






# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2020/1157
<b>Address</b>	279 Annandale Street ANNANDALE NSW 2038
<b>Proposal</b>	Torrens title subdivision into two lots
<b>Date of Lodgement</b>	23 December 2020
<b>Applicant</b>	Pamela Freeman
<b>Owner</b>	Mr Stephen Hart Ms Pamela E Freeman
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$50,000.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10% (Subdivision Lot Size)
<b>Main Issues</b>	Non-compliance with Subdivision Lot Size development standard.
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards



### LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for Torrens title subdivision into two lots at 279 Annandale Street, Annandale.

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

The main issues that have arisen from the application include:

- Non-compliance with Minimum Subdivision Lot Size Development Standard

The non-compliance is acceptable given the proposed subdivision is identical to that approved by the Inner West Local Planning Panel on 13 October 2020 under DA/2020/0163, will not result in any adverse impacts to the Heritage Conservation Area nor the subject site and surrounding properties, and therefore, the application is recommended for approval.

## 2. Proposal

The application proposes Torrens title subdivision into two lots and associated subdivision works including stormwater drainage and services.

The proposed subdivision is identical to that approved by the Inner West Local Planning Panel on 13 October 2020 under DA/2020/0163. The purpose of the application is to remove the need for the building works approved under DA/2020/0163 to be undertaken as a part of the subdivision given these works are not required.

The previously approved alterations and additions under DA/2020/0163 may be undertaken separately following registration of the subdivision.

## 3. Site Description

The subject site is located on the western side of Annandale Street, between Rose Street and Piper Street, the site also has a frontage to Piper Lane. The site consists of one allotment and is generally rectangular-shaped with a total area of 357.5 sqm and is legally described as 279 Annandale Street Annandale.

The site has a frontage to Annandale Street of 6.705 metres and a secondary frontage of approximate 6.705 metres to Piper Lane.

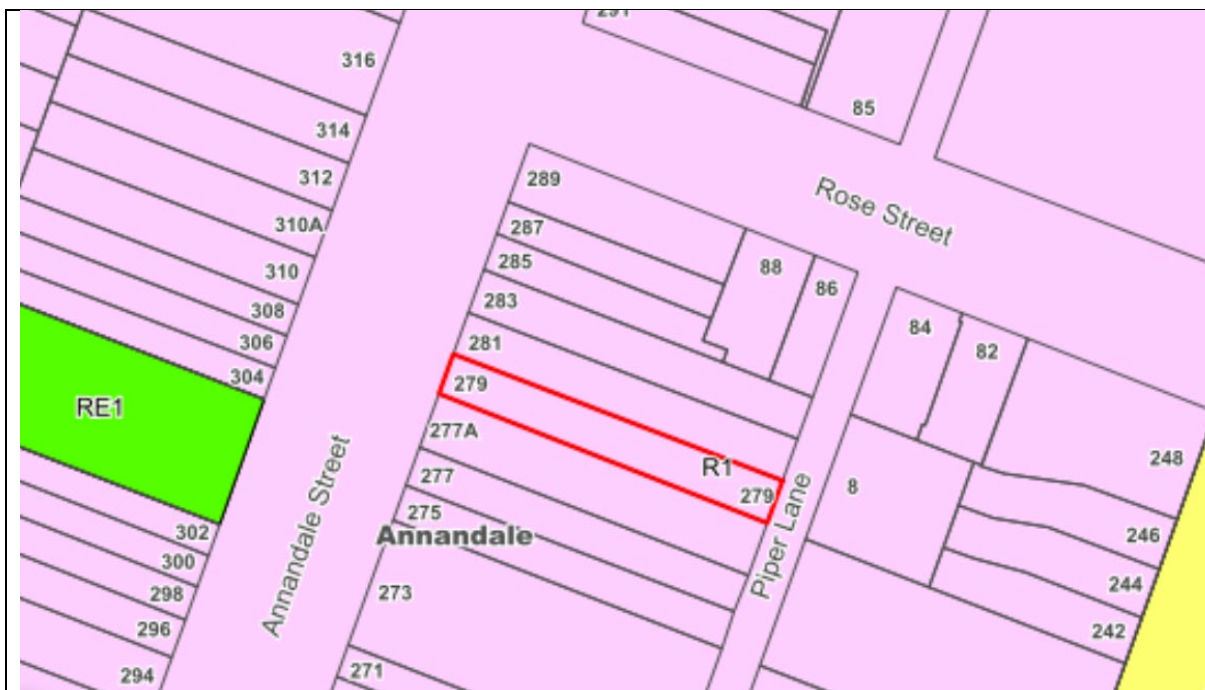
The site supports a dwelling house at the front and a second dwelling house at the rear. The adjoining properties support is a mix of single storey attached and detached houses to the north and the south.



