





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	D/2018/686
Address	252 Johnston Street, Annandale
Proposal	Alterations and additions to existing residential care facility (St Basil's), including additional storey, changes to internal layout to provide on-site support services; reduce the number of beds from 83 to 77, changes to Johnston Street driveway, signage, landscaping works including tree removal and remediation works
Date of Lodgement	21.12.2018
Applicant	St Basil's Homes
Owner	St Basils Homes Ltd
Number of Submissions	8 in total however 2 of these are from same person due to re-notification
Value of works	\$17,383,025.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Floor Space Ratio Exceedance Additional floor level Driveway widening to Johnston Street Submissions
Recommendation	Deferred Commencement Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 
 N	

4. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to existing residential care facility (St Basil's), including additional storey, changes to internal layout to provide on-site support services; reduce the number of beds from 83 to 77, changes to Johnston Street driveway, signage, landscaping works including tree removal and remediation works at 252 Johnston Street, Annandale. The application was notified to surrounding properties and 8 submissions were received.

The main issues that have arisen from the application include:

- Floor Space Ratio exceedance
- Additional floor level
- Driveway widening to Johnston Street

The non-compliances are acceptable given the improvement to the services the facility will provide to residents and the minimal impacts to surrounding properties, therefore subject to recommended conditions the application is recommended for approval.

2. Proposal

The proposal is for alterations and additions to an existing residential care facility (St Basil's). The proposal is to provide an additional 5th floor and to extend the first, second, third and fourth floors such that they link and residents and staff can walk around the essentially square courtyard in the middle. The number of residents is to be reduced from 83 to 77 however more on-site support services, larger rooms, additional facilities are proposed as well as site remediation works, tree removal and landscaping. Specifically, the following is proposed:

- Ground floor – new pedestrian and altered vehicle entrance including proposed widening of driveway to Johnston Street. New reception area, additional lift, doctors room, drop-in room, meeting room, offices, including small extension to accommodate these works. Service facilities to remain as is including laundry, storage and maintenance. Parking to remain as is with 14 spaces provided.
- First floor – alterations to bedrooms to allow slightly larger bedrooms with private ensembles rather than shared bathroom facilities. Extension to north eastern side of the building to allow the entire floor to link. This floor also includes a treatment room, kitchen, dining room and lounge with access to a communal internal courtyard. A communal balcony facing Johnston Street over the pedestrian entrance below is also proposed. This floor is identified as the dementia level.
- Second floor – alterations to bedrooms to allow slightly larger bedrooms with private ensembles. Extension to north eastern side of the building to allow the entire floor to link. This floor also includes a treatment room, staff room, meeting/training room, servery, dining room and lounge. Extensions to existing communal balconies to Johnston Street are also proposed.
- Third floor – alterations to bedrooms to allow slightly larger bedrooms with private ensembles. Extension to north eastern side of the building to allow the entire floor to link. This floor also includes a multi-purpose/activity room, servery, dining room, lounge with communal balcony, barber shop, hair salon, dental room, physio room and treatment room. An extension of the south eastern corner of the building is also proposed.

- Fourth floor – new level to building which includes ensuite bedrooms, treatment room, activity room, servery, dining room, lounge and decks. Although this floor links, the north eastern part of the building at fourth floor level is an external uncovered deck.
- Externally – remediation works, removal of one tree and tree pruning of other trees, new landscaping, new building identification signage.

3. Site Description

The subject site is located on the western side of Johnston Street, between Rose Street and Weynton Street. The site consists of one allotment and is generally square in shape with a total area of 2893 sqm and is legally described as 252 Johnston Street, Annandale.

The site has a frontage to Johnston Street of approximately 55.57 metres, a secondary frontage of 52.71 metres to Rose Street and a rear frontage of approximately 54.15 metres to Piper Lane. The site is not affected by easements or rights of way.

The site supports an existing 4 storey building which is an existing nursing home known as St Basil's Homes – Sister Dorothea Village. Adjoining the site to the north at 258 Johnston Street is a 3 storey residential flat building above an open parking level. Across Piper Lane to the rear are principally garages for dwellings fronting Annandale Street with the exception of 85 Rose Street which fronts Rose Street and Piper Lane which is a two storey commercial building.

The property is not identified as a heritage item however it is located within a conservation area. The property is identified as a flood prone lot.

There are a significant number of trees on the subject site and on the nature strip.



Figure 1: View from Johnston Street



Figure 2: View from Johnston Street with Rose Street to the left of the photo



Figure 3: View from corner of Johnston Street and Rose Street looking up Rose Street



Figure 4: View looking north along Piper Lane



Figure 5: Current internal garden area of residential care facility

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2008/458	Minor alterations and additions to rear (facing Piper Lane) of existing aged persons home	Approved 4.11.2008
PreDA/2013/62	Demolition of existing structures and construction of a residential flat building over a basement car park	Advice issued 28.6.2013
D/2014/349	Demolition of existing aged care facility known as Sister Dorothea Village, site remediation and construction of 42 dwellings & 56 parking spaces within a part 3 and part 4 storey building over a basement carpark. The proposal also includes associated landscape works and removal of trees.	Refused 27.11.2014
D/2015/449	Demolition of existing aged care facility known as Sister Dorothea Village, site remediation and construction of 32 dwellings within a 3 storey building over a basement carpark. The proposal also includes removal of trees and associated landscape works.	Refused 17.8.2016
PreDA/2017/287	Alterations, upgrades and additions to existing St Basil's Homes aged care facility, including an additional top floor extension, and associated works.	Advice issued 12.2.2018

Surrounding properties – nil applicable history

4(b) Application history

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

Date	Discussion / Letter / Additional Information
14.6.2019	<p>Council sent a letter to the applicant requesting further information which requested the following:</p> <ul style="list-style-type: none"> • Widening of driveway crossover to Johnston Street considered integrated development; • Additional documentation required – floor plans of existing building; plans are to show the location of adjoining properties; additional photomontages required. • Design changes – balconies on north eastern corner are to be curved shape and constructed of brick; breezeway to be simplified; windows shrouds to be deleted; enclosed balconies for ensuites to Rose St and Piper Lane are to be flush in one plane; potential privacy issues from a number of bedrooms and balconies; floor plan anomalies; roof deck from dining room at fourth floor to be deleted. Roof to be colorbond “windspray” or “wallaby”. • Solar access – internal courtyard receives little solar access. The number of bedrooms receiving solar access should be increased. • Heritage – condition of sandstone wall adjacent to 258 Johnston Street to be investigated in relation to landscaping works proposed. • Residents – Relocation plan to be provided. Whether concessional residents will be provided for after redevelopment and whether existing residents will be able to return if they wish. • Clause 4.6 Exception – FSR request to be updated to reflect amended plans. • Trees – additional information required with regard to certain trees in relation to proposed works. • Traffic and parking – traffic report required. • Waste – waste storage room to be designated. • Stormwater – amendments required to stormwater plan • Flooding – flood risk management report required.
2.10.2019	<p>Amended plans and additional information provided by the applicant to address Council’s letter dated 16.6.2019 including:</p> <ul style="list-style-type: none"> • Request for information response which included formal request for integrated development in relation to widening of driveway to Johnston Street; justification for issues raised and additional information such as additional privacy measures; • Revised architectural plans including existing plans • Revised Clause 4.6 variation request • Arboricultural impact assessment and arborist response • Stormwater plans • Flood risk management report
11.10.2019	Application re-notified
22.10.2019	Application referred by Council to Roads and Maritime (RMS) for concurrence
15.11.2019	Initial response from RMS advising insufficient information provided and requesting additional information.
22.11.2019	Applicant provides additional information to Council for RMS to review which was then forwarded to RMS.
18.12.2019	Council requested applicant provide additional information in relation to remediation works in close proximity to trees.
16.1.2020	RMS advised that they were unable to provide concurrence in relation to

	changing the driveway to Johnston Street. Refer to external referrals under Section 6(b) of this report for further detail.
17.1.2020	Additional information provided by the applicant in relation to remediation works and tree retention.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contamination on site and the treatment and/or disposal of any contaminated soils and contamination issues. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of *SEPP 55*.

5(a)(xii) *State Environmental Planning Policy No. 64 - Advertising and Signage* (SEPP 64)

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

SEPP 64 specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

Signs and Advertising Structures

The application seeks consent for the erection of the following building identification signage on the Johnston Road frontage that is not illuminated:

- 1 x building identification sign located adjacent to the main entry to the building. The dimensions of the sign are 3590mm (h) x 350mm (w). The wording will Say St Basil's Homes
- 1 x free standing sign adjacent to the driveway which is an existing sign that will be relocated (see photo below).



Figure 6: Existing freestanding sign on Johnston Street to be relocated.

The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

5(a)(xiii) *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure 2007)

Development with frontage to classified road (Clause 101)

The site has a frontage to Johnston Street, a classified road. Under Clause 101 (2) of *SEPP Infrastructure 2007*, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The application was referred to Roads and Maritime Services (RMS) for concurrence regarding widening the existing driveway to Johnston Street.

TfNSW advised by letter dated 15 January 2020:

TfNSW has reviewed the submitted information and is unable to provide concurrence under Section 138 of the Roads Act 1993 for the proposed vehicle crossing.

TfNSW reiterates its comments in the previous response sent to Council on 15 November 2019. Insufficient information regarding the proposed vehicle crossing has been provided to enable appropriate assessment of the new vehicle crossing from a network perspective (i.e. safety and efficiency). The following information is still required:

1. *The development should provide swept paths for ingress and egress as part of the proposal to enlarge the vehicle crossing as well as on-site turning paths. In addition, the submitted plans should provide dimensions (e.g. widths) for the new driveway at a number of locations. The driveway widths and requirements for cards to enter and*

be able pass each other should be, at minimum, in accordance with the requirements contained in AS2890.1-2004.

2. Further, the submitted information states that only small rigid vehicles will be using the proposed driveway, which is also limited to ingress movements. The enlargement of the driveway width to 8.0m far exceeds the minimum 5.5m width required in accordance with AS2890.1-2004. As such, justification for the enlargement of the driveway and why it is necessary for the development should be provided.

Accordingly, a deferred commencement condition is recommended requiring the existing driveway crossover to Johnston Street to be retained as is and the internal driveway altered accordingly. Subject to the driveway crossover to Johnston Street being retained as is Clause 101 of the SEPP is no longer applicable to the application.

Traffic-generating development (Clause 104)

In accordance with Column 3 in Schedule 3 of Clause 104 *SEPP Infrastructure 2007*, 'residential accommodation' (which includes seniors housing in the definition) with 75 or more dwellings with access to a classified road are classified as traffic generating development.

The application was not formerly referred to RMS with respect to clause 104 given the proposal is for 77 resident rooms reduced from 83 resident rooms of an existing residential care facility. The application was also referred to RMS in relation to Clause 101 of the Infrastructure SEPP and the RMS has raised no further concerns.

The proposal is considered acceptable with regard to Clause 104 as it is an existing residential care facility and the demand for parking and parking provision is not increased as part of the proposal.

5(a)(xiv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of one tree and pruning of other trees within the site. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

Tree T14 proposed to be removed has been listed as a *Pistacia chinensis* (Chinese Pistachio) in the submitted Arboricultural Impact Assessment (AIA), prepared by Creative Planning Solutions, dated 19/07/2019. For Council's recording purposes, this specimen was identified on site as a *Radermachera sinica* (China Doll Tree).

There are additional 3x *Callistemon viminalis* (Weeping Bottlebrush) located in the road reserve along Rose St that have not been included in the latest AIA. These trees will be listed as T(22), (23) and (24) in the below conditions.

The application is supported subject to recommended conditions.

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and Section C1.14 – Tree Management of the Leichhardt Development Control Plan 2013 subject to the imposition of conditions, which have been included in the recommendation of this report.

5(a)(xv) *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

State Environmental Planning policy (Housing for Seniors or People with a Disability) 2004 commenced on 31 March 2004. The policy applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if dwellings, residential flat buildings or hospitals and special uses are permitted or the land is being used for the purpose of a registered club are permissible.

The subject site is located within the R1 General Residential zone under Leichhardt LEP 2013. Pursuant to the Leichhardt LEP 2013, the site is zoned R1 (General Residential) within which “dwelling houses” and “residential flat buildings” are permitted with consent. The land is zoned primarily for an urban purpose and the Seniors Housing SEPP applies to the site.

The aims of the policy seek the provision of housing (including residential care facilities) that will:

- a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- b) Make efficient use of existing infrastructure and services, and
- c) Be of good design.

Pursuant to Clause 11, the proposed development is defined as a “residential care facility”, being:

A residential care facility is residential accommodation for seniors or people with a disability that includes –

- (a) *Meals and cleaning services, and*
- (b) *Personal care or nursing care, or both, and*
- (c) *Appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

not being a dwelling, hostel, hospital or psychiatric facility.

Compliance with the provisions of Seniors Housing SEPP is summarised in the table below:

Seniors Housing SEPP Criteria	Comment
Part 1A Site compatibility certificates	
Clause 24 - Site compatibility certificates required for certain development applications (1A) Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.	In this instance clause 24(1A) applies. Seniors housing is permissible with consent in the R1 General Residential Zone of Leichhardt LEP 2013 therefore a Site Compatibility Certificate is not required.
Part 2 Site-related requirements	
Clause 26 – Location and access to facilities	The location of the site does not comply with clause 26(2)(a) and Clause 26(2)(b)

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to—

(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and

(b) community services and recreation facilities, and

(c) the practice of a general medical practitioner.

(2) Access complies with this clause if—

(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable—

(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,

(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,

(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or

(b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development—

(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and

(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and

(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in

being the requirement to be within 400m of shops, banks and services, community services and recreation facilities and a general medical practitioner along a pathway that has an average gradient of no more than 1:14 or a public transport service being located within 400m of the site that is accessible by a suitable path that will take residents to within 400m of the above services.

Accordingly, the applicant has submitted a Clause 4.6 request.

There are no objectives in the Seniors Housing SEPP in relation to Location and access to facilities. It is assumed that the intent of the Standard would be to ensure that development for seniors housing is located appropriately so as to ensure that residents of the facilities have suitable access to local services and facilities.

The applicant has provided the following justification:

Notwithstanding the proposed non-compliance, the proposal is consistent with the assumed objective of the Location and Access to Facilities development standard at Clause 26(2) of SEPP (HSPD) as follows:

- *The site has contained an operational residential care facility since 1976 and the proposal will maintain the status quo in this regard, in terms of the distance of the facility from Annandale Village and the gradient of access pathways between the site, Annandale Village and the 433 bus stop on The Crescent;*
- *The facility provides care primarily for the infirm and immobile and residents are not generally mobile or able to leave the premises unaccompanied for shopping and other purposes;*
- *The proposal seeks to reduce the number of beds contained within the complex, therefore reducing the intensity of the development on the site and demand for local services and infrastructure;*
- *The proposed development incorporates the provision of a range*

subclause (1)) complies with subclause (3), or
 (c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development—

(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and

(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
 (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).
 Note.

(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable—

(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,

(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,

(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

(4) For the purposes of subclause (2)—

(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and
 (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

(5) In this clause—

bank service provider means any bank,

of onsite support services, including the following, so as to ensure that residents have access to necessary facilities without the need to leave the site:

- *Doctor's consultation room;*
- *Treatment rooms;*
- *Lounge and dining rooms;*
- *Laundry;*
- *Physiotherapy room;*
- *Hair salon;*
- *Barber;*
- *Dental treatment room;*
- *Multipurpose room; and*
- *Activity rooms.*

To this end, the proposed development is considered to meet the likely intent of the standards despite the non-compliances.

Services and Facilities

The site is located 550m from the Annandale Village which contains the following facilities:

The site is located 550m from the Annandale Village which contains the following facilities:

- *Shops (IGA supermarket, Annandale Friendly grocer newsagency, chemist, cafes, restaurants etc);*
- *A commonwealth bank (on Booth Street);*
- *Annandale Family Doctors which provide the services of a GP; and*
- *Community and recreation facilities.*

To this end, the proposed development is 150m or 37.5% further from the Annandale Village than required by Clause 26(2)(a). The gradient of the access pathway between the site and the Annandale Village is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones as specified).

Public Transport

Regular bus services operate along Booth Street and The Crescent, including;

- *The 370 service which travels between Leichhardt Marketplace and Coogee;*
- *The 470 service which travels from*

credit union or building society or any post office that provides banking services.	<p><i>Lilyfield to Sydney CBD (Martin Place); and</i></p> <ul style="list-style-type: none"> - <i>The 433 service which travels from Balmain (Gladstone Park) to Central (Pitt Street).</i> <p>(continued further below)</p>
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Continued clause 26 discussion

The 433 service stops at a bus stop within 400m of the site and takes residents to within 400m of specified services and facilities. However, the bus stop which is located on The Crescent is not accessible by means of a suitable access pathway given the topography of the area. The gradient of the access pathway between the site and the bus stop on The Crescent is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones as specified).

