and/or Post-war dwellings in the HCA. However, the design is considered to pay homage to common visual cues of the Victorian style through the inclusion of a characteristic roof form, vertical fenestration and reproduction of simple geometric shapes found throughout the streetscape.
C9 New development will comply with Part C Section 1.0 General provisions and all other relevant controls within the Development Control Plan.	C9 It is the opinion of Heritage 21, that the proposal would comply with Part C Section 1 General provisions and all other relevant controls within the Development Control Plan. See Heritage 21’s assessment of the proposal against the relevant controls throughout this table.
C.1.6 Subdivision	
Controls	Assessment
Subdivision pattern C2 New allotments shall be consistent with the prevailing subdivision pattern in the neighbourhood. C3 Natural landscape features	C2, C3 As previously noted, the general area near the subject site has lower integrity than other parts of the conservation area; with a number of lots being subdivided and occupied by infill development. It is the opinion of Heritage 21 that significant effort has been applied to ensure that the most efficient subdivision arrangement to the lot would be undertaken. The proposed

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Development shall reinforce the visual prominence of natural landscape features such as ridgelines and rock outcrops.	subdivision would respect the surrounding streetscape and lot subdivision patterns and would relate to the rhythm and spacing of the buildings along the streetscape.
C.1.18 Laneways	
Controls	Assessment
C1 If development is adjacent to a Pedestrian or Service Lane which has a width of less than 2.5m or is a Narrow Lane which has a width of 2.5 ± 5m: a. additional lane fronting dwellings are not permitted; and b. the service function and character of the lane is to be protected and enhanced.	C1 It is noted that development within the vicinity of the subject site along Joseph Lane is varied and includes predominately services/ access style structures (refer Figure 21 and 22). The proposal includes Foucart Street fronting dwellings; no lane fronting dwellings have been proposed. It is the opinion of Heritage 21 that the proposal would maintain the existing function and character of Joseph Lane.
C5 Where fronting a Narrow Lane development shall comply with a laneway envelope that has: a. a maximum side wall height of 3m; b. a 450 building envelope taken from the top of the side wall; and c. a maximum roof height of 5m (refer to Figure C14 Laneway envelope for development fronting a Narrow Lane).	C5 It is noted that the primary frontage of the proposed terraces would be to Foucart Street.
C8 Development is not visible from the primary street frontage.	C8 Not applicable. The proposal is for the demolition of the existing building onsite and construction of a new development.
C9 The bulk and scale of development does not significantly diminish the dominance of the primary building on the same lot.	C9 See above.
C10 Buildings are generally built to the laneway alignment.	C10 The proposed buildings have been designed to respect the laneway alignment.
C11 Dwellings provide an active interface with the laneway.	C11 As previously noted, the primary frontage of the proposed terraces would be to Foucart Street. Heritage 21 notes that access to Joseph Lane would be provided via rear side gates.
C12 External walls are constructed in high quality materials and finishes which are compatible with fabric of the surrounding neighbourhood. C13 Roof forms are either hipped roofs, gabled roofs pitched from the sides or skillion roofs located behind parapets where such development meets the laneway control envelope. C14 Roofs materials are corrugated iron, slate or terracotta tile.	C12 C13 C14 We note that the proposal would incorporate clearly contemporary form, details and a contradistinctive selection of materials including – glazing and horizontal timber cladding. The roof form facing Joseph Lane is noted to be a low profile hipped roof in corrugated roof sheeting (Colorbond – ‘Surfmist’).
C23 Trees more than 6m in height, natural rock outcrops and rock cuttings that make a significant contribution to the character of the laneway are retained.	C23 Heritage 21 notes that no trees, natural rock outcrops or rock cuttings would be impacted by the proposal. In addition, it is noted that the proposal incorporates a substantial private open space area at the rear of each terrace facing