The subject site is not listed as a heritage item, however, it is in close proximity of the following heritage items:

- ‘Terrace, including interiors’ at 302 Annandale Street (local significance) (I 6)
- Former shop and residence, “Craiglea”, including interiors at 291 and 293 Annandale Street (local significance) (I4 and I5).

The property is located within a Heritage Conservation Area. The property is not identified as a flood prone lot.



#### 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
BA 94/637	Dual Occupancy	Approved 11/11/1994
BC/2017/62	Change of internal roof structure, laying floor in roof/ attic space	Approved 13/11/2017
DA/2020/0163	Alterations to existing dwellings on site and Torrens title subdivision into two lots	Approved 13/10/2020

**Surrounding properties**

Application	Proposal	Decision & Date
D/2016/278	281 Annandale Street Alterations and additions to dwelling including rear ground and first floor additions; New rear garage with studio over and raised terrace on filled rear yard; new boundary fencing	Approved on Appeal 13/03/2017

**4(b) Application history**

Not applicable

**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 (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The proposal is generally satisfactory having regard to the provisions of the above Environmental Planning Instruments. The following provides further discussion of the relevant issues:

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

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

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

**5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.6 - Subdivision
- Clause 4.1 - Minimum subdivision lot size
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management
- Clause 6.8 Development in areas subject to aircraft noise

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

The site is zoned R1 under the *LLEP 2013*. The development is not inconsistent with the objectives of the R1 zone as discussed in further detail below.

(i) Clauses 4.1, 4.3A, 4.4 – Development Standards

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

Lot 1 (no changes to existing building):

Standard	Proposal	non compliance	Complies
<b>Minimum subdivision lot size</b> Minimum permissible: 200 sqm	247.2 sqm	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.8:1 or 198 sqm	0.72:1 or 178 sqm	N/A	Yes
<b>Landscape Area</b> Minimum permissible: 20% or 49 sqm	20.2% or 50 sqm	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 148 sqm	57% or 141sqm	N/A	Yes

Lot 2 (no changes to existing building):

Standard	Proposal	non compliance	Complies
<b>Minimum subdivision lot size</b> Minimum permissible: 200 sqm	110.3 sqm	45% or 89.7 sqm	No
<b>Floor Space Ratio</b> Maximum permissible: 0.9:1 or 99 sqm	0.9:1 or 99 sqm	N/A	Yes

<b>Landscape Area</b> Minimum permissible: 15% or 16.5 sqm	21% or 23sqm	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 66 sqm	57% or 62sqm	N/A	Yes

(ii) Clause 4.6 Exceptions to Development Standards

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

- Clause 4.1 - Minimum subdivision lot size

The applicant seeks a variation to the minimum subdivision lot size development standard under Clause 4.1 - Minimum subdivision lot size of the applicable local environmental plan by 45% (89.7 sqm).