The percentage variations proposed are as follows:

- *The site is located 150m or 37.5% further from the Annandale Village than required by Clause 26(2)(a) of SEPP (HSPD);*
- *The gradient of the access pathway between the site and the Annandale Village is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones) as specified by Clause 26(2)(a); and*
- *The gradient of the access pathway between the site and the 370 bus stop on The Crescent is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones) as specified by Clause 26(2)(b).*

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

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

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

The proposal is considered to be consistent with the above zone objectives for the following reasons:

- There is a need for housing for the elderly who need additional care in the community;
- The residential care facility by the nature of its use is a different style of housing and requires a higher density to make it economically viable given the support staff services required on site;

<ul style="list-style-type: none"> • The land use is permissible in the zone being defined as seniors housing however it does provide a range of onsite support services for its residents; • Overall the housing is compatible within the streetscape as it is alterations and additions to an existing residential care facility which includes infilling to create levels that connect around a central courtyard. The additional floor level creates a roof/attic level for the existing building which currently has a roof behind a parapet wall. The mansard style roof is considered appropriate on the large corner site; • Sufficient landscaping is provided for the residents and to allow a leafy setback to Johnston and Rose Streets and adjacent to the side boundary with the adjoining residential flat building; • The design of the alterations and additions is considered to adequately protect the amenity of surrounding nearby properties whilst improving the amenity for residents who will live in the facility. <p>There are no specific objectives for Clause 26 – Location and access to facilities however it is considered that the residential care facility provides high level care and most residents would be unlikely to go to the shops / facilities without being accompanied by a carer noting that there is a dementia level at the premises and all meals, linen etc are provided. Given that the facility is existing and no additional residents will be accommodated on site the proposal is considered acceptable with regard to location and access to facilities.</p>	
<p>Clause 27 – Bush Fire Prone Land</p>	<p>N/A. The site is not located on bushfire prone land.</p>
<p>Clause 28 – Water and sewer (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p>	<p>Existing water and sewer services. Given the site is already in operation as a residential care facilities and the proposal reduces the number of residents from that currently no issues are raised with regard to the provision of water and sewer services.</p>
<p>Clause 29 – Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply (1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply. (2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v). (3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a</p>	<p>The relevant parts of Clause 25 are discussed as follows: 25(b)(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development, Comment: The site is identified as flood affected land, the land is contaminated and is located within a heritage conservation area. The proposed alterations and additions to the existing nursing home facility are overall considered acceptable within the heritage conservation area. Subject to recommended to conditions the proposal can be made suitable with regard to</p>

<p>development application to which this clause applies.</p>	<p>flooding and contamination.</p> <p>25(5)(b)(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p>Comment: The site is currently serviced by relevant infrastructure that will be upgraded if required. There are a number of on-site services including medical assistance, cleaning, meal provision, hair dresser, dentist. The applicant has also advised that a shuttle bus will be provided to take residents to Annandale, Balmain and Leichhardt town centres. There are also bus stops within 400m to 650m of the site.</p> <p>25(5)(b)(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p> <p>Comment: The bulk, scale, built form and character of the proposed development is not considered to impact on existing uses, approved uses and future uses of land in the vicinity given there is an existing residential care facility on site. The site directly adjoins only one site which is a 3 storey residential flat building over an open parking level. The surrounding area is zoned R1 residential and is predominantly residential uses.</p>
<p>Part 3 Design Requirements</p>	
<p>Clause 30 – Site analysis (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.</p>	<p>A satisfactory site analysis has been provided.</p>
<p>Clause 32 – Design of residential development</p>	<p>Refer to assessment under clauses 33 to 39 inclusive below – Division 2 – Design</p>

<p>A consent authority must not consent to a development application unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.</p>	<p>principles.</p>
<p>Clause 33 – Neighbourhood amenity and streetscape The proposed development should— (a) recognise the desirable elements of the location’s current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and (c) maintain reasonable neighbourhood amenity and appropriate residential character by— (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site’s land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone.</p>	<p>The proposed alterations and additions to the existing residential care facility are considered acceptable with respect to the existing building and the existing streetscape of the conservation area that it is located within. Neighbourhood amenity is not considered to be significantly impacted by the proposal.</p> <p>The additions are considered appropriate in the context of the existing building which is not contributory to the conservation area. The materials used for the additions are considered appropriate in the conservation area. The alterations and additions maintain reasonable neighbourhood amenity to surrounding nearby dwellings. The existing setbacks are considered appropriate given the site is a corner site bounded by three street frontages. The overall building height is commensurate with the adjoining residential flat building and although an additional floor is proposed it has a mansard roof form which gives an attic style appearance rather than the appearance of an additional storey. All but one of the existing trees on site are to be retained and additional low scale landscaping will be undertaken. The site is not within a riparian zone.</p>
<p>Clause 34 – Visual and acoustic privacy The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by— (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating</p>	<p>As further addressed below under Section 5(c) of this report C3.11 – Visual Privacy and C3.12 – Acoustic Privacy the proposal is considered acceptable with respect to surrounding nearby properties. It is considered that the resident’s rooms (bedrooms) are located in acceptable locations with respect to noise levels.</p>

<p>them away from driveways, parking areas and paths.</p>	
<p>Clause 35 – Solar access and design for climate The proposed development should— (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>The proposed development does not alter daylight access to the main living areas of neighbours in the vicinity or their private open space.</p> <p>The proposal will provide adequate daylight to residents within the residential care facility. Adequate sunlight will be provided to communal open space, the residential care facility does not have substantial private open space.</p> <p>The retrofit of the building and new additions will improve the energy efficiency of the building. Windows of communal lounge and dining areas face north.</p>
<p>Clause 36 – Stormwater The proposed development should— (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	<p>Subject to recommended conditions the proposal is considered to be able to satisfy Clause 36 – Stormwater. Refer to the engineering referral in Section 6(a) of this report for further detail.</p>
<p>Clause 37 – Crime prevention The proposed development should provide personal property security for residents and visitors and encourage crime prevention by— (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>The main entrances to the facility at the car drop off and the main pedestrian entrance at Johnston Street are beside the reception desk. There will be 24 hour on site staff care. A condition is recommended requiring security access eg buzzer at rear entry from carpark so that all access is monitored.</p>
<p>Clause 38 – Accessibility The proposed development should— (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists</p>	<p>(a) the site will have obvious and safe pedestrian links into and within the site. Pedestrian footpaths to bus stops and local shops already exist external to the site as previously discussed under Clause 26.</p> <p>(b) There is currently no disabled parking</p>

<p>with convenient access and parking for residents and visitors.</p>	<p>on site. A condition is recommended to require two existing parking spaces to be amalgamated to provide one disabled parking space on site.</p>
<p>Clause 39 – Waste Management The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Appropriate waste and recycling facilities provided as reinforced by recommended conditions.</p>
<p>Part 4 Development standards to be complied with</p>	
<p>Clause 40 - Development standards – minimum sizes and building height (1) General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause. (2) Site size The size of the site must be at least 1,000 square metres. (3) Site frontage The site frontage must be at least 20 metres wide measured at the building line. (4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted— (a) the height of all buildings in the proposed development must be 8 metres or less, and Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a). (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape. (c) a building located in the rear 25% area of the site must not exceed 1 storey in height. (5) Development applications to which clause does not apply Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following—</p>	<p>40(2) site size - complies 40(3) site frontage – complies 40(4) height – residential flat buildings permitted in the zone therefore acceptable. The proposal is compliant with this clause.</p>

<p>(a) the Department of Housing, (b) any other social housing provider.</p>	
<p>Part 5 Development on land adjoining land zoned primarily for urban purposes</p>	
<p>Clause 44 – Availability of facilities and services</p> <p>A consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.</p>	<p>The site is zoned R1 General Residential as are surrounding sites. The applicant has not stated that they intend to stage the development and it is therefore assumed that all on site services would be operable at the time of the residential care facility commencing operation. However a condition will be recommended requiring this to be the case.</p>
<p>Part 6 Development for vertical villages</p>	
<p>Clause 45 – Vertical villages</p> <p>(1) Application of clause This clause applies to land to which this Policy applies (other than the land referred to in clause 4 (9)) on which development for the purposes of residential flat buildings is permitted.</p> <p>(2) Granting of consent with bonus floor space Subject to subclause (6), a consent authority may consent to a development application made pursuant to this Chapter to carry out development on land to which this clause applies for the purpose of seniors housing involving buildings having a density and scale (when expressed as a floor space ratio) that exceeds the floor space ratio (however expressed) permitted under another environmental planning instrument (other than State Environmental Planning Policy No 1—Development Standards) by a bonus of 0.5 added to the gross floor area component of that floor space ratio.</p> <p>(3) Subsection (2) applies even if the floor space ratio permitted under another environmental planning instrument is expressed in a development control plan.</p> <p>(4) In calculating the gross floor area for the purposes of subclause (2), the floor space used to deliver on-site support services (other than any floor space used to deliver communal or residents’ living areas) is to be excluded.</p> <p>(5) However, if the area of the floor space referred to in subclause (4) is greater than</p>	<p>(1) Clause 45 applies to the site as residential flat buildings are permissible in the R1 General Residential zone.</p> <p>(2) The applicant has utilised the additional floor space bonus of 0.5:1 added to the permissible FSR of 0.6:1 under the LLEP 2013 which results in a permissible FSR of 1.1:1. The proposal provides on-site support services for residents and the applicant has stated the facility will provide at least 10% of rooms as affordable places. The applicant has not specified which of the particular rooms will be affordable places however it is considered that this can be addressed by appropriate recommended conditions.</p> <p>(3) N/A</p> <p>(4) The resultant FSR excluding on-site support services is 1.22:1 or 3532 sqm whilst the permissible FSR under the SEPP is 1.1:1 with the bonus. Accordingly, the applicant has submitted a 4.6 Exception to Development Standards Request which is assessed below under the Leichhardt LEP 2013 assessment in section 5(a)(vii) of this report.</p> <p>(5) N/A</p> <p>(6) The proposal will deliver on-site support services and the applicant has stated that they will provide at least 10% of the resident rooms as affordable places. The applicant has advised that they do not wish</p>

<p>50% of the gross floor area, then the area that may be excluded under subclause (4) is limited to an area that does not exceed 50% of the gross floor area.</p> <p>(6) Requirements relating to affordable places and on-site support services A consent authority may only grant consent to a development application as referred to in subclause (2) if—</p> <p>(a) the consent authority is satisfied, on written evidence, that—</p> <p>(i) the proposed development will deliver on-site support services for its residents, and</p> <p>(ii) at least 10% of the dwellings for the accommodation of residents in the proposed development will be affordable places, and</p> <p>(b) the applicant identifies, to the satisfaction of the consent authority, which of the dwellings for the accommodation of residents in the proposed development will be set aside as affordable places.</p> <p>(7) Grounds on which consent cannot be refused A consent authority must not refuse consent as referred to in subclause (2) only because the proposed development does not comply with a standard referred to in clause 40 (4) (a), 48 (a), 49 (a) or 50 (a).</p> <p>(8) Conditions on grants of development consent A development consent may be granted as referred to in subclause (2) subject to a condition that requires the creation of a restrictive or positive covenant on land to which a development application relates concerning the continued provision of the affordable places identified in the application.</p> <p>(9) A development consent may be granted as referred to in subclause (2) subject to a condition that requires the affordable places identified in a development application to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing.</p> <p>(10) Subclauses (8) and (9) do not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.</p> <p>(11) Clause does not apply to certain heritage affected land Nothing in this clause applies in relation to the granting of consent to a development application</p>	<p>to identify specific units as affordable as dependant on the needs of the resident as to which room may be appropriate such as if they have a high level of dementia residents at one time who will reside on level 1 and don't have any dementia residents at another time. In accordance with clause 45(8) an appropriate condition is recommended regarding a covenant relating to provision of affordable places.</p> <p>(7) Refusal of the application is not recommended.</p> <p>(8) A condition is recommended requiring a covenant to require provision of affordable places.</p> <p>(9) The site and premises is owned and operated by St Basil's Homes. St Basils is not registered with the Office of Community Housing. St Basils Homes is a registered charity under the Australian Charities and Not-for-profits Commission (ACNC). In accordance with SEPP (Housing for Seniors or People with a Disability) 2004, a social housing provider includes a not-for-profit organisation that is a direct provider of rental housing to tenants.</p> <p>Although St Basils does not satisfy subclause 9 as it is not registered with the Office of Community Housing, the overall development is not solely reliant on subclause 2 which grants bonus floorspace. The Leichhardt LEP 2013 allows additional floorspace to be considered under Clause 4.6 – Exceptions to development standards as addressed under section 5(a)(vii) of this report.</p> <p>(10) Appropriate conditions recommended.</p> <p>(11) N/A</p> <p>(12) Definitions noted.</p>
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<p>made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the Heritage Act 1977 applies.</p> <p>(12) Definitions In this clause— affordable place, in relation to seniors housing, means a dwelling for the accommodation of a resident— (a) whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) according to the Australian Bureau of Statistics— Very low income less than 50% household Low income 50% or more but household less than 80% Moderate income 80–120% household (b) who is to pay rent that does not exceed a benchmark of 30% of the resident’s actual household income. on-site support services, in relation to residents of seniors housing, means— (a) 3 meals a day provided on a communal basis or to a resident’s dwelling, and (b) personal care, and (c) home nursing visits, and (d) assistance with housework.</p>	
<p>Part 7 Development standards that cannot be used as grounds to refuse consent</p>	
<p>Clause 46 – Inter-relationship of Part with design principles in Part 3</p> <p>(1) Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.</p>	<p>The proposed alterations and additions to the existing residential care facility are considered to have adequately addressed the Design Principles of Part 3 as previously addressed under Clauses 33 to 39. Accordingly, approval is recommended.</p>
<p>Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities.</p> <p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any</p>	<p>The proposal does not meet the building height, density and scale; landscaped area and parking for residents and visitors figures as detailed in this clause. However the facility is existing and the proposal is to bring it up to current standards in care. The proposal does not increase the number of residents but actually reduces</p>

<p>of the following grounds—</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or</p> <p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</p> <p>(c) landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,</p> <p>(d) parking for residents and visitors: if at least the following is provided—</p> <p>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</p> <p>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</p> <p>(iii) 1 parking space suitable for an ambulance.</p>	<p>the number.</p> <p>Overall, Council officers have assessed the application and consider it to have merit as addressed further throughout this report and therefore the application is recommended for approval.</p>
<p>Chapter 4 Miscellaneous</p>	
<p>Clause 55 – Residential care facilities for seniors required to have fire sprinkler systems</p> <p>A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.</p>	<p>A condition is recommended to be imposed accordingly.</p>

5(a)(xvi) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan.

5(a)(xvii) *Leichhardt Local Environmental Plan 2013 (LLEP 2013)*

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

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

- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.3 - Flood Planning
- Clause 6.4 - Stormwater management

(xvii) Clause 1.2 - Aims of Plan

The proposal is considered acceptable with regard to the Aims of Plan. It is noted that aim (2)(h) is to retain housing for seniors or people with a disability and affordable housing. The proposal retains seniors living whilst upgrading it to today's standards and offers some concessional rooms which maintains some affordable housing. Although the proposal increases the overall bulk and scale of the building it is considered appropriate given the site is a corner site and the minimal impacts on surrounding nearby development. Although the site is located within a conservation area, the existing building was built in the 1970s and the proposed additions are considered acceptable within the streetscape. The use also provides employment opportunities which satisfies aim (2)(j)(i).

(xviii) Clause 2.3 – Zone objectives and Land Use Table

The site is zoned R1 General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as: Seniors housing.

seniors housing means a building or place that is –

- (a) a residential care facility, or
 - (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
 - (c) a group of self – contained dwellings, or
 - (d) a combination of any of the buildings or places referred to in paragraphs (a)-(c), and that is, or is intended to be, used permanently for-
 - (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,
- but does not include a hospital.

Note.

Seniors housing is a type of **residential accommodation** – see the definition of that term in this Dictionary.

The development is permitted with consent within the land use table. The development is considered to be consistent with the objectives of the R1 General Residential zone. The proposal provides for housing need in the community for seniors; is acceptable within the streetscape given the site is a corner site; provides adequate landscaping and has appropriate measures to protect and enhance the amenity of residents within the development and surrounding the development.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: Leichhardt LEP 0.6:1 (1735.8 sqm) SEPP Seniors Vertical village	LLEP 2013 1.42:1 or 4115 sqm <hr/> SEPP Seniors 1.22:1 or 3532 sqm	LLEP 2013 2379.2 sqm or 137.07% <hr/> SEPP Seniors	No

+ 0.5 = 1.1:1 (3182.3 sqm) and excludes certain floor space for support services	(Note FSR calculated with excluded GFA as per LLEP and SEPP Seniors)	349.7 sqm or 10.99%	
Landscape Area Minimum permissible: 20% or 578.6 sqm	20.7% or 599sqm	-	Yes
Site Coverage Maximum permissible: 60% or 1735.8 sqm	53.5% or 1548 sqm	-	Yes

Clause 4.6 - Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor space ratio development standard under Clause 4.4 of the Leichhardt Local Environmental Plan 2013 by 137.07% (2379.2 sqm). It is noted that the SEPP (Housing for Seniors or People with a Disability) 2004 also permits an additional bonus floor space of 0.5 which would total a permissible FSR of 1.1:1 for the site and allows certain areas of floor space to be excluded from the calculations which is detailed in the table above. However the proposal still exceeds the increased floor space allowance therefore Clause 4.6 applies.

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

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

A written request has been submitted to Council in accordance with Clause 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 GFA over and above that permitted at the site, provides public benefits as:*
 - *The additional 270.7m² of additional GFA (ie the non-compliant portion of the proposal) represents approximately twenty-three (23) rooms. These additional rooms contribute to the provision of high quality rooms to meet the ongoing needs of the local community in terms of aged care accommodation;*
 - *The additional GFA allows the amenity of the existing aged care facility to be substantially improved. Existing rooms will be enlarged and provided with ensembles, to the benefit of future occupants. This will also contribute to the range of quality aged care accommodation available in the locality;*
 - *The additional GFA allows the facility to continue to operate viably in the locality, so as to ensure that existing residents are able to age-in-place, and local residents who require care, are able to be accommodated at the site, in their local area and near their family; and*
 - *The additional GFA allows the functionality of the existing complex to be improved such that the ongoing viability of the complex is maintained.*

- *The proposal could be made to comply with the maximum 1.1:1 FSR control by converting the non support-service floorspace at ground floor level to support services, without altering the bulk and scale of the proposed development. This would achieve technical compliance with the GFA as calculated by Clause 45(4) of the HSPD SEPP without having any material impact on the appearance or scale of the proposed development.*

To this end, the non-compliant elements provide for public benefits which contribute to justifying contravention of the FSR standard.

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

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

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

The proposal is considered to be consistent with the above zone objectives for the following reasons:

- There is a need for housing for the elderly who need additional care in the community
- The residential care facility by the nature of its use is a different style of housing and requires a higher density to make it economically viable given the support staff services required on site.
- The land use is permissible in the zone being defined as seniors housing however it does provide a range of onsite support services for its residents.
- Overall the housing is compatible within the streetscape as it is alterations and additions to an existing residential care facility which includes infilling to create levels that connect around a central courtyard. The additional floor level creates a roof/attic level for the existing building which currently has a roof behind a parapet wall. The mansard style roof is considered appropriate on the large corner site.
- Sufficient landscaping is provided for the residents and to allow a leafy setback to Johnston and Rose Streets and adjacent to the side boundary with the adjoining residential flat building.
- The design of the alterations and additions is considered to adequately protect the amenity of surrounding nearby properties whilst improving the amenity for residents who will live in the facility.

It is considered the development is in the public interest because it is consistent with the objectives of the Floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt Local Environmental Plan 2013 for the following reasons:

- *(a) To ensure that residential accommodation –*

- (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
- (ii) provides a suitable balance between landscaped areas and the built form, and*
- (iii) minimise the impact of the bulk and scale of buildings*
- Provide dot point comments on why the proposal is consistent with the development standard

The proposal is considered to be consistent with the development standard for the following reasons:

- The building bulk, form and scale is consistent with the existing building on site, the infill area of each existing floor level is consistent with the existing building bulk and form. The additional floor level is a mansard style attic/roof form which is considered compatible given it is additions to an existing building on a large site.
- Suitable landscaped setbacks are provided around the site.
- The bulk and scale of the additions are minimised by providing an infill area which maintains existing setbacks to boundaries and having a mansard style roof form to minimise the bulk of the additional floor level.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio development standard and it is recommended the Clause 4.6 exception be granted.

Clause 5.10 - Heritage Conservation

The site is not listed as a heritage item however is located within the Annandale Heritage Conservation Area. Adjacent to the site is a Local Heritage Item I59 – Large sandstone wall and gateways to homes 258-272 Johnston Street, Annandale. The nineteenth century house that used to be adjacent to the site at 258 Johnston Street has been demolished and replaced with a residential flat building however the sandstone wall has been retained and forms party of the boundary wall between No.258 and the subject site.

The existing building on the site is an aged care facility that was designed by architects Noel Bell and Ridley Smith in the 1970s and built in approximately 1976. The building was built after the period of significance for the conservation area.

The proposal is considered acceptable with regard to the heritage conservation area and retention of the sandstone wall on the northern boundary.

Clause 6.3 – Flood Planning

The site is identified as a flood control lot and was referred to Council's engineers for comment. Deferred commencement consent is recommended with respect to requirements for flooding. Subject to the deferred commencement requirements being able to be met the proposal can be made acceptable with regard to flooding. Refer to the Engineering Referral below under Section 6(a) Referrals of this report.

Clause 6.4 – Stormwater

The application was referred to Council's engineers for comment. Deferred commencement consent is recommended with respect to requirements for stormwater. Subject to the deferred commencement requirements being able to be met the proposal can be made

acceptable with regard to stormwater. Refer to the Engineering Referral below under Section 6(a) Referrals of this report.