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	Foucart Lane with the inclusion of trees and amenity plantings.
Part C – Place Section 2 – Urban Character	
C.2.2.5.2 Easton Park Distinctive Neighbourhood	
Controls	Assessment
C1 Preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.	C1 The proposed new terraces are noted to be modest, two-storey dwellings, with simplistic architectural detailing. The height, scale and bulk of the proposal, in our assessment, is commensurate with the overall scale of built forms along Foucart Street. We also note the sympathetic presentation of the dual occupancy as a single dwelling via the use of recessed entry points, one entry stair exposed to the street, as well as one off-street parking space. In this regard the broader architecturally diverse character of the HCA would be preserved.
C2 Preserve view lines to the south and east by stepping buildings with the prevailing topography.	C2 It is noted that the height of the proposed terraces would sit below the ridgeline of the neighbouring property to the north, ensuring the preservation of view lines to the south.
C3 Preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established setbacks for each street.	C3 The proposed subdivision of the site into two uniformed lots would be consistent with the rhythm of lots sizes in the surrounding area. It is noted that in accordance with Council’s request the amended design has adjusted the setback of the proposal to better respect that of Nos. 10 and 16 Foucart Street.
C4 Preserve the consistency and simplicity in built form, style and materials of the neighbourhood.	C4 Heritage 21 is of the opinion that the new works would be of a modest scale, massing and utilise simplistic detailing as to preserve the consistency throughout the neighbourhood.
C5 Maintain the existing roof forms, setbacks and fencing styles prevalent in each street.	C5 The proposal involves the demolition of an existing neutral dwelling and construction of sympathetic infill buildings. As previously discussed, Foucart Street, especially the southern end, is characterised by a mix of architectural styles, setbacks and roof forms, and presents with a mix of housing types. It is the assessment of Heritage 21 that the proposed roof form, setback and pitch of the terrace style dwellings would be compatible with prevalent style within the street.
C7 Maintain the established open low timber and iron picket front fences.	C7 It is noted that the front sandstone fence would be retained, with modifications, as part of the current proposal.
C9 A maximum building wall height of 3.6m applies to the neighbourhood.	C9 See below.
C10 A 6m maximum building wall height may be suitable where two storey terraced development is dominant.	C10 The neighbourhood surrounding the subject site is noted to present with a number of two storey terrace developments, in addition to single storey cottages. The introduction of the modest two- storey terraces, as proposed, would fit

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	respectfully in with the architectural language of the street.
C11 Front building setbacks within the neighbourhood should be a minimum of 1m. However, where the prevailing setbacks in the immediate area of the development site (i.e. the adjoining three (3) sites on either side of the development site) are different, the setback for new development should be compatible with the prevailing setbacks.	C11 It is noted that the prevailing setback in the immediate area of the subject site is varied. In accordance with Council’s request the amended design has adjusted the setback of the proposal to better respect the setback of neighbouring dwellings.
C12 Maintain roof forms with pitched, gable or hipped roofs.	C12 The proposed terraces would present to Foucart Street with a hipped roof form, with a traditional 25° pitch. It is the assessment of Heritage 21 that the proposed roof form and pitch of the terrace style dwellings would be compatible with prevalent style within the street. It is noted that the amended design presents, when viewed from Foucart Street, as a traditional single storey dwelling, with a two-storey extension to the rear.
C13 The use of traditional timber, stone or masonry finishes, iron roofing and timber windows is encouraged.	C13 Heritage 21 recommends the incorporation of some traditional materials in the design of the new build. However, we also note that as a new build, the use of contemporary materials would not engender a negative impact on the heritage significance of the HCA and would be in line with the principles of the Burra Charter.

6.2.3 Impact Assessment Against the NSW Office of Environment & Heritage guidelines

As acknowledged in Section 6.1.3, the NSW Office of Environment & Heritage has identified a list of considerations in the form of questions aiming at directing and triggering heritage impact assessment. Below, we assess the proposal against the most pertinent of these questions.

Question	Assessment
Demolition of a building or structure	
<ul style="list-style-type: none"> • Have all options for retention and adaptive re-use been explored? • Can all of the significant elements of the heritage item be kept and any new development be located elsewhere on the site? • Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible? • Has the advice of a heritage consultant been sought? Have the consultant’s recommendations been implemented? If not, why not? 	<p>The subject site contains a 1930s building compromised by incremental, unsympathetic change. It is the opinion of Heritage 21 that its demolition and replacement with well-mannered, contemporary buildings would not be out of context with the Easton Park HCA.</p> <p>The subject building is not listed as a heritage item and has been assessed by Heritage 21 as neutral to the Easton Park HCA. It is our opinion, that insufficient evidence survives in extant fabric to make restoration and renovation feasible.</p> <p>The advice of Heritage 21 has been sought at various stages in the design process. It is in the opinion of Heritage21 that the new building is appropriate within the context of the conservation area and would be easily accommodated within the existing streetscape.</p>