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

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

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

- The proposed subdivision will still maintain the character of the area, and will not significantly alter the patterns of subdivision. The proposal is essentially a new boundary internal to the lot which would not be discernible from the Piper Lane frontage or Annandale Street frontages.
- The existing building fronting Piper Lane already presents as a different dwelling from the main dwelling house fronting Annandale Street.
- The overall scale and bulk of two existing dwellings do not change and as a result of the subdivision are similar to surrounding residential developments in the area, and are considered appropriate to the locality.
- In light of the proposal's contribution to achieving the desired future character of the area, a strict compliance with the minimum lot size would serve no material planning purpose, other than numerical compliance with a generic Council control. The proposal is essentially a new boundary internal to the lot which would not be discernible from the Piper Lane frontage or Annandale Street frontages.
- The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population by providing a greater number of smaller family dwellings to meet the changing population as well as increasing overall supply to ease pressures in the rental market.
- The proposal gives provision of additional smaller family housing (Piper Lane) for entry level type residents within the Sydney housing market, that adds to the diversity of dwelling types in Sydney, whilst maintaining the existing dwelling located on site.
- The proposal maintains all existing landscape features and the pattern of landscaped areas is as existing through maintaining the existing fence, and private rear garden for each dwelling, and will enable future use by future residents.
- The proposed subdivision will still maintain the character of the area, and will not significantly alter the patterns of subdivision. The proposal is essentially a new

boundary internal to the lot which would not be discernible from the Piper Lane frontage or Annandale Street frontages. The existing building fronting Piper Lane already presents as a different dwelling from the main dwelling house fronting Annandale Street.

- The proposal will not significantly impact on the amenity of adjoining occupiers.
- The proposal will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties.

The applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard as the proposal will be generally consistent with the zone objectives of the R1 General Residential Zone and will meet the objectives of the minimum subdivision lot size standard, as below:

#### *Objectives of R1 General Residential Zone*

The objectives of the R1 General Residential zone are as follows:

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The site already contains two dwellings and the proposed subdivision will result in a development that is consistent with the housing needs of the community.
- The proposed subdivision will not result in any adverse impacts on the amenity of the subject dwellings on the site or adjoining properties;
- Despite the proposed subdivision being inconsistent with the pattern of subdivision in the surrounding area as per one of the zone objectives, there are already two dwelling-houses current existing on the site, and in this instance, the subdivision can be supported as it is effectively a new boundary internal to the lot that will not impact on the streetscape or Heritage Conservation Area nor impact on the character, style and pattern of development in the surrounding area;
- The proposed subdivision will not be inconsistent with the following objectives of the R1 General Residential Zone as follows:
  - *To provide for the housing needs of the community.*
  - *To provide for a variety of housing types and densities.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To improve opportunities to work from home.*

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

#### *Objectives of Minimum Subdivision Lot Size*

The objectives of this clause are as follow:

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
- (b) to ensure that lot sizes are capable of supporting a range of development types.

It is considered the development is in the public interest because it is consistent with the objectives of the Minimum subdivision lot size development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- In this instance, as there are already two dwelling houses located on this this site, the creation of the proposed subdivision lots will not result in a development that is incompatible with the surrounding area.
- Despite the non-compliance of the minimal lot size development standard, the proposal will comply with the Floor Space Ratio, Site Coverage and Landscaped area development standards.
- Despite the non-compliance, the proposed subdivision will provide adequate amenity to the dwelling-houses that currently exist on the site.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Minimum Subdivision Lot Size and it is recommended the Clause 4.6 exception be granted.

#### (iii) Clause 5.10 – Heritage Conservation

The subject site is not listed as a heritage item, however, it is in close proximity of the following heritage items:

- 'Terrace, including interiors' at 302 Annandale Street (local significance) (I 6)
- Former shop and residence, "Craiglea", including interiors at 291 and 293 Annandale Street (local significance) (I4 and I5).

The property is located within a Heritage Conservation Area.

As previously noted, the proposed subdivision is identical to that approved by the Inner West Local Planning Panel on 13 October 2020 under DA/2020/0163.

The subdivision and its impacts on the Heritage Conservation were assessed as part of that previous DA where it has been determined that the proposal was acceptable from a heritage perspective as it is effectively a new boundary internal to the lot that will not impact on the



streetscape, Heritage Conservation Area or any nearby environmental heritage nor impact on the character, style and pattern of development in the surrounding area.

#### 5(b) Draft State Environmental Planning Instruments

There are no relevant Draft State Environmental Planning Instruments.