5(b) Draft Environmental Planning Instruments

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

- **Draft Remediation of Land State Environmental Planning Policy**
- **Draft Environment State Environmental Planning Policy**
- **Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)**

The following provides further discussion of the relevant issues:

Draft Remediation of Land State Environmental Planning Policy

It is intended that the draft Remediation of Land SEPP would repeal and replace the current State Environmental Planning Policy No. 55 – Remediation of Land. The Explanation of Intended Effect of the Draft SEPP has been exhibited however the new Remediation of Land SEPP has not been published as yet. The Explanation of Intended Effect is not considered to alter conclusions made with regard to contamination and remediation works made under the current policy SEPP 55. Appropriate conditions are recommended requiring remediation works on the site.

- **Draft Environment State Environmental Planning Policy**

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of the natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018.

This consolidated SEPP proposes to provide a single set of planning provisions for catchments, waterways, bushland and protected areas. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The proposal is considered to be consistent with the provisions of the draft Environment SEPP.

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

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

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

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	

Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
C1.5 Corner Sites	Yes – see discussion
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes – see discussion
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	No – see discussion
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes – see discussion
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.1.3 Johnston Street Distinctive Neighbourhood and C2.2.1.3(a) Johnston Street Laneways Sub Area	No – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes - see discussion
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes - see discussion
C3.8 Private Open Space	N/A
C3.9 Solar Access	Yes - see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes - see discussion
C3.12 Acoustic Privacy	Yes – see discussion
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A

Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	No – see discussion
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	No – see discussion
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	No – see discussion
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	No – see discussion
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	
E1.3.1 Flood Risk Management	No – see discussion
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A

Part G: Site Specific Controls	N/A
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The following provides discussion of the relevant issues:

C1.3 – Alterations and additions

The proposed alterations and additions are considered to be sympathetic to the existing building noting the mansard style addition for the new fourth floor appears as an attic / roof addition to the building which currently has a roof behind a parapet which can't be seen. The additions to link each floor are considered appropriate in the streetscape as they are setback from Johnston Street and are not considered to result in any significant amenity concerns to surrounding nearby properties. The additions principally maintain existing setbacks to boundaries.

Overall the proposal is considered acceptable with regard to the objectives and controls for C1.3 – Alterations and additions.

C1.4 – Heritage conservation areas and heritage items

The site is located within the Annandale Conservation Area but is not a contributory building to the conservation area being built outside the period of significance. The proposed materials and finishes are considered appropriate within the context of the conservation area, streetscape and existing built form. The new fourth floor incorporates a mansard style form so that it appears more as an attic level roof to the existing building which currently has a roof set behind the parapet walls of the building.

Overall the alterations and additions are considered acceptable with regard to the objectives of C1.4.

C1.5 – Corner Sites

The site is located on the corner of Johnston Street and Rose Street and also has its rear frontage to Piper Lane. The proposed alterations and additions are considered to respect the visually prominent role of the corner site. The main addition is a fourth floor however a mansard style has been utilised so that the additional floor appears as more of a roof/attic level which is considered appropriate within the streetscape. Materials and finishes are considered appropriate within the conservation area that the site is located within. Although the existing building is an anomaly in the streetscape it is considered that being on a corner site is an appropriate site for the additional bulk to be located. Overall, the proposed alterations and additions are considered acceptable with regard to the objectives and controls of C1.5 – Corner Sites.

C1.11 – Parking

The proposed alterations and additions reduce the number of beds in the existing residential care facility from 83 to 77 yet retain the existing parking on site. Currently there are 14 parking spaces however 2 spaces have been caged off and are not in use for parking. The proposal will remove this cage to provide access to this parking. It is noted that there are no disabled parking spaces on site currently therefore a condition is recommended to combine parking spaces 13 and 14 to be a single disabled parking space which would comply with the DCP requirement for 1 accessible parking space for every 100 parking spaces for a nursing home. It is noted that the Leichhardt DCP does not have a parking rate for residential care facilities (nursing homes). The existing loading area and ambulance parking bay are to remain as is.

The proposal also includes widening the driveway to Johnston Street which is not supported as discussed under 5(a)(iii) of this report and due to the potential loss of on-street parking to Johnston Street. It is noted that it is a one way entrance from Johnston Street so driveway widening is not required. An appropriate condition is recommended to require the driveway to remain as is and the internal driveway to be modified accordingly.

Overall the proposal is considered acceptable subject to recommended conditions with regard to C1.11 – Parking.

C1.15 - Signs and Outdoor Advertising

The proposal includes two non-illuminated building identification signs facing Johnston Street, one on either side of the driveway crossover. One of the signs is an existing freestanding sign and is proposed to be relocated and one new sign is proposed. The new sign is vertically proportioned and affixed to a column at the entry to the building with a dimension of 3,590mm height by 350mm width.

The objectives of the residential zone is to have discrete signage that respect the residential character and are not visually dominant in the streetscape. The proposed new sign will be reasonably dominant however this is considered appropriate for visitors to identify the site when driving along Johnston Street.

It is noted that Control C12 only permits one business identification or building identification sign per property in residential zones. The proposal is for two signs which is contrary to this control however given the large frontage of the site on a reasonably busy road it will help with way finding for visitors to the site and is considered acceptable in this instance. It is not considered that 2 signs is a proliferation of signage in this instance.

Overall, given the site characteristics and use of the building, the proposed signage is considered acceptable with regard to C1.15 – Signs and Outdoor Advertising.

C1.18 – Laneways

The site backs onto Piper Lane which has a width of approximately 5.5m and is regarded as a medium lane in accordance with the Leichhardt DCP. It is noted that there is no existing or proposed vehicular access from Piper Lane. No building works are proposed directly adjacent to Piper Lane, the existing building setback to the laneway is 3.8m and will retain this setback. Accordingly, the proposal is considered acceptable with regard to the objectives and controls of C1.18 – Laneways.

C2.2.1.3 - Johnston Street Distinctive Neighbourhood and C2.2.1.3(a) Johnston Street Laneways Sub Area

The proposed alterations and additions are considered to comply with control C7 which is to retain the existing diversity and contrast of building scale and architectural style, ensuring future development is complementary to the streetscape and adjacent dwellings. The majority of the existing trees on site will be retained which complies with control C8.

The proposal does not comply with control C11 requiring a maximum building wall height of 3m as discussed further below under C3.2 – Site Layout and Building Design. The proposed additions also do not strictly comply with control C12 which allows higher building wall heights provided new roof forms relate to those existing and do not exceed the higher ridge height adjoining. The adjoining residential flat building roof is lower as it has a skillion roof form. However the current proposal and roof form is considered appropriate being on a large corner site.

Control C13 states that new driveway crossings are to be avoided. Existing crossings should be minimised to single width crossovers. Widening of the existing driveway to Johnston Street is not supported as previously discussed under 5(a)(iii) of this report.

The proposed alterations and additions are not considered contrary to the Johnston Street Laneways Sub Area specific controls.

Overall, subject to a recommended condition in relation to not widening the driveway crossover to Johnston Street, the proposal is considered acceptable with regard to the Johnston Street Distinctive Neighbourhood and Laneways Sub Area.

C3.1 - Residential General Provisions

The proposed alterations and additions are generally consistent with the objectives with the exception of Objective O5 in relation to being consistent with the density established by the Leichhardt LEP 2013. The proposal significantly exceeds the permissible FSR of 0.6:1 which has been previously discussed under 5(a)(vii) with the non-compliance considered acceptable in this instance. Overall the proposed alterations and additions are considered acceptable in the context of the site location being a corner site and not being a contributory building within the conservation area. There are not considered to be any significant amenity impacts to surrounding nearby properties which are more specifically discussed below under relevant headings including visual privacy, acoustic privacy and solar access.

C3.2 – Site Layout and Building Design

The site is located on a corner and adjoins three streets therefore the building location zone (BLZ) control is not applicable. The alterations and additions are essentially infilling to create levels that connect around a central courtyard and the new fourth floor does not extend beyond the levels below therefore the location of the building additions is considered appropriate with regard to the only adjoining building at 258 Johnston Street.

The side setback control (C7) to the northern boundary would require a setback of approximately 4.8m for the overall height of the building. The side setback is 3.315m which does not comply. However in accordance with control C8 exceptions to the side setback can be considered if the pattern of development within the streetscape is not compromised; the bulk and scale is minimised by reduced floor to ceiling heights; amenity impacts on adjoining properties are minimised and access for maintenance is maintained. It is considered that the proposed alterations and additions comply with the requirements of C8, as the existing side setback is maintained; there are not considered to be adverse amenity impacts as discussed further below in this report; the additional floor level is a mansard roof form therefore although it is an additional level it minimises the overall height and there is sufficient setback for maintenance.

The building envelope control for the site is 3m as detailed within the controls of C2.2.1.3 - Johnston Street Distinctive Neighbourhood. The existing building does not comply with the building envelope control and the alterations and additions will further exacerbate the non-compliance. However the building envelope control is principally aimed at single dwellings. The size of the existing lot is considered to be able to accommodate the building height in an appropriate manner noting that the only adjoining building is a residential flat building which is 3 storeys over an at grade open parking level. The additions are essentially infilling within the site to create levels that connect around a central courtyard and providing an additional floor that will appear as an attic level style roof. The building height and envelope is considered acceptable in this instance being a large corner site having a frontage to three streets and therefore being able to have a greater height without any substantial impacts to surrounding nearby development or the streetscape.

Overall the proposed alterations and additions to the existing residential care facility are considered acceptable with regard to the objectives and controls of C3.2 – Site Layout and Building Design.

C3.3 - Elevation and Materials

The proposed alterations and additions are considered acceptable with regard to elevation and materials. The additions to the building to provide a linked building on each level utilise materials similar to existing materials with use of brick to match the existing brick for the main elements. A glazed walkway will be the connecting link at each level which allows the inner courtyard to receive more light.

A colorbond roof in “woodland grey” is proposed for the fourth floor mansard style level. Given this fourth level will be visible due to the site being on two corners in a conservation area, the applicant was previously advised to choose either colorbond colour “windspray” or “wallaby” which is more appropriate. A condition is therefore recommended requiring one of these more appropriate colours for the fourth floor/roof.

Overall, subject to recommended conditions the proposal is considered acceptable with regard to C3.3 Elevation and Materials.

C3.7 – Environmental Performance

The existing building was constructed in approximately 1976 and is being substantially retrofitted as well as additions. It is considered that the retrofit and new additions would improve overall environmental performance.

C3.9 - Solar Access

The proposal is acceptable with respect to solar access to surrounding neighbouring development, there is no significant additional overshadowing impact.

With regard to solar access within the development, there are no specific requirements for residential care facilities noting that residents bedrooms are their only private space. The solar access to the bedrooms is not substantial currently and will remain essentially the same for the redevelopment with regard to the number of bedrooms receiving solar access.

The residential care facility does have communal open space, the communal internal courtyard is additionally overshadowed such that there is solar access only on a small part of the communal courtyard between 11am and 1pm at the winter solstice. However the proposal does include communal lounge rooms and terraces accessed from lounge and dining rooms on each floor which will receive substantial solar access during the winter solstice.

Overall the proposal is considered acceptable with regard to solar access given the use as a residential care facility. Please also refer to SEPP (Seniors) under 5(a)(v) of this report.

C3.11 – Visual Privacy

There are potential visual privacy issues in relation to the Piper Lane elevation of the building and the northern elevation facing the apartment building at 258 Johnston Street. Submissions were received from residential dwellings that front Annandale Street and back onto Piper Lane stating that there is already no privacy to their properties and that privacy would be further impacted by the proposal additions.

It is noted that the existing building has balconies facing Piper Lane on the first, second and third floors. The first floor level is not considered to have privacy impacts due to the levels of the land and this will remain the case with the alterations. At second floor level there are currently 10 balconies accessed from resident’s bedrooms that face Piper Lane. The proposed second floor will reduce the number of balconies to 6, likewise at third floor level.

The proposed new fourth floor level will not have any balconies fronting Piper Lane however there will be 6 new windows with 5 of them being in resident bedrooms. Of these 6 windows only 3 are opposite the dwellings on Annandale Street. The separation of these windows to the rear gardens of these properties is approximately 4.3m to the property boundary, plus 5.5m lane width, plus 6m accounting for garages of the subject properties which is 15.8m to the private open space of these properties. On balance it is considered that the balconies have a greater privacy impact and the reduction of balconies and associated windows to resident rooms reduces the overall impacts and visual privacy to Piper Street is considered acceptable.

The proposed northern elevation will result in two balconies and associated glazed doors on each of the first, second and third floor levels and windows only to two resident rooms on level 4 and a communal roof deck on level 4. First floor level is not a visual privacy concern due to the respective levels and boundary fencing. The residential flat building windows directly opposite the proposed balconies and windows are sufficiently separated being approximately 14.7m and windows on the flat building within a 45 degree angle are separated by 6.4m. However, the applicant has proposed privacy screens on the north facing balconies on the second and third floors and on the windows on the fourth floor. The fourth floor communal deck will have a privacy screen on its northern elevation. Therefore there are not considered to be any visual privacy concerns with the northern elevation of the building.

Overall the proposal is considered acceptable with regard to the objectives and controls of C3.11 – Visual Privacy.

C3.12 – Acoustic Privacy

The proposed alterations and additions are not considered to result in acoustic privacy concerns. The number of balconies accessed from resident's rooms facing Piper Lane is reduced by the proposed alterations and additions to the building and no new balconies are proposed facing Piper Lane on the new fourth floor level. Two new balconies are proposed on the northern elevation at levels first, second and third accessed from residential bedrooms. The balconies are approximately 1m in depth and have privacy screens and are not considered to be an acoustic privacy concern to the adjoining residential flat building to the north of the site. On the new fourth floor level there is a communal roof deck with part of it facing the northern boundary however it is separated 3.3m from the northern boundary and has a privacy screen. Given the use of the deck is for residents it is not considered to be an acoustic privacy concern. Overall the proposal is considered acceptable with regard to acoustic privacy.

D2.3 - Residential Development

The existing residential care facility makes use of private contracted waste services.

The existing residential care facility appears to store bins outside in the loading area. The proposal includes a new garbage chute but does not appear to have an internal storage area for waste. Council requested the applicant designate a waste storage room on the plans and detail how many bins and what the bins are used for in the request for information letter dated 14 June 2019. The applicant in response stated that the bins are located in the loading area with no specific details. It is considered that more secure waste storage should be provided given the scope of works on site.

It is considered that there is sufficient space adjacent to the parking area to be able to have a waste storage room with collection being in the loading area, appropriate conditions are recommended to be imposed accordingly. Subject to recommended conditions it is considered that the proposal can be made acceptable with regard to waste storage.

E1.1.1 – Water Management Statement; E1.2.1 – Water Conservation

The water management statement does not address water conservation measures and water conservation is not addressed within the application. Accordingly, a condition is recommended requiring water efficient fixtures and fittings to be installed where appropriate throughout the building.

The application was referred to Council's development engineer who has advised as follows:

- The site is identified as a Flood Control Lot. A Flood Risk Management Report prepared by BG&E and dated 23 September 2019 is submitted based on Flood certificate issued by Council on 4 September 2019.

- All entries to the ground floor internal area at RL15.77m AHD must be protected from ingress of water up to the Flood planning level by up and down ramps/steps and water proofed walls, flood gates for existing areas etc.
- The doorway from the driveway near to the car drop off to the internal Reception must be deleted as this entry is below Flood planning level.
- The proposed crest along the driveway ramp is not supported as this alters the stormwater drainage paths and is not necessary given the existing car parking is at RL16.13m AHD and the crest at RL16.15m offers negligible increased flood protection.
- No objection to the proposed fence given the existing brick fence top is RL 16.35m AHD which is above PMF level shown on flood certificate at RL 16.30m AHD.

An appropriate deferred commencement condition is recommended accordingly in relation to stormwater and flooding, refer to attachment A of this report.

5(d) The Likely Impacts

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

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

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

5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 30 days to surrounding properties from 31 January 2019 to 1 March 2019. The application was required to be re-notified due to amended plans which occurred for a period of 30 days from 11 October 2019 to 13 November 2019. A total of eight (8) submissions were received as a result of the notification periods noting that two of the submitters made two submissions each as a result of the re-notification.

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

- Privacy implications to surrounding dwellings particularly due to additional storey – see Section 5(c) – C3.11 – Visual Privacy

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

Issue - Trees

- Note the proposed tree removal and trust that a replacement program of appropriate native trees will be conditioned on site, preferably larger trees.
- Removal of trees. Council should require the applicant to replace any trees removed with the same number in one of Annandale's parks.

Comment:

Only one tree is proposed to be removed, others are to be pruned. Given the large number of trees existing on the site it is not considered warranted to require further planting.

Issue - Construction impacts

- The DA will cause neighbourhood disturbance and interference for the duration of the works. The area will suffer severe disruption.
- Noise, dust and disturbance and the movement of heavy vehicles in a residential street whiles these alterations are undertaken.

- There will be extra traffic with builders, trucks etc adding to the congested back lane.

Comment:

Whilst it is acknowledged that there will be construction impacts, the proposal is principally for additions to an existing building and an internal refit rather than demolition of the existing building which reduces overall impacts. Appropriate conditions are recommended regarding management of the site including construction hours and traffic management during the works. It is not considered reasonable to refuse an application due to construction impacts.

Issue - Traffic

- The traffic will be more congested with traffic and parking.
- Constant congestion in back lane.

Comment:

The proposed development will reduce the number of residents in the residential care facility. There is currently no vehicular access to the site from Piper Lane and the proposal does not propose vehicular access from the lane. Whilst there will be additional vehicular traffic during construction works a condition is recommended requiring a traffic management plan to alleviate issues.

Issue - Additional storey

- The addition of a 4th floor to the existing 3 storey façade at Piper lane without any setback on the new level will exacerbate the bulk, height and scale on the narrow Piper Lane. The proposed top floor along Piper Lane should have adequate setback from the existing building and should have planting on the setback area to soften the impact on the neighbouring properties along Piper Lane.
- The community does not want more high rise developments in Annandale
- The proposal to add a storey, while reducing the number of beds and removal of trees suggest an upmarket renovation with improved city views. The DA has profit as its motive, without consideration for the adjacent neighbourhood.

Comment:

The additional storey utilises a mansard roof style and will therefore appear more as an attic roof form which is considered an appropriate way to minimise the appearance of bulk created by the new addition. It is noted that the building is setback 3.8m from the rear laneway which has a width of 5.5m. The sites with dwelling houses that back onto Piper Lane have garages built up to the laneway therefore there is considered to be adequate separation from the rear yards of dwellings that back onto Piper Lane. The proposal is to improve the facilities and living conditions for residents and will reduce the number of residents on site from the current 83 to 77.

Issue - Residents

- We do not need further additions to this building especially if they are reducing the number of residents. The elderly residents will also be impacted.