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New development adjacent to a heritage item (including additional buildings and dual occupancies)	
<ul style="list-style-type: none"> • How is the impact of the new development on the heritage significance of the item or area to be minimised? • Why is the new development required to be adjacent to a heritage item? • How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance? • How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects? • Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected? • Is the new development sympathetic to the heritage item? In what way (e.g. form, siting, proportions, design)? • Will the additions visually dominate the heritage item? How has this been minimised? • Will the public, and users of the item, still be able to view and appreciate its significance? 	<p>For the wider context of this proposal, it is important to recognise that the Easton Park HCA is characterised by a varied residential character, created by differing residential styles. Typical housing types include timber cottages, Victorian terraces, stone detached houses and scattered multiunit developments which include blocks of flats and townhouses. The character of the streetscape in the immediate area of the subject site includes a number of infill sites occupied with contemporary buildings.</p> <p>While the proposed design does not overly replicate the style of the Victorian, Inter-war and/or Post-war dwellings in the HCA, it does pay homage to common visual cues through the inclusion of a characteristic roof form, vertical fenestration and reproduction of simple geometric shapes found throughout the streetscape.</p> <p>The proposed development would see the introduction of contemporary yet complementary colours and materials to the Easton Park HCA. It is the opinion of Heritage 21 that the proposed colour scheme and materials, noted in Section 5.2 of this report, sympathetically reflects the range of diverse materials and colours in the surrounding streetscape.</p> <p>The proposal would include soft landscaping to the front boundary of the site, as well as to the rear yard. The addition of landscaping to the primary frontage of the site would be seen to be compatible with the character of the Foucart Street streetscape and enhance the visual setting of the HCA.</p> <p>It is beyond the scope of this report to assess known or potential archaeological deposits on site. However, it is noted that research undertaken in the preparation of this report indicates that an earlier dwelling may have occupied the site. In this regard, mitigation measures are included in Section 7.2 of this report.</p> <p>It is in the opinion of Heritage21 that the new buildings would be sympathetically accommodated within the Easton Park heritage conservation area.</p>

6.2.4 Impact Assessment Against the Planning Principle from Helou v Strathfield Municipal Council

Further to the Inner West Council’s request, an assessment of the proposed demolition against the below planning principles follows:

Question	Assessment
What is the heritage significance of the conservation area?	The Easton Park Heritage Conservation Area is significant for its historical, aesthetic, technical and social values at the local level. It is one of a number of conservation areas which collectively illustrate the nature of Sydney’s early suburbs and Leichhardt’s suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s. The area illustrates development of workers’ and tradesmen’s housing from the 1880s–1930s in response to nearby industry.

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	<p>In its now rare weatherboard buildings, it can continue to demonstrate the nature of an important/major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards in Whites Bay.</p> <p>Through the mixture of shops, and nearby industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.</p> <p>Of aesthetic value for the valley siting and mature plantings of Easton Park, and the relationship of adjoining and enclosing anchor buildings with verandas such as the playground which overall make a positive contribution to the local area.</p> <p>It demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.</p>
<p><i>What contribution does the individual building make to the significance of the conservation area?</i></p>	<p>A contributory item in a conservation area is a building that is not individually listed as a heritage item, but by virtue of age, scale, materials, details or intactness is consistent with the character of a conservation area, and therefore reinforces its heritage significance. The ability to contribute is not consistent or fixed but varies in proportion to the significance of the item itself, depending on its condition, age and context.</p> <p>The assessment undertaken by Heritage 21 has found that the subject cottage was built in the early 1930s and in that sense the place forms part of the historic core of the conservation area. However, it is our assessment that the subject site (dwelling) makes some contribution to the Easton Park HCA for historic and aesthetic value, but the dwellings visual character and quality in the streetscape has depreciated due to a number of alterations which are irreversible to its former original character and quality. Further, it is one of the later dwellings in the street, with other more intact dwellings being more representative of the significant period of development for the area.</p> <p>Consequently, it is our assessment that the subject cottage no longer fits the major themes of significance associated with the conservation area.</p> <p>It is the opinion of Heritage 21 that the sandstone foundations and sandstone front fence have contributory value in terms of historic and aesthetic significance.</p>
<p><i>Is the building structurally unsafe?</i></p>	<p>Heritage 21 has not viewed a specialist’s report outlining the structural adequacy of the existing building. During the site inspection and subsequent discussions with the owner it is our observation and understanding that the dwelling is highly susceptible to mould and dampness. However, it is beyond the scope of this report to assess the structural stability of the subject dwelling.</p>
<p><i>If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect</i></p>	<p>Heritage 21 notes that there is scope for further additions and alterations at the rear. However, as previously discussed it is our assessment that the subject dwelling is neutral within the Easton Park HCA. The dwelling presents as a modest and modified example of an early 1930s Inter War cottage. The front and rear</p>