#### 5(c) 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 particularly relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

#### 5(d) Development Control Plans

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

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.6 Subdivision	Yes – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.18 Laneways	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.1.2 Annandale Street Distinctive Neighbourhood	Yes
C2.2.1.2(b) Annandale Street Laneways Sub Area	
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes

C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	Not Applicable
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes, subject to conditions
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes, subject to conditions – see discussion
E1.2.3 On-Site Detention of Stormwater	Yes, subject to conditions – see discussion

The following provides discussion of the relevant issues:

C1.6 Subdivision

Objectives of C1.6 Subdivision are as follows:

*Development:*

- a. *creates lots of sufficient area and dimensions to accommodate residential development that is consistent with the controls in this Development Control Plan;*
- b. *creates lots that are consistent with the surrounding prevailing subdivision pattern and where possible, new street networks should have an east-west orientation;*
- c. *incorporates significant natural landscape features;*
- d. *facilitates safe, convenient and comfortable movement, particularly for pedestrians and cyclists;*
- e. *creates high quality public open space where relevant;*
- f. *provides a high level of safety and security;*
- g. *is provided with appropriate infrastructure, and where appropriate, ecologically sustainable infrastructure;*
- h. *enables lots to achieve a high level of energy efficiency.*

It is noted that the proposed subdivision associated with the second dwelling will not meet the requirements of 200sqm under C1 and is not consistent with the existing prevailing subdivision (therefore non-complaint with C2 of this part).

However, given the unique circumstance where there are already two dwelling-houses currently existing on this site, it is considered that the proposed subdivision will not result in

adverse impacts on the streetscape or surrounding properties and that the proposal generally complies with the objectives of this part due to the following reasons:

- In this instance, as there are already two dwelling houses located on this site, the creation of the proposed subdivision lots will not result in a development that is incompatible with the surrounding area.
- Despite the non-compliance of the minimal lot size requirement, the proposal will comply with the Floor Space Ratio, Site Coverage and Landscaped area development standards and allows a residential development that is consistent with the other controls within Leichhardt DCP 2013.
- Despite the non-compliance, the proposed subdivision will provide adequate amenity to the associated dwelling house that is currently existing on site.
- As the houses already existing, there are no impacts to the safety of pedestrians and cyclists, on existing safety and security, on existing private open space or on energy efficiency.

#### E1.2.2 Managing Stormwater within the Site and E1.2.3 On-Site Detention of Stormwater

C1 of E1.2.3 of the Leichhardt DCP 2013 specifies when on-site detention facilities:

C1 On-site detention facilities are required except where:

- a. the site drains directly into Parramatta River or Sydney Harbour; or
- b. the proposal is for minor works to a single dwelling, commercial or industrial building and where the impervious area is not increased by more than 40 square metres; or
- c. subdivision of existing or currently approved dwellings.

As the proposal involves the creation of Torrens subdivided lots, the proposal in its current form does not meet the exceptions above, and therefore, on-site detention facilities are required and will be addressed by a condition of consent. It is noted that the exception for subdivision only applies to the subdivision of an existing (or approved) dwelling only and not to the subdivision of land.

The following condition will be recommended:

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

- a. *The stormwater drainage design on Drawing No. H419043/SW-03 prepared by H4DA and dated 17 November 2019, is not accepted as Stormwater Drainage Concept Plan, the plan must be amended to incorporate On-site Stormwater Detention storage (OSD) for the secondary dwelling at the rear;*
- b. *Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of Piper Lane via the OSD/OSR tanks as necessary;*
- c. *Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;*
- d. *Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;*
- e. *The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;*
- f. *The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development*

flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);

- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. As there is no overland flow/flood path available from the trapped courtyards to the Piper Lane 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; and
  - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- k. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- l. 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;
- m. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- n. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- o. Stormwater runoff from all roof and paved areas within the the existing dwelling must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road. Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the street may drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer.

#### 5(e) 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(f) 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(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received in response to the notification.