Comment:

It is acknowledged that the existing residents will need to move out of the premises for the work to be carried out. St Basil's will ensure all residents have a new residential care facility to move to that is operated by St Basil's and have indicated through the applicant that existing residents will be offered a place back in the upgraded facility including any concessional resident. It is noted that the existing building is quite old and does not meet today's standards and expectations for a residential care facility with the new facility able to provide appropriate on site care and activities. Appropriate conditions are recommended regarding relocation of existing residents during construction works and the option to locate back in the new facility.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Environmental Health – acceptable subject to recommended conditions.
- Building – acceptable as lodged, standard conditions recommended to be imposed.
- Heritage – acceptable.
- Landscaping – acceptable subject to recommended conditions.
- Waste – the existing facility makes use of privately contracted waste services. Appropriate conditions are recommended regarding waste management.
- Engineering – with regard to stormwater and flooding the proposal is acceptable subject to recommended conditions including deferred commencement requirements. With regard to traffic and parking there is no objection to existing parking provision however the widening of the driveway crossover to Johnston Street is not supported, a deferred commencement condition is recommended in this regard. Subject to recommended conditions the proposal is considered to be able to made acceptable.
- Social and Cultural Planning – A Social Impact Assessment was provided with the application. Subject to appropriate conditions being imposed including relocation of existing residents; that the existing residents can return if desired as a concessional resident and provision being made for a proportion of on-going concessional residents being provided for the proposal is supported.
- West Connex internal unit – the property will not be directly affected by WestConnex, any tunnelling associated with WestConnex is shown to be more than 50m from the nominated premises.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals are discussed below.

- Transport for NSW (TfNSW) formerly Roads and Maritime (RMS)

The application was referred to RMS for concurrence regarding widening the existing driveway to Johnston Street. Transport for NSW did not support the proposal, refer to 5(a)(iii) in the report for further discussion in this regard.

7. Section 7.11 Contributions/7.12 Levy

St Basils Homes is a registered charity under the Australian Charities and Not-for-profits Commission (ACNC). In accordance with SEPP (Housing for Seniors or People with a Disability) 2004, a social housing provider includes a not-for-profit organisation that is a direct provider of rental housing to tenants. The consent authority does not have authority to require a contribution in respect of the development as per The Minister for Planning issued Direction under Section 94E of the EP&A Act which took effect on 14 September 2007. The Direction provides exemptions to contribution payments for social housing providers.

Accordingly, Section 7.11 contributions are not payable for the proposal.

8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 (FSR) of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant deferred commencement consent to Development Application No. D/2018/686 for alterations and additions to existing residential care facility (St Basil's), including additional storey, changes to internal layout to provide on site support services; reduce the number of beds from 83 to 77, signage, landscaping works including tree removal and remediation works at 252 Johnston Street, Annandale subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

A. Stormwater and Flooding

Amended plans and documentation must be provided demonstrating all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development to Council's Development Engineer's satisfaction including the following:

- a) All new and/or altered internal areas must be protected from ingress of water up to the Flood Planning Level by the following:
 - a. Raising floor levels to the Flood Planning Level
 - b. Provisions of up and down ramps/steps to prevent ingress of flows up to the Flood Planning Level
 - c. Flood gate type devices for areas that that cannot be reasonably raised or protected by up and down ramps/steps to the Flood Planning Level
 - d. All walls/structures/pipes etc must be fully sealed/water proofed to prevent ingress of flows.
- b) The driveway must be graded with continuous fall from the existing carpark area at R:16.13m AHD to the Johnston Street frontage of the site such that an overland flow path for surface flows is provided.

NB: The proposed crest along the driveway ramp is not supported as this blocks the existing stormwater overland flow path.
- c) The doorway to the Reception from the Driveway adjacent to the to the car drop off area must be deleted as this entry is below Flood Planning Level.
- d) A revised Flood Risk Management Report and Plan consistent with the requirements of this condition.

B. Vehicular access and parking facilities

Amended plans and documentation to Council's Development Engineer's satisfaction must be provided to address the following issues:

- a) The width of the vehicular crossing and driveway must be reduced to the minimum width necessary for one-way entry as demonstrated by swept paths analysis and compliance with AS2890.1:2004.
- b) The layout of the driveway must be amended such that the car drop off space is bounded by obstructions/kerb at each end such that it is separate from the driveway.
- c) Demonstrate vehicular access from Johnston Street whilst maintaining the existing number of on-street parking spaces on Johnston Street.
- d) All plans must show all existing and proposed surface levels and dimensions, vehicle swept paths, on-street parking, any necessary changes to parking signage and be consistent with stormwater and flood planning requirements.
- e) Satisfaction of all Roads & Maritime Services (RMS) requirements.

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

FEES

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

2. Long Service Levy

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

GENERAL CONDITIONS

3. 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
Sheet No.A00 Rev K	Site Plan	23/08/2019	Design Delta Architects
Sheet No.A10 Rev K	Ground Floor Plan	23/08/2019	Design Delta Architects
Sheet No.A11 Rev J	First Floor Plan	23/08/2019	Design Delta Architects
Sheet No.A12 Rev H	Second Floor Plan	23/08/2019	Design Delta Architects
Sheet No.A13 Rev G	Third Floor Plan	23/08/2019	Design Delta Architects
Sheet No.A14 Rev H	Fourth Floor Plan	23/08/2019	Design Delta Architects
Sheet No.A30 Rev H	Elevations	23/08/2019	Design Delta Architects
Sheet No.A31 Rev H	Elevations	23/08/2019	Design Delta Architects
Sheet No.A31A Rev A	Elevations	23/08/2019	Design Delta Architects
Sheet No.A32 Rev F	Sections	23/08/2019	Design Delta Architects
Sheet No.A33 Rev G	Street Elevations	23/08/2019	Design Delta Architects
Sheet No.A60 Rev H	External Finishes 1/2	23/08/2019	Design Delta Architects
Dwg No.2508 LP-03	Landscape Details	20-06-2018	John Lock & Associates Landscape Architecture
Dwg No.2508 LP-01	Landscape Plan Ground Level	20-06-2018	John Lock & Associates Landscape Architecture
Dwg No.2508 LP-02	Landscape Plan Level 1	20-06-2018	John Lock & Associates Landscape Architecture
Ref: ES5689/2	Detailed Site Investigation	9 th May 2018	Aargus

Document Number: ES5689/3 Rev 4	Remediation Action Plan	6 th January 2019	Aargus
Unnumbered	Letter re: Detailed Site Investigation and Remediation Action Plan	28 th November 2018	Aargus
Job No: D288 Rev B	Arboricultural Impact Assessment	19/07/2019	Creative Planning Solutions
Job No: D288	Tree Remediation Plan	10/1/2020	Creative Planning Solutions
Final v.2	Access Review	18 September 2018	Morris Goding Accessibility Consulting (MGAC)
Unnumbered	St Basil's Annandale – Operational Plan of Management	December 2018	SJB Planning
Doc Ref: 20180473.1/1505A/RO/HC	DA Acoustic Service	15/05/2018	Acoustic Logic

As amended by the conditions of consent.

4. Design Change

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

- a. Roof to be the colorbond colour windspray or wallaby and to be detailed on the construction certificate plans and any window and door shrouds to be the same colour as the roof.

- b. All brickwork to remain face brick and be annotated on the plans accordingly.

5. Privacy

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the windows to bedroom 1 and bedroom 2 on the fourth floor being amended in the following manner:

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

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

6. Balcony

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the erection of a privacy screen on the following balconies having a minimum block out density of 75% and a height of 1.6 metres above the finished floor level of the balcony/deck.

- Second floor level – northern elevation of balcony to bedrooms 2 and 3
- Third floor level – northern elevation of balcony to bedrooms 2 and 3
- Fourth floor level – northern elevation of roof deck adjacent to room 1 only.

7. Car Parking

The development must provide and maintain within the site:

- a) Thirteen (13) car parking spaces must be paved and line marked including one disabled space.

- b) One (1) car parking space, for persons with a disability must be provided and marked as disabled car parking spaces. Existing car spaces 13 and 14 are to be amalgamated to form this space.

8. Tree Protection

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council’s Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council’s Tree Management Controls at any time.

9. 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
T14 <i>Radermachera sinica</i> (China Doll Tree). Johnston St frontage	Remove.
T2, 9, 10, 12 and 13 in accordance with the submitted <i>Arboricultural Impact Assessment</i> , prepared by CPS, dated 19/07/2019.	Pruning of selected branches as per report.

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*.

10. Project Arborist

Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation,

demolition, construction and landscaping to supervise works. The Project Arborist must supervise all tree remediation works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.

11. 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.

12. Works Outside the Property Boundary

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

13. 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.

14. 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.

15. 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.

16. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

17. Asbestos Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide an asbestos survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate asbestos removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

PRIOR TO ANY DEMOLITION**18. Advising Neighbors Prior to Excavation**

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

19. 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.

20. 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.

21. Asbestos

An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and

disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

22. Construction Traffic Management Plan - Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with RMS accreditation. The CTMP must be approved by the Certifying Authority prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a) Description of the demolition, excavation and construction works;
- b) Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c) Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d) Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;

- e) Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f) Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g) Proposed hours of construction related activities and vehicular movements to and from the site;
- h) Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i) Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j) Measures to maintain public safety and convenience;
- k) Any proposed road and/or footpath closures;
- l) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m) Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n) Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q) On-site parking area for employees, tradespersons and construction vehicles as far as possible;

- r) Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t) Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

23. Resource Recovery and Waste Management Plan – Demolition and Construction

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

PRIOR TO CONSTRUCTION CERTIFICATE

24. Fire Sprinkler System

The residential care facility must have a fire sprinkler system. Details to be shown on the Construction Certificate plans.

25. Water Efficient Fixtures and Fittings

Where appropriate water efficient fixtures and fittings are to be installed throughout the building with the Construction Certificate plans annotated as such accordingly.

26. Tree Protection Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a copy of the submitted *Arboricultural Impact Assessment*, prepared by CPS, dated 19/07/2019 and *Tree Remediation Plan*, prepared by CPS, dated 10/01/2020.

The trees identified below are to be retained and protected throughout the development:

Tree No	Botanical/Common Name	Location
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T1-13, T15-24	As per <i>Arboricultural Impact Assessment</i> , prepared by CPS, dated 19/07/2019 and <i>Tree Remediation Plan</i> , prepared by CPS, dated 10/01/2020	As per AIA and in accordance with Development Fact Sheet—Trees on Development Sites and AS4970—Protection of trees on development sites.
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The tree protection measures contained in the TPP must be shown clearly on the Construction Certificate drawings, including the Construction Management Plan.

The Certifying Authority must ensure the construction plans and specifications submitted fully satisfy the tree protection requirements identified in the TPP.

A Project Arborist is to be appointed prior to any works commencing to monitor tree protection for the duration of works in accordance with the requirements identified in the TPP.

All tree protection measures as detailed in the approved Tree Protection Plan must be installed and certified in writing as fit for purpose by the Project Arborist.

27. Dilapidation Report – 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.

28. Parking Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably experienced Civil Engineer demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking

facilities: Off-street parking for people with disabilities and the following specific requirements:

- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
- b) The longitudinal profile across the width of the vehicle crossing, vehicular access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle.
- c) Minimum headroom of 2200mm must be provided throughout the access and parking facilities.
- d) The headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.
- e) Longitudinal sections along each outer edge of the vehicular access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- f) Car spaces and aisles adjacent to walls or fences are increased in width by an additional 300mm.
- g) Vehicular access from Johnston Street must be ingress only.

29. Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably experienced Civil Engineer. The Plan must be prepared/amended to make provision for the following:

- a) The plan must be generally in accordance with the recommendations of the Flood Risk Management Plan approved in **Deferred Commencement Condition A**.
- b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations

must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:

- i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
 - iii. Flood warning signs/depth indicators for areas that may be inundated
 - iv. A flood evacuation strategy.
 - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c) All works must be designed to comply with the ABCB Standard: Construction of Buildings in Flood Hazard Areas in accordance with the National Construction Code and the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.
- i. Building Code of Australia
 - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level
 - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood
 - iv. Flood hazard level (FHL) Flood Planning Level (FPL)

30. Amended Architectural Plans to Reflect Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk

Management Plan approved in **Deferred Commencement Condition A**. The design must be prepared to make provision for the following:

- a) Specification of materials.
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.

31. Engineering Design – Structural Engineer Plans and Certification

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared and certified by a suitably qualified and experienced Civil and/or Structural Engineer that incorporate the following recommendations of the Flood Risk Management Plan approved in **Deferred Commencement Condition A**.

The design must be prepared to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

32. Stormwater Drainage System

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans 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 areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity directly into Council's piped drainage system.

- 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 Leichhardt DCP2013.
- c) The point of connection to Council's piped drainage system must be a minimum 300mm above the invert of the stormwater pit or as otherwise approved by RMS and Council.
- d) Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm.
- e) Charged or pump-out stormwater drainage systems are not permitted including for roof drainage.
- f) The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes.
- g) As there is no overland flow/flood path available from the rear and central courtyards to the Johnston Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - a. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
 - b. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building
 - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- h) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- i) No nuisance or concentration of flows to other properties.

- j) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- k) 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.
- l) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- m) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- n) Water quality filtration basket(s) with screening bag or similar primary treatment device(s) must be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).
- o) An additional device must be installed to remove oil and grease from surface water runoff from the driveway.
- p) The stormwater system must be designed to prevent ingress of water into internal areas that are below the Flood Planning Level.

33. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a suitably experienced Civil Engineer and evidence that the works on the Road Reserve have been approved by Council and Roads & Maritime Services (RMS) under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.
- b) Existing damaged or otherwise defective kerb and gutter, footpath adjacent to the site shall be restored.

- c) Long sections along both sides of the proposed vehicular crossing and ramp, drawn at a 1:25 or 1:20 natural scale. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing surface levels and proposed surface levels with chainages.
- d) Connection of the site drainage system directly to the Public Stormwater Drainage Pit adjacent to the site on Johnston Street or as otherwise required by Council and RMS. The point of connection must be a minimum 300mm above the invert of the stormwater pit or as otherwise approved.
- e) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- f) Any additional requirements of Roads & Maritime Services (RMS).

All works must be completed prior to the issue of an Occupation Certificate.

34. Bin Storage Area

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site and will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in Leichhardt DCP 2013 and must include doorways/entrance points of 1200mm.

Hot and cold taps to be provided in bin storage areas.

35. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm

wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

36. Each residential level is to have access to a disposal point for all waste streams.

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

37. Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.

38. General Acoustic

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.

39. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

40. 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

41. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

42. Lighting Design

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an amended landscape plan showing that any proposed outdoor lighting is no brighter than 5 LUX OR 10W. External lighting must use sensor lighting.

43. Access Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a) Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part.
 - b) Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia.
 - c) Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements.
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- a) Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of BCA Vol
 - b) Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

44. Fire Safety Upgrade

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a) A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans.
- b) Review the current on site fire safety measures including their relevant standard of performance.
- c) The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

45. Structural Details and Design

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings).

46. Structural Certification for Existing Building – Alterations and Additions

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a structural certification prepared by a qualified practising certified structural engineer verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia.

A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without resulting in demolition of elements marked on the approved plans for retention.

DURING DEMOLITION AND CONSTRUCTION**47. New Contamination Evidence**

Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

48. Protection of Sandstone Fence

During all works on site, the existing sandstone fence on the northern boundary separating the subject site from 258 Johnston Street, Annandale is to be protected from any damage. No building material or equipment is to be stored near this fence.

49. Construction Hours – Class 2-9

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

50. Tree Protection

To protect the following tree/s, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved Tree Protection Plan and/or with Council's Development Fact Sheet—Trees on Development Sites:

Tree No	Botanical/Common Name/Location
T1-13 and T15-21	In accordance with the submitted <i>Arboricultural Impact Assessment</i> , prepared by CPS, dated 19/07/2019

51. Inspection by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

Tree No/ Botanical/Common Name/Location	Time of Inspection	Key stage/ Hold point
T1-13 and T15-24	Prior to commencement of works	<ul style="list-style-type: none"> • Inspection and sign off installation of tree protection measures.
	During Works	<ul style="list-style-type: none"> • Supervise all site preparation and demolition works within the TPZ; • Supervise all works inside or above the TPZ; • Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ; • Supervise all tree work. • Supervise all tree remediation works.
		<ul style="list-style-type: none"> • In accordance with the submitted <i>Arboricultural Impact Assessment</i>, prepared by CPS, dated 19/07/2019 and <i>Tree Remediation Plan</i>, prepared by CPS, dated 10/01/2020

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

52. Limited Root Pruning

No tree roots of 60mm or greater in diameter located within the TPZ of the following trees must be severed or injured in the process of any works during the construction period.

Tree №	Botanical/Common Name, Location and TPZ.
T9, 12, 13 and 15	In accordance with the submitted <i>Arboricultural Impact Assessment</i> , prepared by CPS, dated 19/07/2019.

If tree roots less than 60mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

All excavation within the above specified TPZ of trees to be retained must be undertaken using either pneumatic or hydraulic tools only (e.g. *Airspade®* or hydro excavation) to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist.

53. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.

54. 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.

55. Documentation of Demolition and Construction Waste

All waste docketts from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

PRIOR TO OCCUPATION CERTIFICATE**56. Previous Residents**

Residents of the residential care facility that were living in the premises immediately prior to approved works commencing are to be given first option to relocate back at 252 Johnston Street once the works to the building are completed. If the residents were previously on a concessional rate, a concessional rate is to be provided with the newly renovated premises.

Details of offers to previous residents to return prior to the issue of the Final Occupation Certificate are to be documented (subject to privacy) and provided to the Principal Certifier prior to the Occupation Certificate being granted.

57. On site services prior to Occupation Certificate

In accordance with Clause 44 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 all on site services to be provided on site are to be operational prior to any occupation certificate being issued for the use of the building as a Residential Care Facility.

58. Security

A buzzer to the front reception or similar security feature for monitored access into the building is to be provided from the car park into the building via the hallway which accesses the main lobby.

59. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

60. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

61. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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.

62. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with written evidence from Council and RMS that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.
- b) Existing damaged or otherwise defective kerb and gutter, footpath adjacent to the site shall be restored.
- c) Connection of the site drainage system directly to the Public Stormwater Drainage Pit adjacent to the site on Johnston Street or as otherwise required by Council and RMS.
- d) Other works subject to the Roads Act 1993 approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2- "Roadworks Specifications" and RMS requirements prior to the issue of an Occupation Certificate.

63. Parking Signoff

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

64. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification by a suitably qualified Civil Engineer that:

- a) The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
- b) Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, and stormwater quality improvement device(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to the Principal Certifying Authority. 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 Certifying Authority stamped Construction Certificate plans.

65. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with an Operation and Management Plan has been prepared and implemented for

the stormwater quality improvement device(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.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

66. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

67. Flood Risk Management Plan – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification by a suitably experienced Civil Engineer that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

68. Acoustic Compliance

A report prepared by a suitably qualified Acoustic Consultant shall be submitted to Council certifying that the development complies with the requirements of (as relevant):

- State Environmental Planning Policy (Infrastructure) 2007
- conditions of development consent; and
- Recommendations of Acoustic report prepared by Acoustic Logic dated 15 May 2018

The report shall include post construction validation test results.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

69. Disposal of Soil

Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

70. Remediation and Validation

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminates.

71. Undergrounding Power – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the existing overhead power cables along the Johnston Street road frontage of the site have been relocated underground with appropriate street lighting and new steel standard poles. The street lighting must be designed in accordance with Australian Standard AS1158-Road

Lighting and the Network Standards of Ausgrid and must meet the lighting category required by Council and RMS. In addition the design must also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light.

72. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that a Covenant under Section 88B or 88E (whichever is relevant to the subject development) of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following:

- a) A minimum of 10% of resident bedrooms within the Residential Care Facility are *affordable places* in accordance with the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- b) The identified *affordable places* are to be owned and managed by a registered charity or not-for profit seniors housing provider or an organisation providing community housing that is registered for the time being with the Office of Community Housing.