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<p><i>on the integrity of the conservation area than demolition?</i></p>	<p>have been altered. Externally original heritage fabric is noted to be limited to the original sandstone foundation wall to the front façade and the sandstone footings.</p> <p>It is our assessment that the proposed design presents an opportunity for the site to make a greater contribution to the Easton Park HCA. Heritage 21 notes from the plans depicted in Section 5.2 that the amended design of the two-storey terraces has been designed to pay homage to an Inter-war cottage, through the inclusion of a characteristic hipped roof form and vertical fenestration.</p> <p>The subject dwelling has a substantial setback from the Foucart Street boundary; well back from and out of character with the prevailing setback pattern throughout the street. The design proposal is considered to better align with the character of Foucart Street and respect predominant setbacks.</p> <p>The design of the building utilises the site’s south sloping topography with the location of the garage minimising the extent of excavation.</p> <p>The bulk of the proposal is within the scale established for the locality and it is further mitigated by the strong articulation and stepped form of the front elevation. The building facade maintains appropriate solid-to-void ratios. The form of the building with simple massing and articulated facade - especially the roof form, bullnose veranda and horizontal cladding- references the characteristic treatment of buildings within the locality.</p>
<p><i>Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?</i></p>	<p>The existing building is centrally located within the subject site. It is noted that the subject dwelling has a substantial setback from the Foucart Street boundary; well back from and out of character with the prevailing setback pattern throughout the street. The proposed demolition of the building and replacement with a sensitively designed infill presents an opportunity for the site to better fit with the prevailing setbacks and make a greater contribution to the Easton Park HCA.</p> <p>The current building envelope has retained some legibility of the original footprint and scale of the residence. However, the impact of poor construction techniques, low quality materials and a general lack of maintenance has overtime greatly impacted the structure and finishes of the building. The internal linings have been largely replaced along with the doors and windows. The house would have been quite modest when built but now has little amenity and is in average condition.</p> <p>Some of the works are reversible but, considering its condition, these are unlikely to be carried out without considerable replacement of fabric. Externally the cladding, balcony awning, roof material and windows would require replacement with a more sympathetic design and materials.</p> <p>Much of the house has fibro linings that may contain asbestos and would require replacement. Any works to the house to upgrade it to current standards would likely involve considerable change.</p>

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	<p>While these problems are potentially fixable, they may represent an unreasonable financial burden. Furthermore, attempting to fix these problems may require further intrusion into the already degraded fabric.</p>
<p><i>Is the replacement of such quality that it will fit into the conservation area?</i></p>	<p>It is the assessment of Heritage 21 that the replacement infill utilises local, contextual elements referencing Inter-War cottages, which comprise the predominant built forms in the local area and the infill adopts their traditional residential character using contemporary details without mimicry or pastiche. It employs architectural elements, which reference traditional antecedents. The bulk of the proposed infill matches its neighbours, and its scale is consistent with the locality. It is noted that the amended design presents, when viewed from Foucart Street, as a traditional single storey dwelling, with a two-storey extension to the rear.</p> <p>It is our assessment that the proposal displays design excellence through a sympathetic, complementary yet contemporary design that responds to rather than replicates the form, proportions and roof pitch of the surrounding HCA.</p> <p>In light of the low cultural value of the existing cottage, it is our assessment that the development meets the planning principles established by Commissioner Moore for the demolition of a contributory building within a heritage conservation area and the adverse impact arising from the demolition would be within acceptable bounds.</p>

7.0 CONCLUSION & RECOMMENDATIONS

7.1 Impact Summary

The NSW Office of Environment & Heritage's guidelines require the following aspects of the proposal to be summarised.¹⁸

7.1.1 Aspects of the proposal which respect or enhance heritage significance

In our view, the following aspects of the proposal would respect the heritage significance of the subject site and the Easton Park heritage conservation area:

- No. 12 Foucart Street is an altered example of a 1930s Inter War cottage with no remaining significant architectural features of note. The cottage would have been quite modest when built and is not an early or significant example of the weatherboard cottages that can be seen in the area. It is the assessment of Heritage 21 that the current house on the site does not make a positive contribution to the conservation area;
- The proposed design of the infill presents an opportunity for the site to make a greater contribution to the heritage significance of the Easton Park HCA;
- The proposal to demolish a neutral building and replace it with sympathetic infill buildings would enhance the heritage significance of the Easton Park HCA;
- The proposal to reuse the existing sandstone blocks and incorporate them into the new build represents good heritage practise and would enhance the visual and historic connection between the new buildings and the Easton Park HCA;
- Sandstone would remain a key feature of the site and the front sandstone fence would continue to be interpreted as an early street boundary fence;
- The reconfigured front fence reuses existing materials, resulting in a fence that is sympathetic to the existing building and heritage conservation area; and
- The proposed new subdivision would be consistent with the prevailing subdivision pattern in the immediate vicinity of the site.