73. Non-combustible Cladding – Class 2-9 Buildings

Prior to the issue of an Occupation Certificate the Principal Certifier must be provided with suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the National Construction Code (NCC).

74. Products Banned Under the Building Products (Safety) Act 2017

Prior to the issue of any Occupation Certificate, the Principal Certifier is to confirm that none of the building products used on the building are subject to a building product use ban under

the *Building Products (Safety) Act 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act 2017*.

ON-GOING

75. Affordable Rooms

A minimum of 10% of resident bedrooms at all times must be affordable places in accordance with the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and condition 72 above.

76. Tree Establishment

The canopy tree/s required by this consent is/are to be maintained in a healthy and vigorous condition until it/they attain a height of 5 metres whereby it/they will be protected by Council's Tree Management Controls. If the tree is found/Any of the trees found faulty, damaged, dying or dead it/they shall be replaced with the same species within 1 month (up to 3 occurrences).

77. Flood Risk Management Plan

The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

78. Operation and Management Plan

The Operation and Management Plan for the stormwater quality improvement devices facilities approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

79. Vehicles Entering and Leaving the Site

All vehicles must enter and exit the site in a forward direction. Vehicular access from Johnston Street must be ingress only.

80. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

81. Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

82. Bin Storage

All bins are to be stored within the site.

83. Commercial Waste Collection

All commercial waste, recyclable and other material collected by a private waste collector must have minimal impact on the amenity of the surrounding properties.

84. Documentation of Businesses Waste Services

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

85. Acoustic Impacts Compliance

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

86. Health Impacts

The use of the premises shall 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 shall not give rise to the transmission of a vibration nuisance or damage other premises.

ADVISORY NOTES

Public Domain and Vehicular Crossings

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

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council

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

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

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

Insurances

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

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and

- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Noise

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

Amenity Impacts General

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

Fire Safety Certificate

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

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

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule.

The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
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Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
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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	131 555	

Heritage	www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.
Electrical Substations	
Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.	

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
- 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.

Food Premises Certification

The food premises design, construction and operation is in accordance with the:

- a) Food Act 2003
- b) Food Regulation 2010
- c) Australia and New Zealand Food Standards Code

- d) Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
- e) Australian Standard AS 1668 Part 1 – 1998
- f) Australian Standard AS 1668 Part 2 – 2012; and

Mechanical Ventilation System Certification

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the:

- a) Australian Standard AS 1668 Part 1 – 1998,
- b) Australian Standard AS 1668 Part 2 – 2012,
- c) Australian Standard 3666.1 – 2011,
- d) Australian Standard 3666.2 – 2011; and
- e) Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

Contamination – New Evidence

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

Microbial Control – Certification

All cooling towers and warm water systems are to be operated and maintained in accordance with the:

- a) Public Health Act 2010
- b) Public Health Regulation 2012
- c) Australian Standard AS/NZS 3666 – Air Handling and Water Systems of Buildings – Microbial Control, Parts 1, 2 & 3.

Skin Penetration Premises – Design

All skin penetration premises are to be operated and constructed in accordance with the:

- a) Public Health Act 2010
- b) Public Health Regulation 2012

Storage of Hazardous and Dangerous Goods

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

Transport of Hazardous and Dangerous Goods

Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

Tree Pruning or Removal

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

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation

Accessibility

The Access to Premises Code is applicable to this development as new work is proposed. The applicant(s) should investigate whether there are any exemptions for the requirement to upgrade the 'affected' part and principal pedestrian entrance.

The applicant should be made aware of their legislative requirements and shall provide an Accessibility Report from an accredited Access Consultant prior to issue of the DA determination / with the CC documentation to investigate the implications relating to their proposed development.

Building Access requirements:

- a) Table D3.1 requires an accessway to the building and within all areas normally used by the occupants of the building at the main point(s) of entry, car parking area, and sanitary compartments in accordance with Part D3, BCA Vol 1 and AS 1428.1.
- b) **Class 2:** Table D3.1 requires an accessway from a common use pedestrian entrance required to be accessible to at least 1 floor containing sole-occupancy units and to the entrance doorway of each sole-occupancy unit located on that level. Further, where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift.
- c) This may include compliant accessways, walkways, ramps, stairs, doorways and circulation space, braille & tactile design, signage, and all associated finishes and fittings throughout the building.

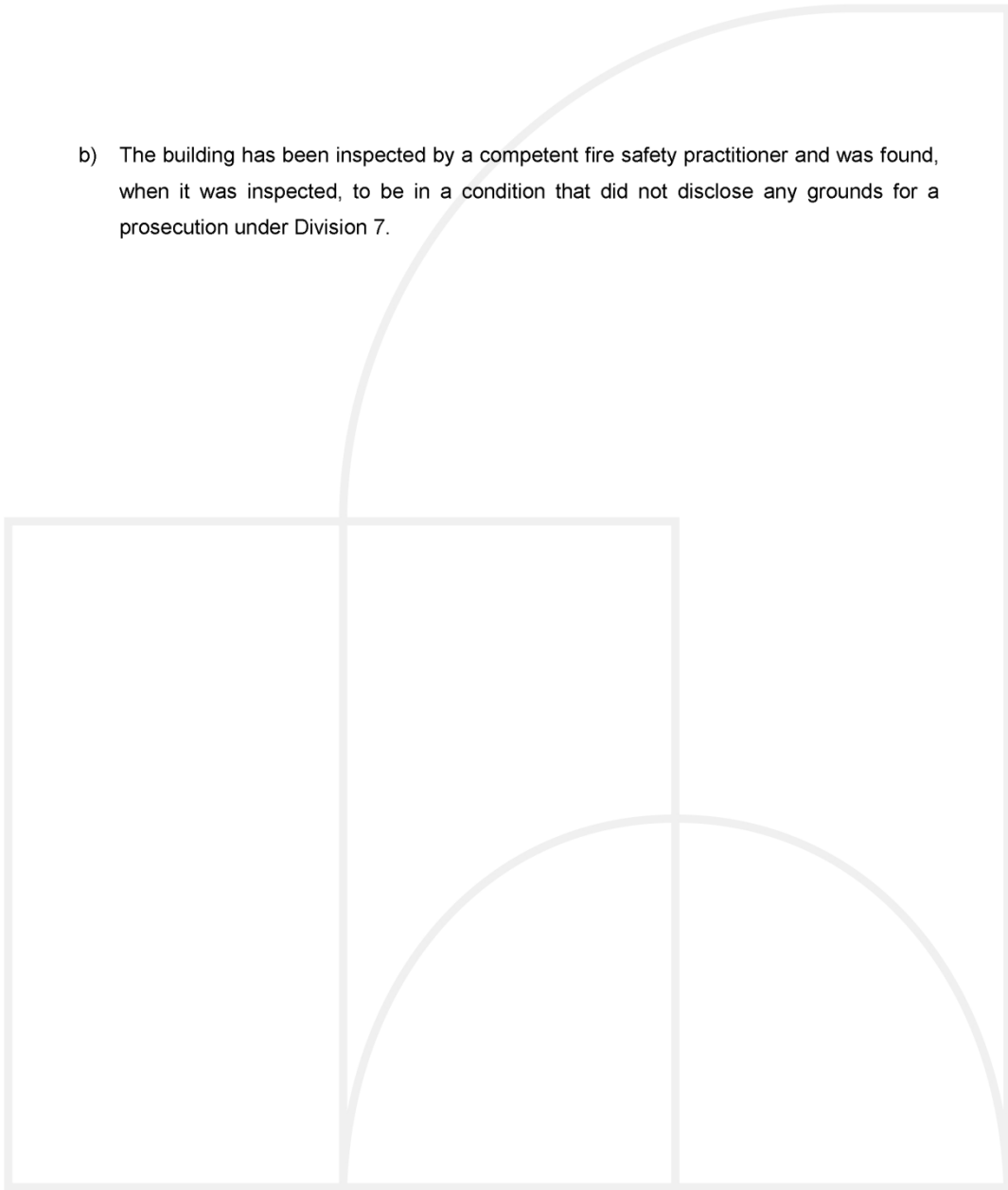
Annual Fire Safety Statement

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

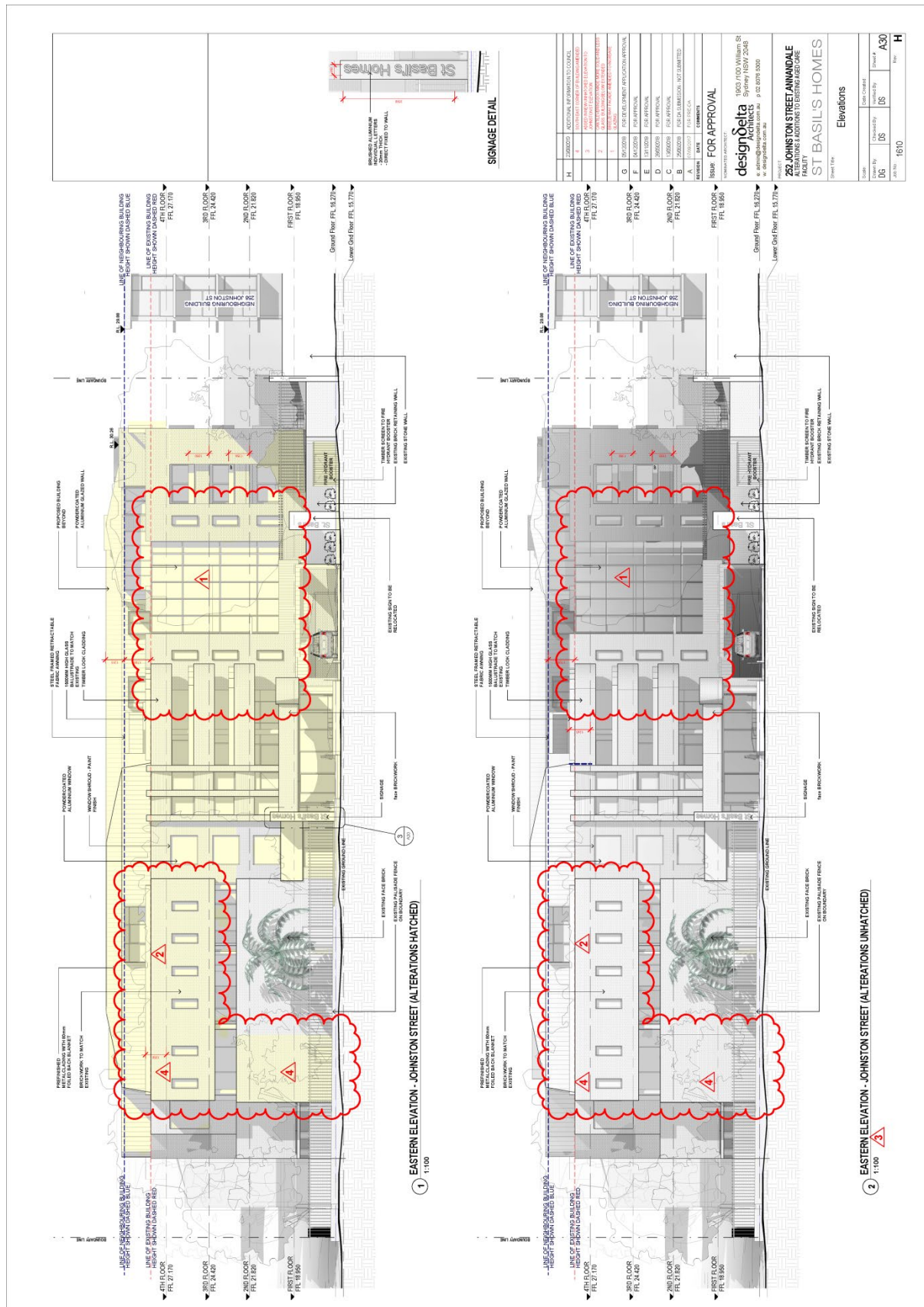
An annual fire safety statement is a statement issued by or on behalf of the owner of a building to the effect that:

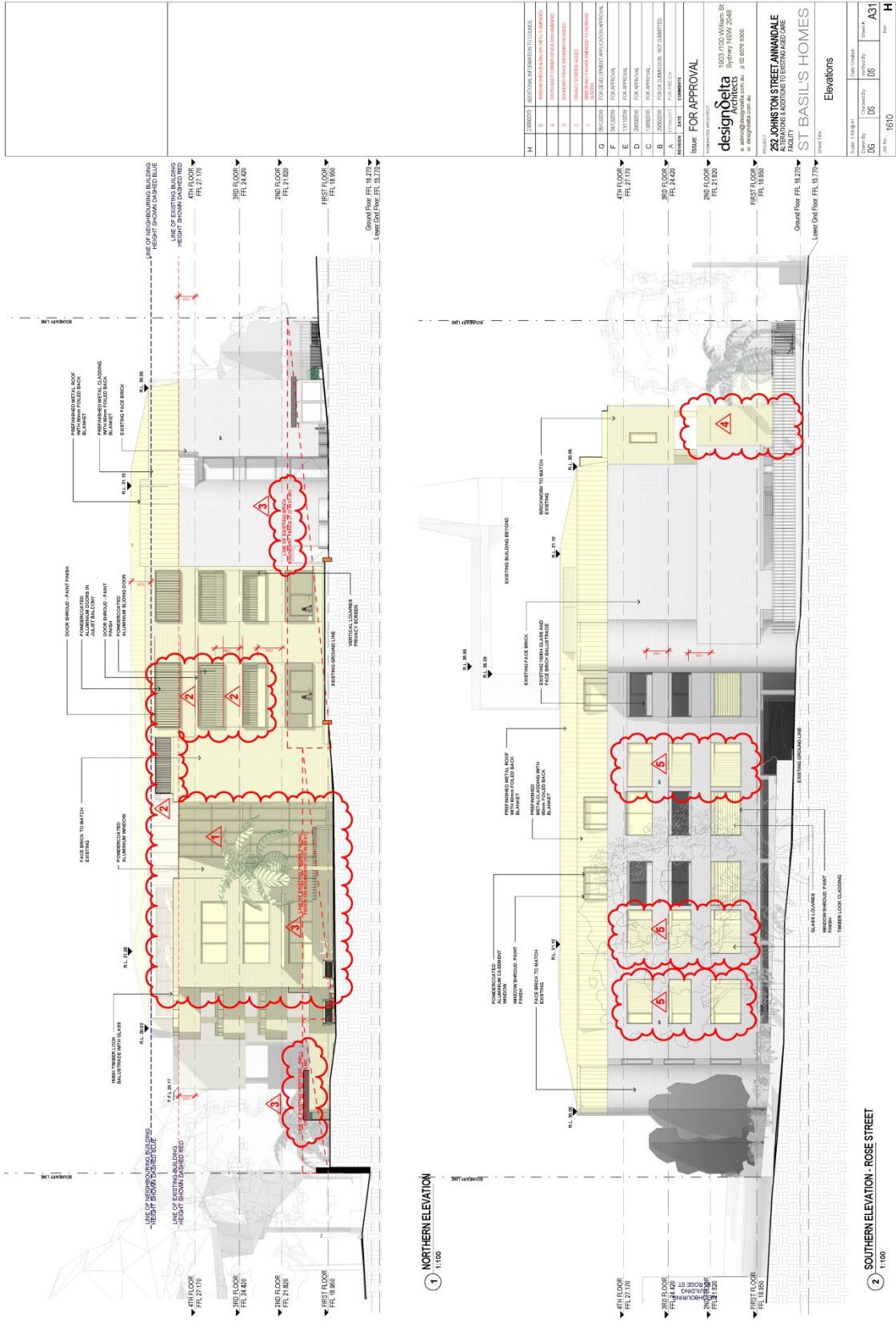
- a) Each essential fire safety measure specified in the statement has been assessed by a competent fire safety practitioner and was found, when it was assessed, to be capable of performing:
 - i. in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
 - ii. in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and

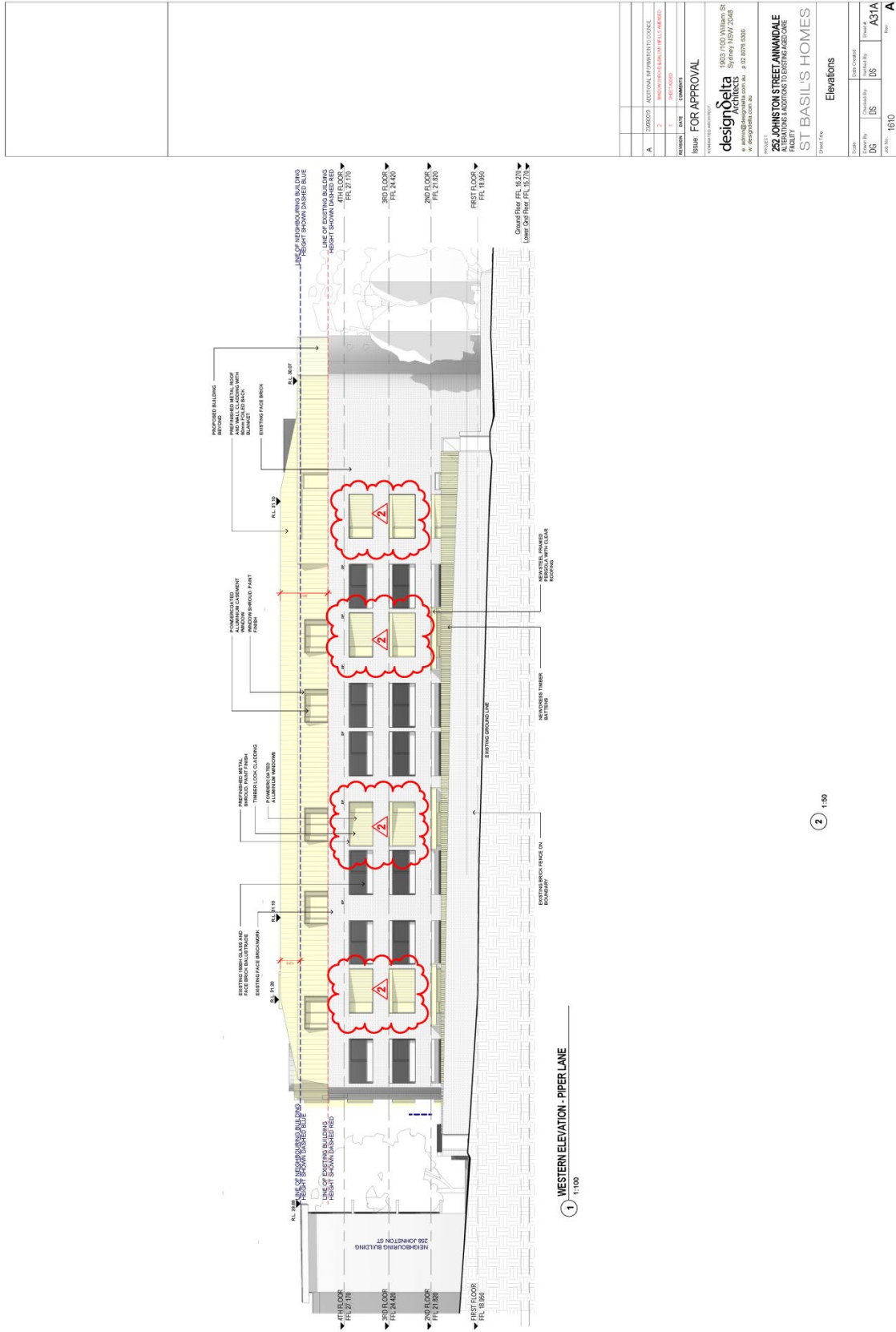
- b) The building has been inspected by a competent fire safety practitioner and was found, when it was inspected, to be in a condition that did not disclose any grounds for a prosecution under Division 7.



Attachment B – Plans of proposed development







NO.	REVISION
A.	ADDITIONAL INFORMATION/CORRECT
2	REVISION INFO BLOCK (WELLS REWORK)

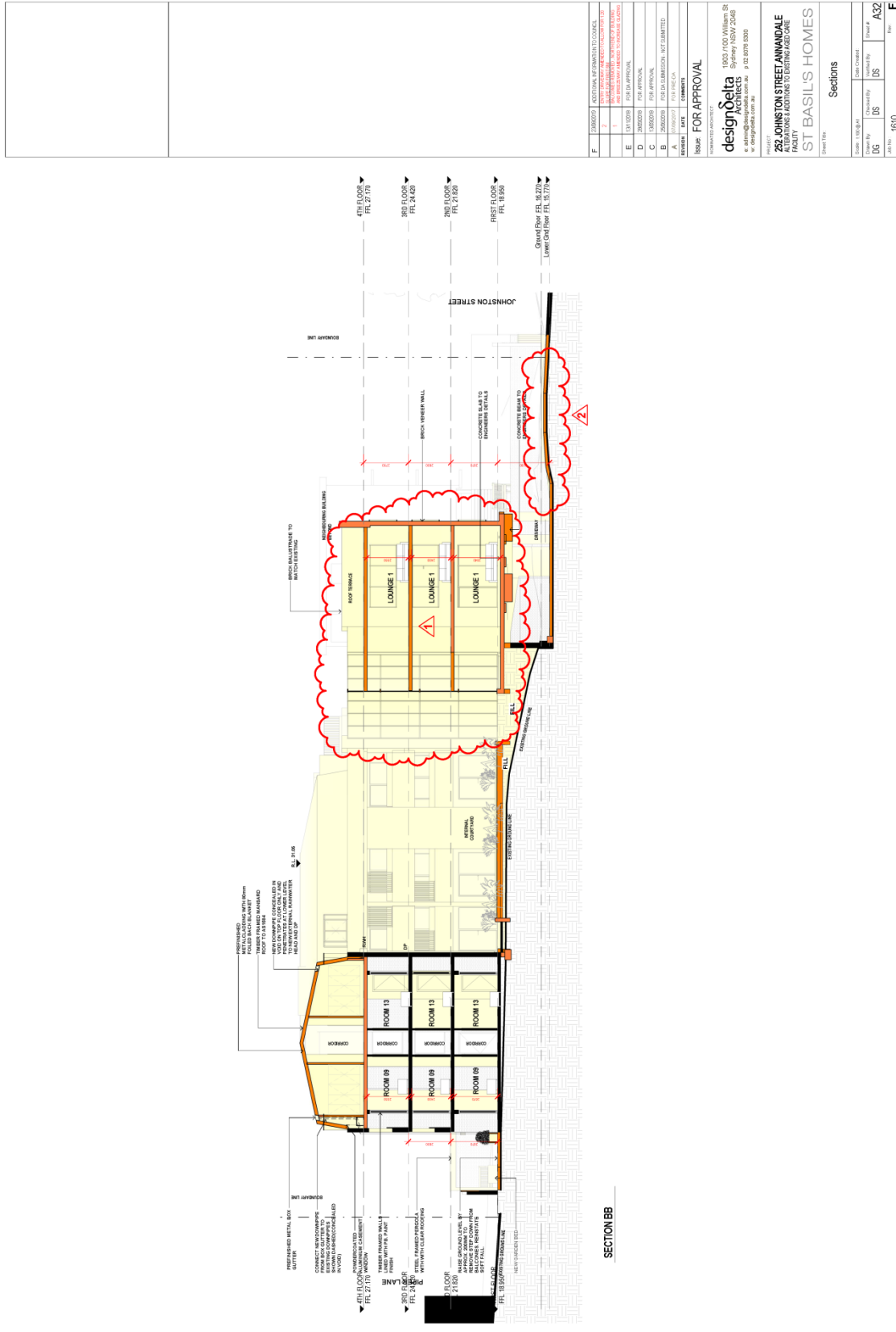
ISSUE	DATE	BY
FOR APPROVAL		

DESIGNER: **designDelta**
 180/1100 WILSON ST
 SYDNEY NSW 1588
 w. designdelta.com.au
 p. 02 9293 5000

PROJECT: **252 JOHNSTON STREET ANNANDALE**
 ST BASIL'S HOMES
 ST BASIL'S HOMES

DATE	DATE CHECKED
05/10/20	05/10/20
DRAWN BY	CHECKED BY
ASIA	ASIA
DATE PLOTTED	SCALE
16/10/20	A

(2) 1:500



F		FUNCTIONAL REPRESENTATION
2	2	FUNCTIONAL REPRESENTATION
3	3	FUNCTIONAL REPRESENTATION
E		FOR APPROVAL
D		FOR APPROVAL
C		FOR APPROVAL
B		FOR APPROVAL
A		FOR APPROVAL

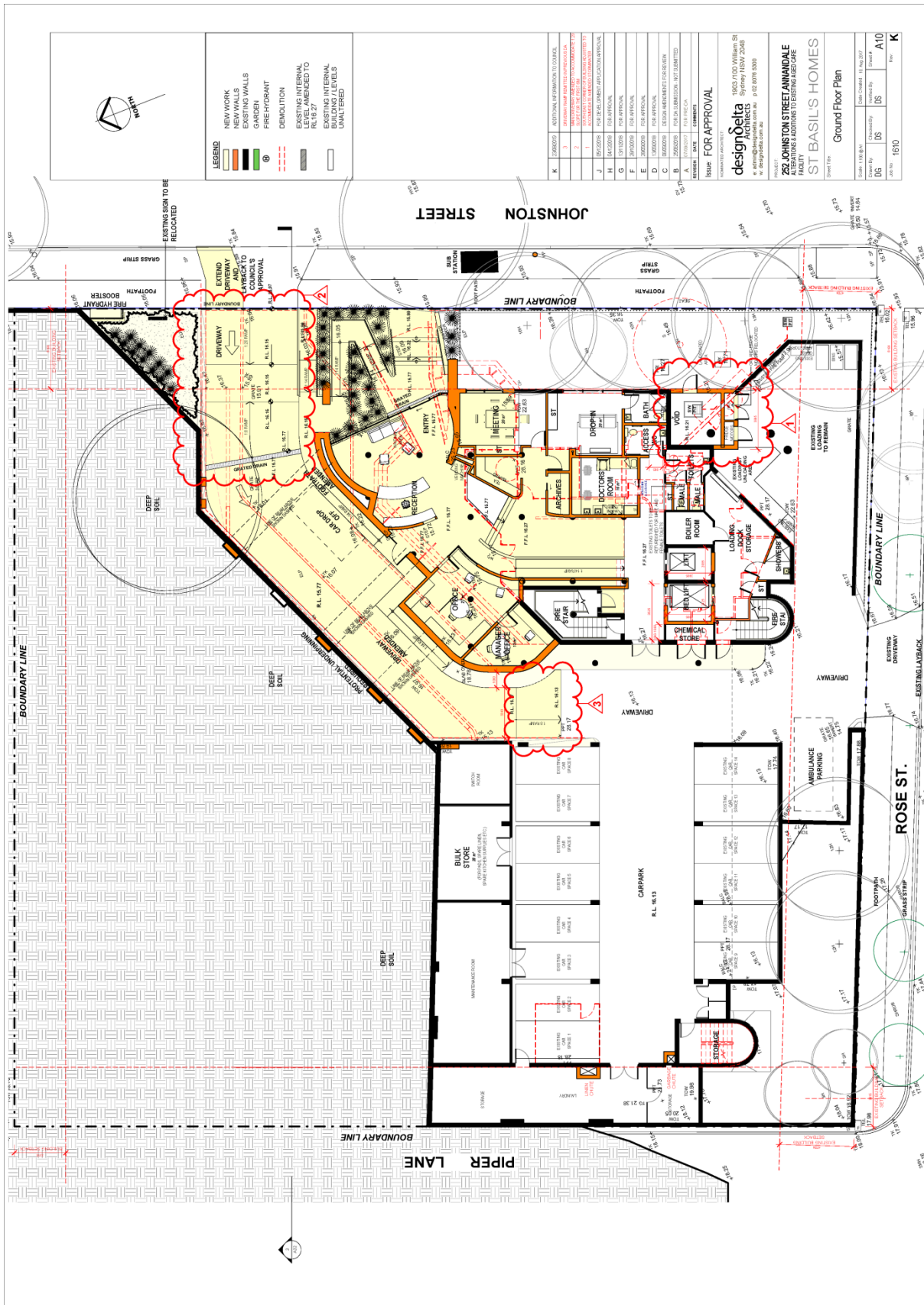
FOR APPROVAL

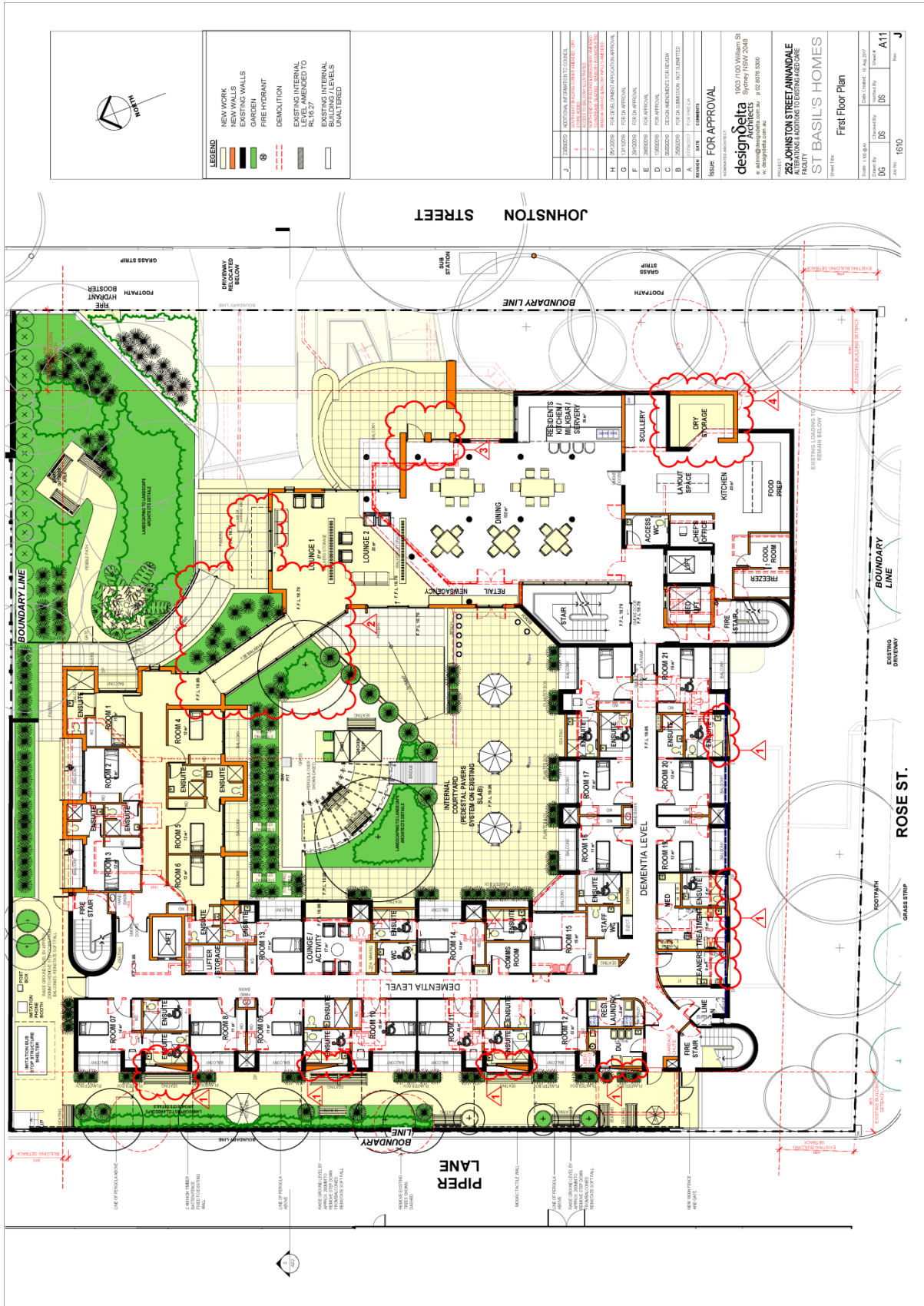
designDelta
 Architects
 1500/100 William St
 Sydney NSW 2048
 www.designdelta.com.au
 P 02 9296 5200

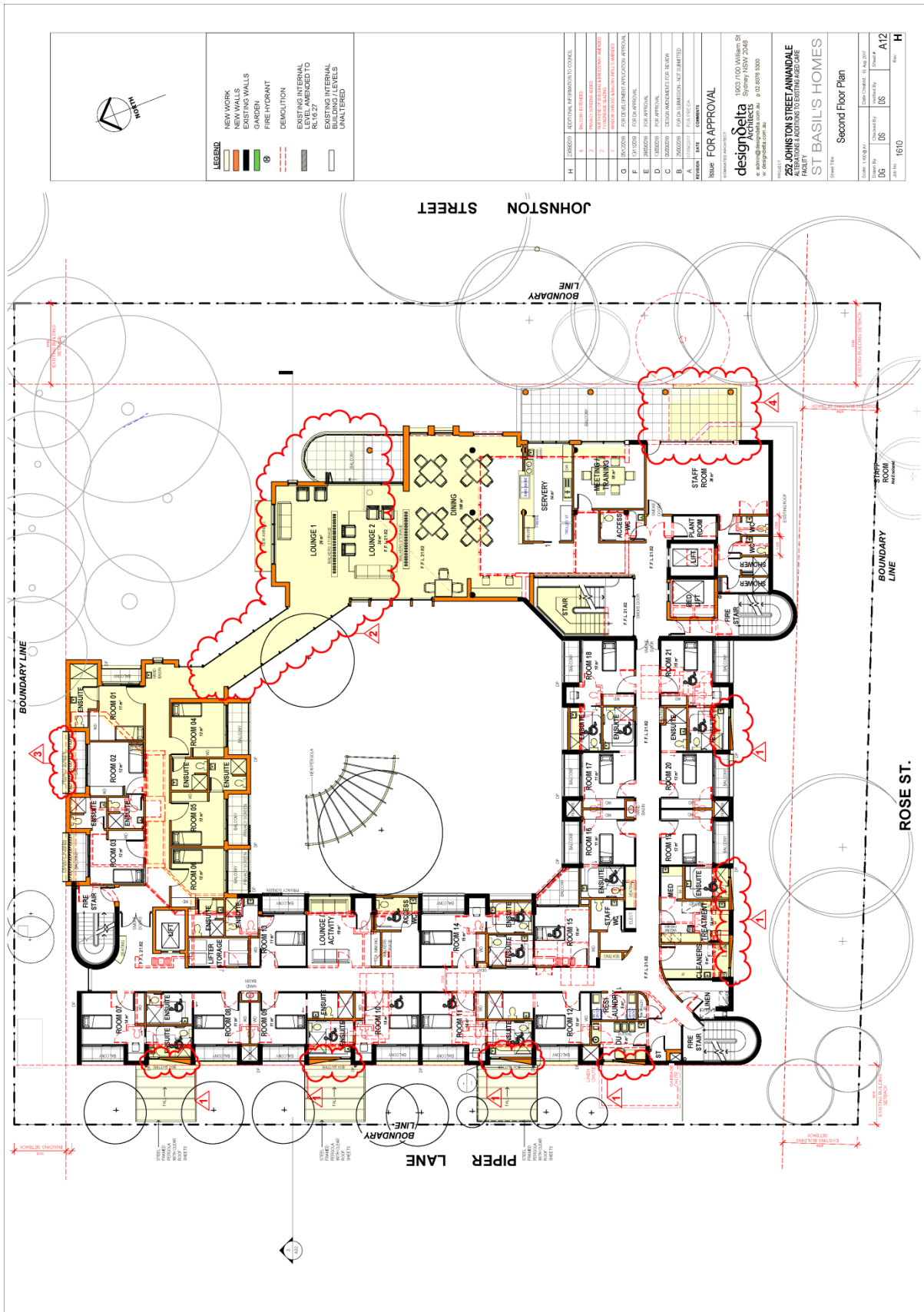
PROJECT:
 252 JOHNSTON STREET ANNANDALE
 BRICKWORK ADDITIONS TO EXISTING ASSESS
 FACILITY
 ST BASIL'S HOMES

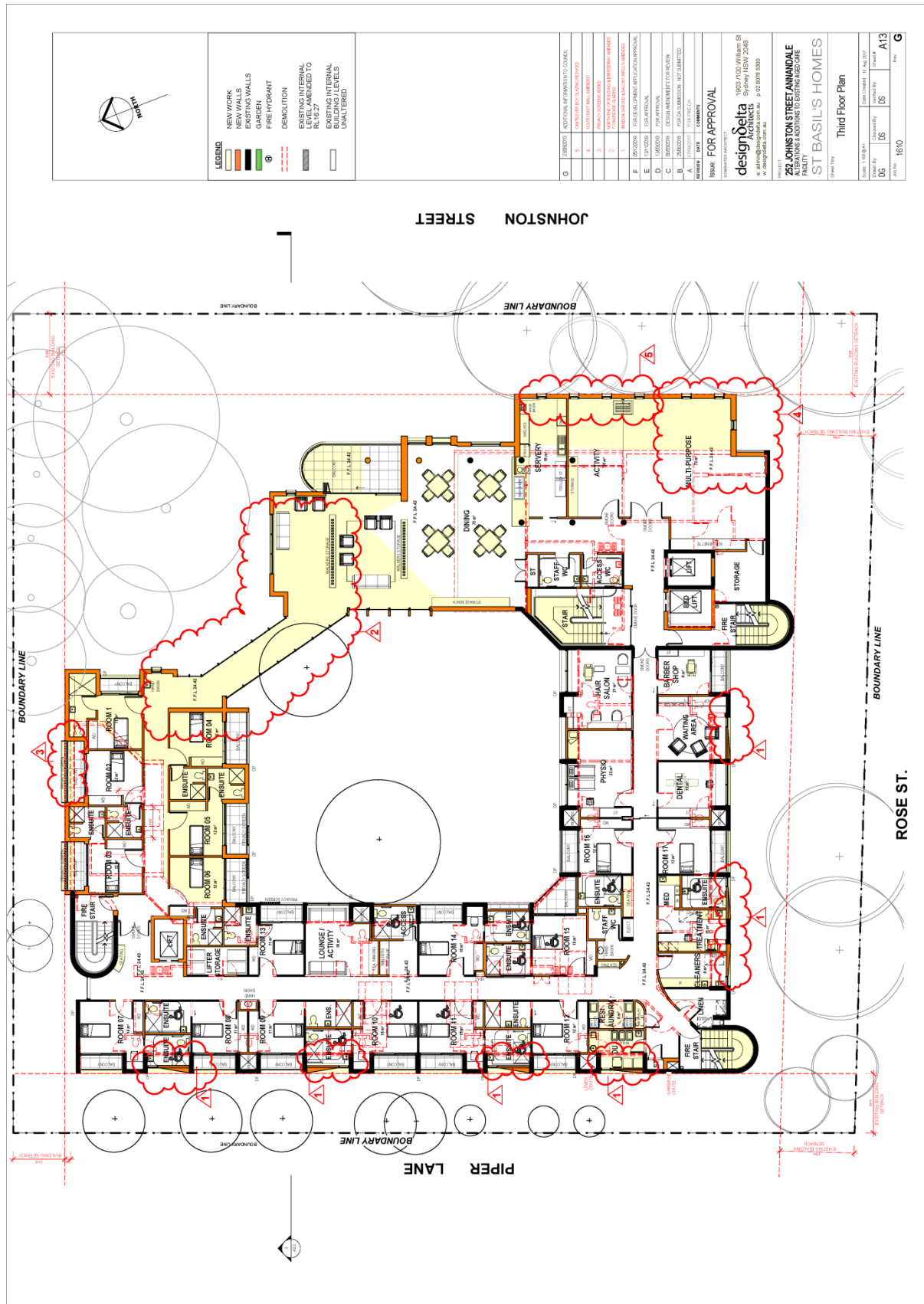
Drawn By: US
 Checked By: US
 Date Created: 15/08/21
 Sheet # A32
 Job No: 1610
 Rev: F