7.1.2 Aspects of the proposal which could have detrimental impact on heritage significance

In our view, there are no aspects of the proposal which could be detrimental to the significance of the subject site and the Easton Park heritage conservation area. The neutral impacts of the proposal have been addressed above in Section 7.1.1. Recommendations are provided in Section 7.2 below as further mitigation measures.

7.1.3 Sympathetic alternative solutions which have been considered and discounted

No solutions of greater sympathy with the significance of the subject site, heritage conservation area or heritage items in the vicinity have been discounted to our knowledge.

Mitigation measures are provided for consideration in Section 7.2 of this report which are based on our initial recommendations.

¹⁸ NSW Office of Environment and Heritage, 'Statements of Heritage Impact' (Heritage Office and Department of Urban Affairs & Planning, 1996), <http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/hmstatementsofhi.pdf>.

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7.2 Mitigation Measures/Recommendations

To ensure maximum conservation of significance of the subject site and Easton Park heritage conservation area, Heritage 21 also recommends the following:

Heritage Professionals

- Any works into the heritage fabric of the subject site should be carried out by suitably qualified heritage professionals and tradesmen. The heritage fabric includes remnant sandstone and the sandstone front fence identified in Section 4.2.1 of this report.

Heritage Fabric

- Any early and significant architectural fabric not reused as part of the new build should be removed prior to demolition and sold to a restoration store, e.g. Chippendale Restorations, for reuse.

Archaeological Monitoring

- As there is evidence to suggest that the site was previously occupied an archaeologist should be engaged to monitor the subterranean works. The works should be carried out by a suitably qualified archaeologist and any reports prepared in accordance with the guidelines set out by the Heritage Office of the NSW Dept. of the Environment & Heritage. This would involve periodically examining the area by hand during excavation work in order to test for features such as footings, artefact scatters and postholes. Note that in the event that significant deposits are identified the plan for the proposed works may require modification.

Photographic Archival Recording (PAR)

- A Photographic Archival Recording (PAR) should be prepared by a suitably qualified Heritage Consultant prior to any development being carried out on the site.

The report must consist of an archival standard photographic record of the site and building externally, including the front fence.

The recording shall be undertaken in accordance with the guidelines for Photographic Recording of Heritage Items Using Film or Digital Capture (2006)" prepared by the NSW Office of Environment & Heritage and copies should be retained in Council's Archives and Local Studies.

7.3 General Conclusion

Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and on the basis of design excellence would engender a positive impact on the Annandale heritage conservation area. We therefore recommend that Inner West Council view the application favourably on heritage grounds.

8.0 SOURCES

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oldmapsonline.org.
- Trove. 'Trove', *National Library of Australia*, <https://trove.nla.gov.au>.

Attachment E – 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
DA01 Rev D	Cover Page	November 2022	Monument Design Partnership
DA02 Rev D	Contextual Analysis	November 2022	Monument Design Partnership
DA03 Rev D	Demolition Plan	November 2022	Monument Design Partnership
DA04 Rev D	Site Analysis	November 2022	Monument Design Partnership
DA05 Rev D	Lower Ground	November 2022	Monument Design Partnership
DA06 Rev D	Ground Floor Plan	November 2022	Monument Design Partnership
DA07 Rev D	First Floor Plan	November 2022	Monument Design Partnership
DA08 Rev D	Roof Plan	November 2022	Monument Design Partnership
DA09 Rev D	North/South Elevation	November 2022	Monument Design Partnership
DA10 Rev D	Est / West Elevation	November 2022	Monument Design Partnership
DA11 Rev D	Section A-A B-B	November 2022	Monument Design Partnership
DA12 Rev D	Finishes Schedule	November 2022	Monument Design Partnership