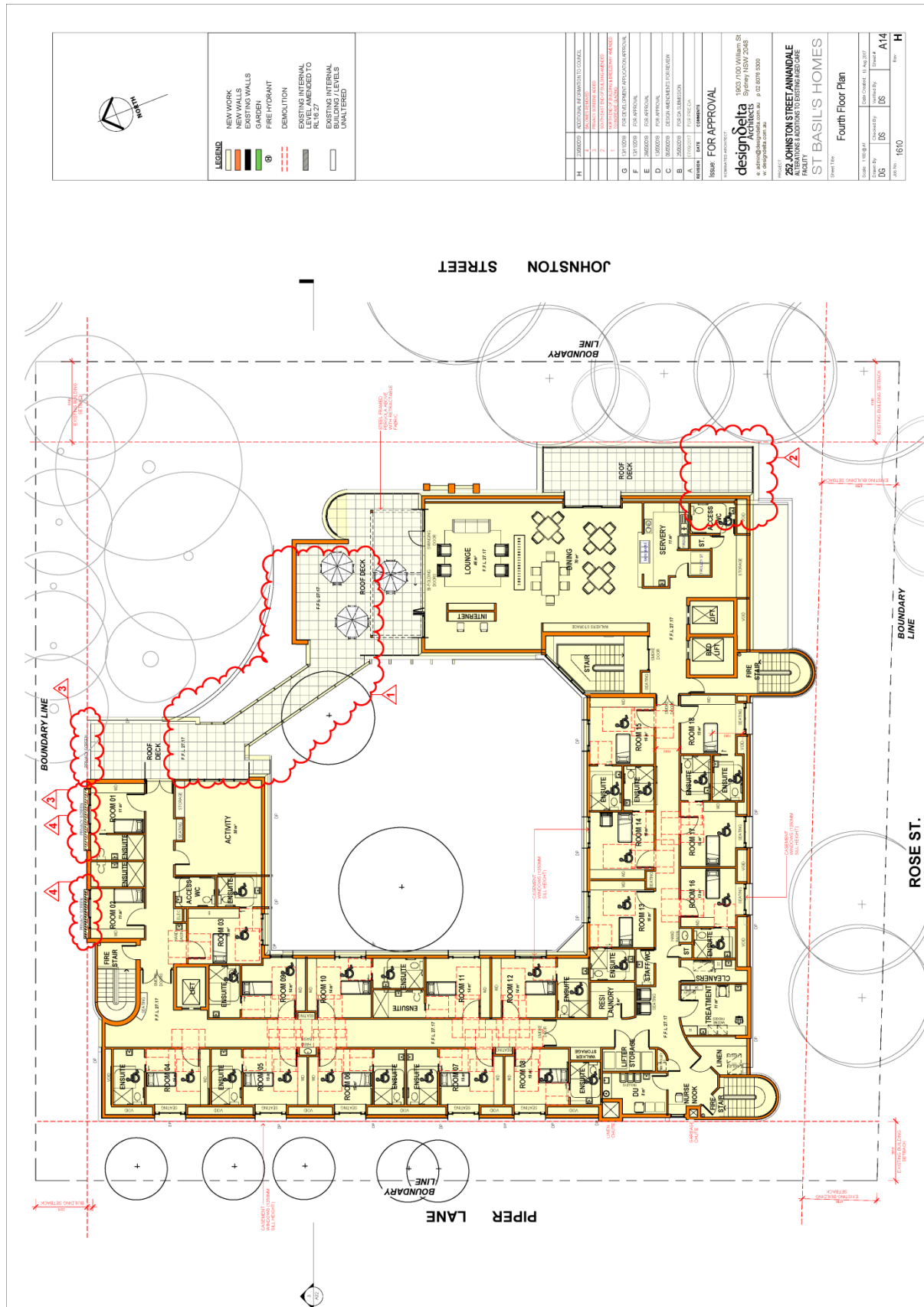












KEY

DAIRY
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 08-11-2019
 09-11-2019
 10-11-2019
 11-11-2019
 12-11-2019
 13-11-2019
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 25-11-2019
 26-11-2019
 27-11-2019
 28-11-2019
 29-11-2019
 30-11-2019
 31-11-2019

designdelta
 ARCHITECTS
 Suite 4, 271 Bell Street, Rosebud
 Phone: 075 560 0000
 Email: info@designdelta.com.au
 www.designdelta.com.au

St Basil's Homes
 2508 LP-03

**ALTERATIONS & ADDITIONS
 AGED CARE FACILITY**
 252 Johnston Street
 Ammanville

**LANDSCAPE
 DETAILS**

18 1900 0 0 A1
 20-08-2019
 2508 LP-03

A TREE DETAIL 1:20

B MASS PLANTING DETAIL 1:20

C MASS PLANTING - RETAINING WALL 1:20

D RAISED PLANTER DETAIL 1:20

E TURF DETAIL 1:10

F BRICK EDGE DETAIL 1:10

3 RADIAL PERGOLA DETAIL 1:20

4 TYPICAL POT DETAIL 1:20 @ A1

1 PERGOLA 1 DETAIL - PLAN VIEW 1:20

2 PERGOLA 1 DETAIL - ELEVATION 1:20

POST DETAIL - PLAN VIEW 1:10 @ A1

KEY

ESSENTIAL TREES TO BE RETAINED
 TREES TO BE RETAINED
 NEW TREES
 SHRUBS
 HEDGES
 SOIL TYPE A
 SOIL TYPE B
 SOIL TYPE C
 SOIL TYPE D
 SOIL TYPE E
 SOIL TYPE F
 MAKE SURE MULCH IS APPLIED TO ALL PLANTINGS

DAIRY
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 08-11-2019
 09-11-2019
 10-11-2019
 11-11-2019
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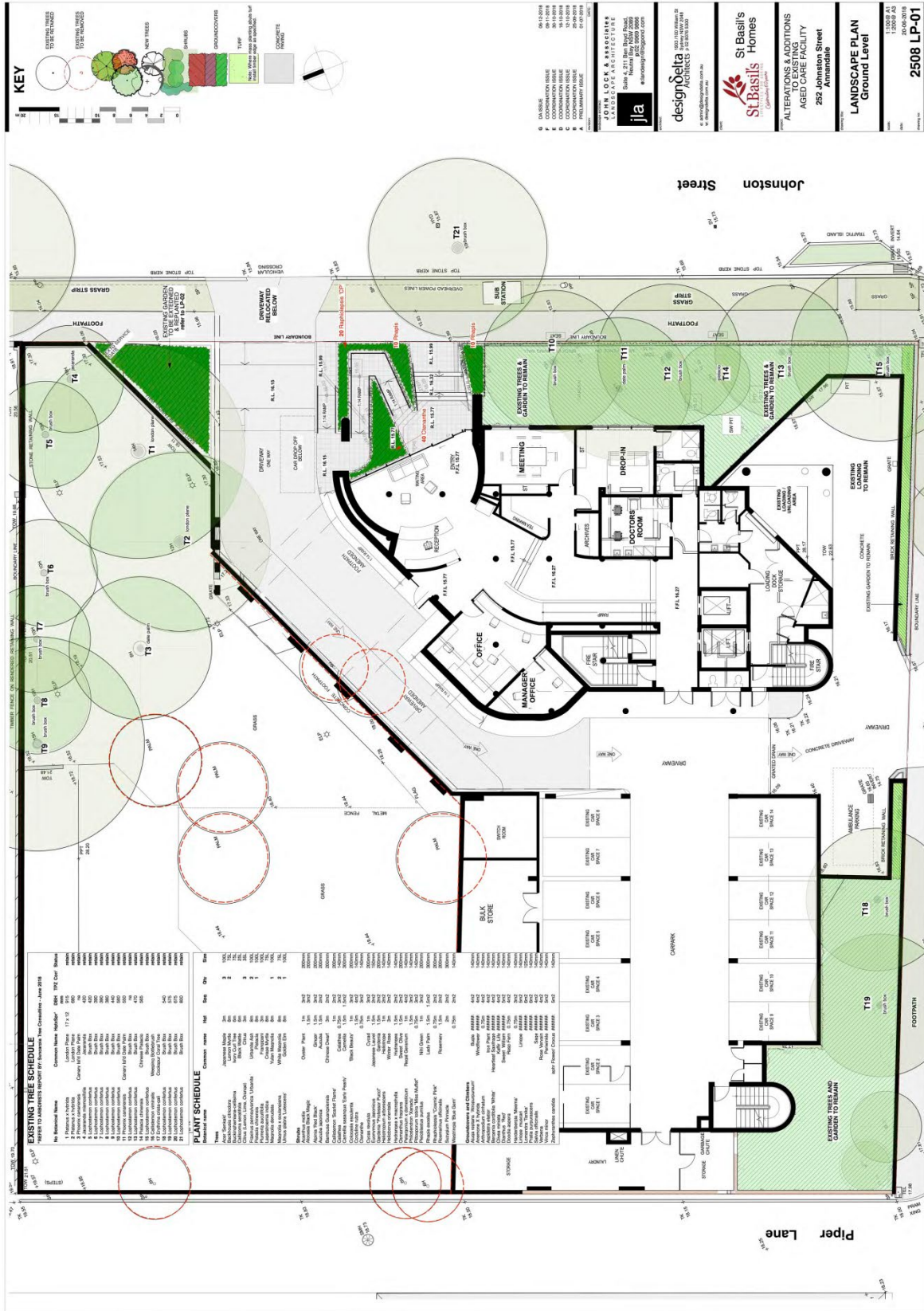
designdelta
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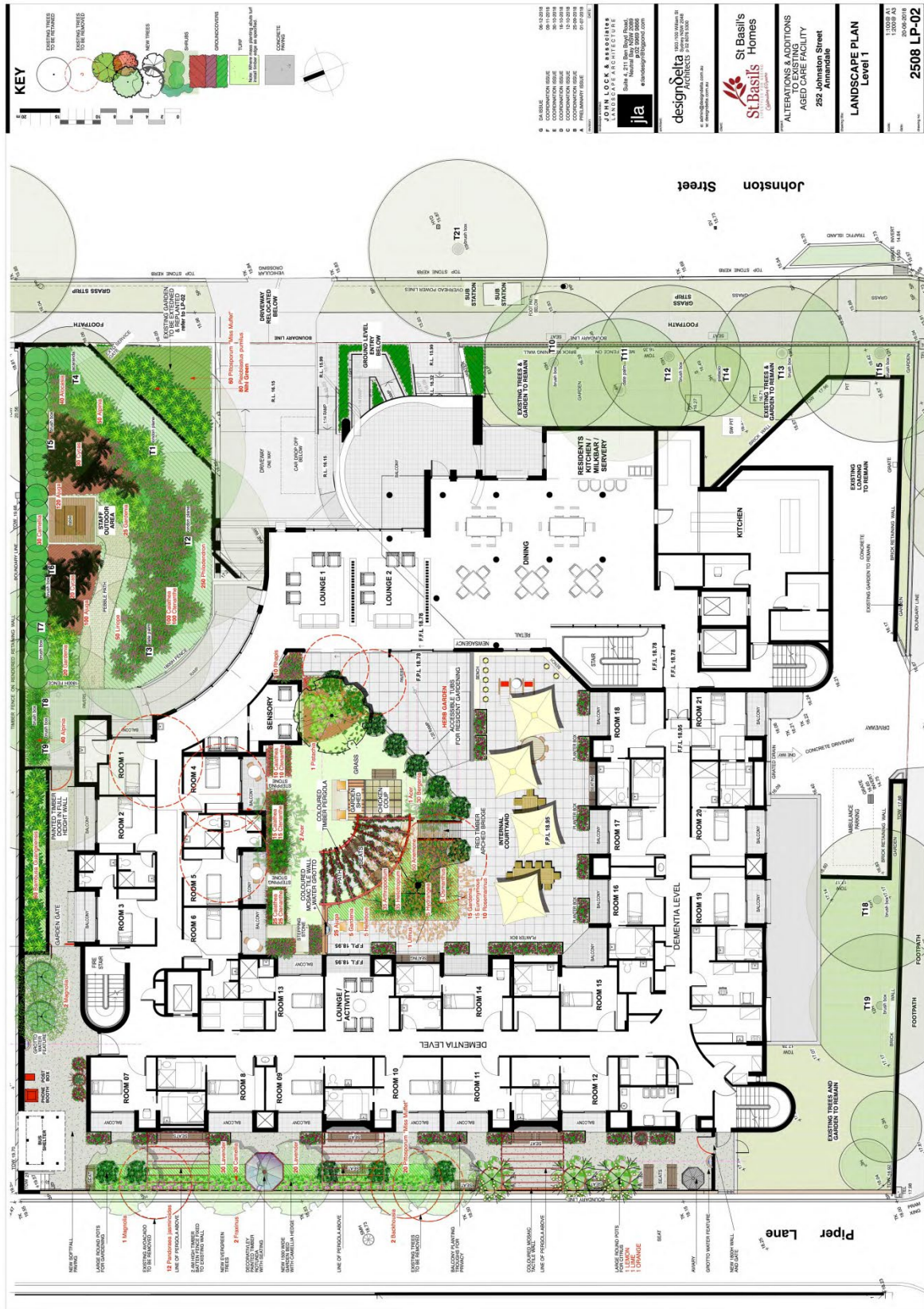
St Basil's Homes
 2508 LP-03

**ALTERATIONS & ADDITIONS
 AGED CARE FACILITY**
 252 Johnston Street
 Ammanville

**LANDSCAPE
 DETAILS**

18 1900 0 0 A1
 20-08-2019
 2508 LP-03







The image shows a multi-story residential building facade. Callout boxes point to various material samples:

- BRICKWORK TO MATCH EXISTING LOCAL BRICKWORK 'CREAM VELOUR'**: A sample of light-colored bricks.
- POWDERCOATED ALUMINIUM WINDOWS & DOORS TO MATCH EXISTING**: A sample of a window frame.
- MOSAIC TILES TO FEATURE ENTRY WALL BISAZZA, CUSTOMIZED PATTERN**: A sample of a colorful mosaic tile pattern.
- PREFINISHED METAL CLADDING & ROOF DOUBLE STANDING SEAM COLORBOND 'WOODLAND GREY'**: A sample of grey metal cladding.
- WINDOW AND DOOR SHROUD PAINT FINISH DULUX WEA THERSHIELD 'WOODLAND GREY' TINTED**: A sample of a white window frame with a grey tint.

The main rendering shows the building with a prominent 'MAIN ENTRY' on the left side. A second view shows the building from a different angle, featuring 'EXISTING TREES' in the foreground.

REVISIONS		REVISION INFORMATION TO OWNER
3	25/10/2018	REVISED TO MATCH EXISTING LOCAL BRICKWORK
2	25/10/2018	REVISED TO MATCH EXISTING LOCAL BRICKWORK
1	25/10/2018	REVISED TO MATCH EXISTING LOCAL BRICKWORK
0	25/10/2018	REVISED TO MATCH EXISTING LOCAL BRICKWORK
G	25/10/2018	FOR APPROVAL
F	25/10/2018	FOR APPROVAL
E	25/10/2018	FOR APPROVAL
D	25/10/2018	FOR APPROVAL
C	25/10/2018	FOR APPROVAL
B	25/10/2018	FOR APPROVAL
A	25/10/2018	FOR APPROVAL

Issue: FOR APPROVAL

PROJECT: 252 JOHNSTON STREET ANNANDALE
 DESIGNER: designDelta Architects
 86/111 Oldfield St
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PROJECT: 252 JOHNSTON STREET ANNANDALE
 DESIGNER: designDelta Architects
 86/111 Oldfield St
 Sydney NSW 2034
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PROJECT: ST BASIL'S HOMES

External Finishes 1/2

Drawn By: DS	Checked By: DS	Date Created: DS	Sheet # A60
Job No: 1510			Rev: H



PREFINISHED METAL CLADDING & ROOF
CORRUGATED METAL FINISH
COLORBOND 'WOODLAND GREY'



WINDOW AND DOOR SHROUD
PAINT FINISH
DULUX WEATHERSHIELD 'WOODLAND GREY' TINTED



POWDERCOATED ALUMINIUM WINDOWS &
DOORS
TO MATCH EXISTING



BRICKWORK
TO MATCH EXISTING LINCOLN
BRICKWORK 'CREAM VELOUR'



JOHNSTON ST. & ROSE ST VIEW, FACING NORTH



JOHNSTON ST. & ROSE ST VIEW, FACING NORTH (WITH TREES)

B - SUBMITTALS		ADDITIONAL INFORMATION FOR COUNCIL	
1 - REVISED TO SUBMITTALS		FOR APPROVAL	
A - APPROVALS		FOR APPROVAL	
SUBMITTALS		FOR APPROVAL	
Status: FOR APPROVAL			
designDelta 1605/1615 Villawood St Sydney NSW 2044 e: info@designdelta.com.au t: 02 9019 5300			
PROJECT: 252 JOHNSTON STREET ANNANDALE FACILITY ST BASIL'S HOMES External Finishes 22			
Date: 15/05	Date Created: 20/07/2019	Drawn By: ES	Sheet #: A61
ES	ES	ES	B
JOB No: 1610		Rev:	

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PROPOSED JOHNSTON STREET BALCONIES, MIMIC
 FRONT FORTH FORM OF THE EXISTING BUILDING
 FABRIC

REVISION	DATE	COMMENTS
FOR APPROVAL		

designDelta
 855 JONES ROAD, SUITE 100
 WILLOWBROOK NSW 2157
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PROJECT:
252 JOHNSTON STREET, MANDALE
 JOHNSTON STREET BALCONIES & ADDITIONS TO EXISTING CARE FACILITY
ST BASIL'S HOMES

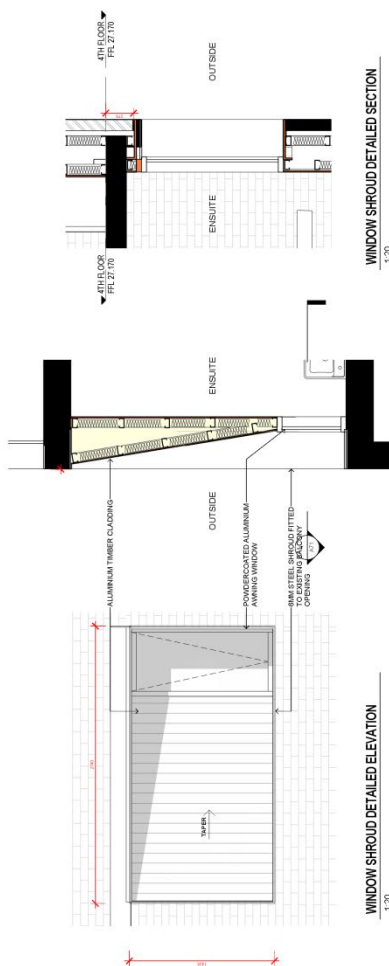
Drawn By	US	Checked By	US	Drawn #	A70
Date Issued	15/10/2016	Sheet #		Of	A



PREFERRED OPTION



COUNCIL'S PREFERRED OPTION



NO.	REVISION	DATE	COMMENTS
A	ISSUED		ADDITIONAL INFORMATION TO DRAWINGS

FOR APPROVAL

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COMMERCIAL ARCHITECTS
1605/1701 Victoria St
Sydney NSW 2044
e: admin@designdelta.com.au
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PROJECT:
233 JOHNSTON STREET ANNANDALE
RENOVATION & ADDITIONS TO EXISTING CARE
FACILITY
ST BASIL'S HOMES

DRAWN BY: [Name] DATE CHECKED: 14 JUL 2019
CHECKED BY: [Name] DRAWN AT: A71
DATE PLOTTED: 18/07/2019 PLOT NO: AA

Attachment C- Clause 4.6 Exception to Development Standards

SJB Planning



Clause 4.6 – Exceptions to Development Standards

Request to Vary Clause 26(2) – Location and Access to Facilities (State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Address: 252 Johnston Street, Annandale

Proposal: Alterations and additions to an existing residential care facility.

1.0 Introduction

This is a written request to seek an exception to a development standard pursuant to Clause 4.6 – Exceptions to Development Standards of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (HSPD SEPP). The development standard for which the variation is sought is Clause 26(2) – Location and Access to Facilities.

This application has been prepared in accordance with the NSW Department of Planning and Environment (DP&E) guideline *Varying development standards: A Guide*, August 2011, and has incorporated as relevant principles identified in the following 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 Limited 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.*

2.0 Description of the planning instrument, development standard and proposed variation

2.1 What is the name of the environmental planning instrument that applies to the land?

The Leichhardt Local Environmental Plan (LLEP) 2013.

2.2 What is the zoning of the land?

The land is zoned R1 General Residential.

2.3 What are the Objectives of the zone?

The objectives of the R1 Local zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.

B428_5_Clause 4.6 Statement_Ci_26_181211

1 / 10

L2/490 Crown St, Surry Hills planning@sjb.com.au T 61 2 9380 9911
 Sydney NSW 2010 sjb.com.au F 61 2 9380 9922

SJB Planning (NSW) Pty Ltd ACN 112 509 501

- *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."*

2.4 What is the development standard being varied?

The development standard being varied is Clause 26 Location and Access to Facilities under HSPD SEPP.

2.5 Is the development standard a performance based control? Give details.

No, the development standard being varied is a numerical control as per *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde [2016] NSWLEC 153*.

2.6 Under what clause is the development standard listed in the environmental planning instrument?

The development standard is listed under Clause 26 Location and Access to Facilities under HSPD SEPP.

2.7 What are the objectives of the development standard?

There are no objectives in HSPD SEPP in relation to the Location and Access to facilities development standard. Notwithstanding, it is assumed that the intent of the Standard would be to ensure that development for seniors housing is located appropriately so as to ensure that residents of the facilities have suitable access to local services and facilities.

2.8 What is the numeric value of the development standard in the environmental planning instrument?

The numeric value of the development standard to which this Request relates is contained in Clauses 26(2)(a) and 26(2)(b) of SEPP (HSPD) which require the following:

- Clause 26(2)(a): The site is located within 400m, by way of a suitable pathway with an overall gradient of 1:14 (with transitional gradients also specified), of shops, banks, retail and commercial services, community services, recreational facilities and the practice of a GP; and
- Clause 26(2)(b): A public transport service is located within 400m of the site that is accessible by a suitable path, that will take residents to a location not more than 400m from shops, banks, retail and commercial services, community services, recreational facilities and the practice of a GP, and the public transport service is to operate least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive).

Specifically and for clarity, it is noted that Clause 26 of SEPP (HSPD) reads as follows:

"(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) community services and recreation facilities, and*

- (c) *the practice of a general medical practitioner.*
- (2) *Access complies with this clause if:*
- (a) *the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*
- (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
 - (ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
 - (iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time,*
or
- (b) *in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development:*
- (i) *that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
 - (ii) *that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
 - (iii) *that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),*
and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or
- (c) *in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development:*
- (i) *that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
 - (ii) *that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
 - (iii) *that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),*
and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

Note.

Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.

- (3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*
- (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*

(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,

(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

(2) For the purposes of subclause (2):

(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and

(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

(4) In this clause:

bank service provider means any bank, credit union or building society or any post office that provides banking services."

2.9 What is the proposed numeric value of the development standard in the development application?

Services and Facilities

The site is located 550m from the Annandale Village which contains the following facilities:

- Shops (IGA supermarket, Annandale Friendly grocer, newsagency, chemist, cafes, restaurants etc);
- A commonwealth bank (on Booth Street);
- Annandale Family Doctors which provide the services of a GP; and
- Community and recreation facilities.

To this end, the proposed development is 150m or 37.5% further from the Annandale Village than required by Clause 26(2)(a). The gradient of the access pathway between the site and the Annandale Village is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones as specified).

Public Transport

Regular bus services operate along Booth Street and The Crescent, including:

- The 370 service which travels between Leichhardt Marketplace and Coogee;
- The 470 service which travels from Lilyfield to Sydney CBD (Martin Place); and
- The 433 service which travels from Balmain (Gladstone Park) to Central (Pitt Street).

The 433 service stops at a bus stop within 400m of the site and takes residents to within 400m of specified services and facilities. However, the bus stop which is located on The Crescent, is not accessible by means of a suitable access pathway given the topography of the area. The gradient of the access pathway between the site and the bus stop on The Crescent is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones as specified).

2.10 What is the percentage variation (between the proposal and the environmental planning instrument)?

The percentage variations proposed are as follows:

- The site is located 150m or 37.5% further from the Annandale Village than required by Clause 26(2)(a) of SEPP (HSPD);

- The gradient of the access pathway between the site and the Annandale Village is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones) as specified by Clause 26(2)(a); and
- The gradient of the access pathway between the site and the 370 bus stop on The Crescent is not known but it is assumed that parts of the pathway would not meet the minimum 1:14 gradient (with appropriate transition zones) as specified by Clause 26(2)(b).

3.0 Assessment of the Proposed Variation

3.1 Overview

Clause 4.6 establishes the framework for varying development standards applying under an EPI.

Objectives to Clause 4.6 at 4.6(1) 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.”*

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- “(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

Clause 4.6(4)(a)(i) and (ii) require 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”*

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained and Clause 4.6(5) requires the Secretary in deciding whether to grant concurrence must consider:

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

This request has been prepared having regard to the latest authority on Clause 4.6, contained in 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 Limited 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*.

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

- 3.2.1 Is a development which complies with the objective of the standard unreasonable or unnecessary in the circumstances of the case?

Compliance with Objectives of the Standard

Notwithstanding the proposed non-compliance, the proposal is consistent with the assumed objective of the Location and Access to Facilities development standard at Clause 26(2) of SEPP (HSPD) as follows:

- The site has contained an operational residential care facility since 1976 and the proposal will maintain the status quo in this regard, in terms of the distance of the facility from Annandale Village and the gradient of access pathways between the site, Annandale Village and the 433 bus stop on The Crescent;
- The facility provides care primarily for the infirm and immobile and residents are not generally mobile or able to leave the premises unaccompanied for shopping and other purposes;
- The proposal seeks to reduce the number of beds contained within the complex, therefore reducing the intensity of development on the site and demand for local services and infrastructure;
- The proposed development incorporates the provision of a range of onsite support services, including the following, so as to ensure that residents have access to necessary facilities without the need to leave the site:
 - Doctor's consultation room;
 - Treatment rooms;
 - Lounge and dining rooms;
 - Laundry;
 - Physiotherapy room;
 - Hair salon;
 - Barber;
 - Dental treatment room;
 - Multipurpose room; and
 - Activity rooms.

To this end, the proposed development is considered to meet the likely intent of the standards despite the non-compliances.

3.2.2 Is the underlying objective or purpose of the standard not relevant to the development?

There is no stated objective or purpose of the Standard however, it is assumed that the intent of the Standard would be to ensure that development for seniors housing is located appropriately so as to ensure that residents of the facilities have suitable access to local services and facilities.

The underlying objective or purpose of the standard are relevant to the proposal and addressed above and the proposal is considered to achieve the intent of the standard, despite the non-compliance.

3.3.3 Would the underlying objective or purpose be defeated or thwarted if compliance was required?

The underlying objective or purpose of the development standard would be defeated or thwarted if compliance was required, as it would prohibit the ongoing operation of the residential care facility at the site, which provides an important public benefit, in terms of the provision of care for aged and disabled persons within the Inner West.

3.3.4 Has the development standard been virtually abandoned or destroyed by the Council’s own actions in departing from the standard?

It cannot be said that the development standard has been abandoned or destroyed by Council’s own actions, as every Application must be assessed on its merits, however the existing facility has been operating effectively since 1976 despite the site’s proximity to services and gradients of access pathways in the locality.

3.3.5 Is the zoning of the land unreasonable or inappropriate?

The land zoning is appropriate for the site.

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

The proposed development, despite its failure to comply wholly with the provisions of Clauses 26(2)(a) and 26(2)(b), provides public benefits as:

- It will enable the existing facility to continue to operate viably in the locality, so as to ensure that existing residents are able to age-in-place, and local residents who require care, are able to be accommodated at the site, in their local area and near their family; and
- It will enable the amenity of the existing aged care facility to be substantially improved. Existing rooms will be enlarged and provided with ensuites, to the benefit of future occupants. This will also contribute to the range of quality aged care accommodation available in the locality.

To this end, the non-compliant elements provide for public benefits which contribute to justifying contravention of the Location and Access to Facilities standard.

3.4 Is the proposed development in the public interest because it is consistent with the objectives for development in the zone?

The site is located within zone R1 General Residential under LLEP 2013 as illustrated in the extract of the Land Zoning Map in Figure 1.

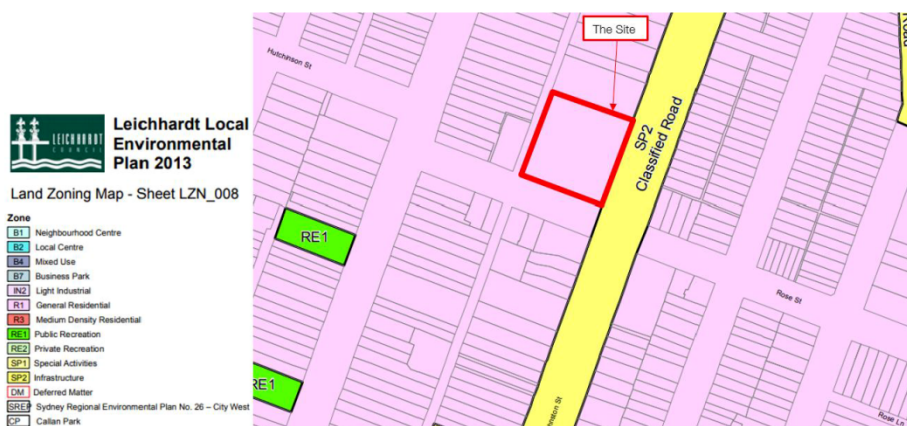


Figure 1: Extract of LLEP 2013 Zoning Map

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SJB Planning

SJB Planning (NSW) Pty Ltd ACN 112 609 601

The proposed development is also consistent with the objectives of the R1 General Residential zone as detailed in Table 1 below.

Objective	Comment
<i>To provide for the housing needs of the community.</i>	The proposed alterations and additions to the existing residential care facility will see the number of beds decrease, but the quality of the facility improve. The improvement of this existing facility in this way will provide high quality care for the local residents and other persons, meeting the needs of the community.
<i>To provide for a variety of housing types and densities.</i>	The proposed alterations and additions will improve the quality of the existing residential care facility and enhance the mix of available residential care accommodation within the area.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The alterations and additions to the existing aged care facility will enhance the facilities contained within, ensuring the needs of the facility's residents are met.
<i>To improve opportunities to work from home.</i>	The aged care facility will not provide facilities for work from home given the nature of its occupants who are infirm and largely unable to leave the facility.
<i>To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.</i>	The alterations and additions to the existing aged care facility are in keeping with the existing building. The design of the alterations and additions has been undertaken to ensure a positive streetscape contribution and to relate to the character of the locality, which comprises variations in architectural forms and styles.
<i>To provide landscaped areas for the use and enjoyment of existing and future residents.</i>	A landscaped area equivalent to 23.2% of the site is retained will provide for the enjoyment of existing and future residents of the aged care facility. The functionality and amenity of the landscaped areas around the site will be improved as a result of the proposed development.
<i>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.</i>	The existing allotment will not be subdivided as part of this DA. The existing allotment is consistent with the subdivision pattern within this block despite the fact that the site is one of the largest allotments in the locality
<i>To protect and enhance the amenity of existing and future residents and the neighbourhood.</i>	<p>The proposed amendment and additions will not unreasonably impact upon the amenity of the neighbouring residents or that of the future residents of the aged care facility, as discussed throughout this report.</p> <p>Minor view loss will be experienced by one (1) apartment in the building at 258 Johnston Street, however the impacts are considered acceptable as discussed below.</p> <p>The proposal will not impact upon the amenity of other residents in the locality as the external appearance of the existing building will be significantly improved, the proposal generally complies with the applicable onsite car parking requirements and the proposal will provide for improvements to the quality and amenity of the rooms within the existing facility.</p>

Table 1: R1 General Residential Zone Objectives Assessment Table

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As can be seen above, the proposal is consistent with the objectives of the zone despite the non-compliance with the Location and Access to Facilities development standard.

3.5 Whether contravention of the development stand raises any matter of significance for the State or regional Environmental Planning?

The contravention is a local matter and does not raise any matter of state or regional significance.

Inner West Council and associated Planning Panel can assume the Secretary's concurrence under Planning Circular PS 18-003 issued on 21 February 2018.

3.6 How would strict compliance hinder the attainment of the objects specified in Section 1.3 (a), (b) and (c) of the Act?

The objects set down in Section 1.3 (a), (b), and (c) are as follows:

Objective	Comment
(a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	<p>The proposed development will promote the social and economic welfare of the locality through the provision of a renovated residential care facility, with significant amenity improvements to all rooms, which will now be provided with ensuites. At present, the complex contains smaller rooms and shared facilities, so the proposed development will have significant amenity improvements.</p> <p>The proposed development will result in the ability of the site to continue to provide much-needed quality aged care to the benefit of the community and existing residents. Similarly, the proposal represents the proper management of the state's resources, by undertaking improvements to an existing facility in an inner-city location where opportunities for such development are limited due to population densities and property costs.</p>
(b) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	<p>The proposal demonstrates ecologically sustainable development as it incorporates a range of design measures (i.e. provision of solar access, natural ventilation and thermal mass), along with minimising resource waste by proposing to alter, rather than demolish and rebuild, an existing building to ensure the conservation of resources is achieved. Furthermore, the proposal ensures long-term economic benefits derived from the ongoing operation of the complex, which will employ up to 50 staff split across three (3) shifts.</p>
(c) <i>to promote the orderly and economic use and development of land,</i>	<p>The site is considered to be an acceptable location for its ongoing use as a residential care facility given its current use, zoning and location close to Annandale Village.</p> <p>The proposal promotes the orderly and economic use of land by incorporating improvements to an existing facility in an inner-city location where demand for such facilities is high and often unable to be accommodated.</p>

Table 2: Section 1.3 (a), (b), and (c) of the EP&A Act 1979 objectives assessment table

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3.7 Is there public benefit in maintaining the development standard?

There is generally public benefit in maintaining development standards. In this case, which relates to an existing facility, the non-compliance will result in significant public benefits in the upgrade of an existing residential care facility, as discussed above, such that the non-compliance is warranted.

3.8 Is the objection well founded?

Yes, the proposal is consistent with the objectives of the zone and the Location and Access to Facilities standard and the non-compliance enables the provision of accommodation which provide a significant public benefit. On this basis this objection is considered to be well-founded.

4.0 Conclusion

The proposed variations are a response to the existing development on the site and the desire to provide for larger rooms with improved facilities, to the benefit of the existing and future residents of the complex.

The proposed development is permissible with consent and consistent with the objectives of the R1 General Residential zone pursuant to LLEP 2013 and the inferred intent of the Location and Access to Facilities development standard contained in SEPP (HSPD). The proposal is also generally consistent with the relevant provisions of the SEPP (HSPD) and LDCP 2013.

The proposed development, despite the non-compliance, achieves a high quality built form, which will make a positive contribution to the local streetscape and economy, along with significant public benefits arising from the non-compliance with the Location and Access to Facilities development standard, which are an existing situation.

As the variation will not result in any adverse amenity impacts for nearby properties or the locality generally, it is considered that the variation is acceptable in the circumstances of this case.

Attachment D – Statement of Heritage Significance

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Area 18 Annandale Conservation Area

Landform

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



Figure 18.1 Annandale Conservation Area Map.

History

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

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

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

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

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

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

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

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

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

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

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

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

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

Sources

Information provided by Max Solling.

Significant Characteristics

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

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

Statement of Significance or Why the Area is Important

- One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important as a well planned nineteenth-century suburb, and for illustrating development particularly from 1880s-1890s, aimed initially at the middle class market. The surviving development from this period forms the major element of its identity along with an area of 1910s-1930s development at its northern end.

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- Demonstrates the vision of John Young, architect, engineer and property entrepreneur.
- Demonstrates, arguably, the best and most extensive example of the planning and architectural skills of Ferdinand Reuss, a designer of a number of Sydney's Victorian suburbs, including South Leichhardt (the Excelsior Estate) and Birchgrove.
- Clearly illustrates all the layers of its suburban development from 1878, through the 1880s boom and resubdivision, the 1900 slump and the appearance of industry, and the last subdivision around Kentville/Pritchard Streets to the 1930s, with the early 1880s best illustrated along Johnston and Annandale Streets.
- Demonstrates a close relationship between landform and the physical and social fabric of the suburb.
- In its now rare weatherboard buildings it can continue to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around Rozelle Bay and their effect on the building of the suburbs of Leichhardt.
- Displays a fine collection of large detached Victorian Italianate boom-period villas with most decorative details still intact, set in gardens.
- Displays fine collection of densely developed Victorian commercial buildings.
- Through the absence/presence of back lanes, changes in the subdivision pattern, and the range of existing buildings it illustrates the evolution of the grand plan for Annandale, in response to the market, from a suburb of middle class villas to one of terraces and semis for tradesmen and workers.

Management of Heritage Values

Generally

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

Retain

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

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

Avoid

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

Further Work

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

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