DA13 Rev D	Subdivision Plan	November 2022	Monument Design Partnership
DA14 Rev D	Landscape Plan	November 2022	Monument Design Partnership
DA15 Rev D	Window + Door Schedule	November 2022	Monument Design Partnership
DA16 Rev D	Area Computations	November 2022	Monument Design Partnership
C00.01 Rev A	Stormwater Plan - General Notes	31.08.21	Engineering Studio
C01.01 Rev A	Sediment and Erosion Control Plan	31.08.21	Engineering Studio
C01.02 Rev A	Sediment and Erosion Control Details	31.08.21	Engineering Studio
C02.01 Rev A	Stormwater Drainage Plan	31.08.21	Engineering Studio
C02.02 Rev A	Stormwater Details Sheet 1	31.08.21	Engineering Studio
C02.03 Rev A	Stormwater Details Sheet 2	31.08.21	Engineering Studio
2021-363	Acoustic Report	23.08.21	Acoustic Noise and Vibrations Solutions
54825	Geotechnical Report	27.03.22	Ideal Geotech
Cert No. 0006404271	NatHERS Certificate House 1	01.09.21	Monument Design Partnership
Cert No. 0006404289	NatHERS Certificate House 2	01.09.21	Monument Design Partnership
Cert No. 1234766M_02	BASIX Certificate	21.03.22	GAT and Associates

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

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

- a. The ground and first floor of each dwelling is to be setback a minimum of 900mm from the northern and southern side boundaries.

FEES

3. Security Deposit - Custom

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

Security Deposit:	1% of cost of works or \$8,000.00 - whichever is greater
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.

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

5. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$29,790 in accordance with Developer Contributions Plan No.1 – Open Space and Recreation; Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access has been paid to the Council.

The above contribution is the contribution applicable as at 13 February 2023.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Local Infrastructure Type:	Contribution \$
Open Space and Recreation	\$25,811.00
Community Facilities and Services	\$3,945.00
Bicycle Works	\$34.00
TOTAL	29,790.00

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

GENERAL CONDITIONS

6. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

7. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
1x Celtis sinensis - rear yard	Remove

The removal of any street tree approved by Council must include complete stump removal (to a minimum depth of 400mm) and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the tree/s removal.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

8. Works Outside the Property Boundary

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

9. Standard Street Tree Protection

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

10. 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.

11. 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.

PRIOR TO ANY DEMOLITION**12. 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.

13. 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.

14. 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.

15. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of all adjoining 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 and retaining wall to the northern boundary to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

PRIOR TO CONSTRUCTION CERTIFICATE**16. 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.

17. Stormwater Drainage System (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary.
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage.
- d. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 years ARI storm are restricted to the pre-development flows for the 5 years ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI).
- e. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for

internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use.

- f. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks.
- g. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the storage tank. The overflow from the OSD/OSR must be connected by gravity to the kerb and gutter of a public road.
- h. Details of the 100-years ARI overflow route in case of failure/blockage of the drainage system must be provided
- i. An overland flow path must be provided within the setback to the side boundaries with adjoining properties between the rear of the dwelling and the Foucart Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flow path.
- j. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas.
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- l. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but it must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design.
- m. No nuisance or concentration of flows to other properties.
- n. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- o. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- r. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm.
- s. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings.

- t. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- u. No impact to street tree(s).

18. Changes to Levels

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

- a. A 150 mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area.

19. Car Parking

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans demonstrating that the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110 mm 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-issued alignment levels.
- b. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- c. A minimum of 2200 mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- d. 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.
- e. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 3300 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.
- f. drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces.
- g. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004; and

- h. The external form and height of the approved structures must not be altered from the approved plans.

20. 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.

21. Sydney Water – Tap In

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

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

DURING DEMOLITION AND CONSTRUCTION

22. 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

23. 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.

24. 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.

25. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

26. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

27. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

- a. A minimum of 1x 100 litre size additional tree, which will attain a minimum mature height of six (6) metres, must be planted in a suitable location within the rear yard of

Dwelling B, at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape*. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

28. Aircraft Noise

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

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

PRIOR TO SUBDIVISION CERTIFICATE

29. Release of Subdivision Certificate

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.

30. Section 73 Certificate

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

ON-GOING

31. Operation and Management Plan

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

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.

Street Numbering

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au

Sydney Water	13 20 92	
		www.sydneywater.com.au
Waste Service - SITA	1300 651 116	
Environmental Solutions		www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50	
		www.workcover.nsw.gov.au
		Enquiries relating to work safety and asbestos removal and disposal.

Dial before you dig

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

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.

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.

Noise

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

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.

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.

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.

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.

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.

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.

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*.

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 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.

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.

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.

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.

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.

Prescribed Conditions

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