#### 5(h) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

#### 6(a) Internal

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

- Engineers: No objections subject to conditions

#### 6(b) External

The application was not required to be referred to any external bodies.

## 7. Section 7.11 Contributions/7.12 Levy

As per the previous approval under DA/2020/0163, Section 7.11 contributions are not payable given the proposed subdivision relates to two existing dwellings and does not generate any additional demand. Section 7.12 levies are also not payable given the proposed cost of works for the subdivision do not exceed \$100,000.

## 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 or the streetscape and is considered to be in the public interest.

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of *Leichhardt Local Environmental Plan 2013* to vary the minimum subdivision lot size development standard pursuant to Clause 4.1 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 non-compliance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
  
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/1157 for Torrens title subdivision into two lots at 279 Annandale Street Annandale subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA_01	Site Plan for proposed subdivision	20/11/20	Bennett Murada Architecture

As amended by the conditions of consent.

#### FEES

##### 2. Security Deposit - Custom

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

Security Deposit:	\$2,209.00
Inspection Fee:	\$236.70

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

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

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

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

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

##### 3. Long Service Levy

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

**GENERAL CONDITIONS****4. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

**5. Erosion and Sediment Control**

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

**6. Works Outside the Property Boundary**

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

**7. 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.

**PRIOR TO ANY DEMOLITION****8. 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.

**9. 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.

**10. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****11. Dilapidation Report – Pre-Development – Minor**

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



**12. Stormwater Drainage System – Minor Developments (OSD is not required)**

Prior to the issue of a Subdivision 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. The Stormwater Drainage Concept plan on Drawing No. H419043/ SW0 01-04 prepared by H4DA and dated 23 December 2020 , must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of Piper Lane;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- 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. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;
- g. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- h. An overland flow path must be provided within the setback to the southern/western side boundary between the front of the dwelling and the Piper Lane frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flow path;
- i. Drainage pipes must be laid at a minimum grade of 1%. All pipes' diameter and invert level and pits surface and invert level must be shown on the amended drainage plans;
- j. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- l. No nuisance or concentration of flows to other properties;
- m. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- n. The design 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;
- o. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- p. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- q. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;

- s. No impact to street tree(s);

#### **13. Overland Flow path**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer detailing hydrologic and hydraulic calculations for the overland flow path and the capacity of the existing system and measures necessary to protect the premises in a 1 in 100 year ARI storm event and the requirements of Council's Flood Planning Policy.

#### **14. Sydney Water – Tap In**

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

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

### **DURING DEMOLITION AND CONSTRUCTION**

#### **15. Construction Hours – Class 1 and 10**

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

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **16. No Encroachments**

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

#### **17. Protect Sandstone Kerb**

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

#### **18. Works as Executed – Site Stormwater Drainage System**

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

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

#### **19. Easements, Restrictions on the Use of Land and Positive Covenants**

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants 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. Easement for drainage of water;
- b. Easement for repairs;
- c. Restrictions on the Use of Land to prevent the erection of any structures or fencing;
- d. Restrictions on the Use of Land related to Stormwater Surface Flow Paths; and
- e. Positive Covenant related to Stormwater Surface Flow Paths.

The wording in the Instrument must be in accordance with Councils Standard wording.

#### **PRIOR TO SUBDIVISION CERTIFICATE**

##### **20. Easement - Over Downstream Landholders**

The site drainage must be designed to drain under gravity. As the site falls to the rear an easement for drainage over downstream properties will be required to be created and/or legal rights to utilise any existing easement for drainage demonstrated. Written documentation of the creation of or legal agreement to create an easement for drainage or legal rights to utilise any existing easement for drainage must be submitted to Council.

##### **21. Separate Drainage Systems**

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a plan detailing that separate drainage systems must be provided to drain each proposed lot.

##### **22. Section 73 Certificate**

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

##### **23. Separate Stormwater**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

##### **24. Release of Subdivision Certificate**

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the final subdivision plan and Section 88B Instrument creating any easements/restrictions/covenants required by this consent; final Service Authority Clearances confirming the availability of separate essential electricity, telecommunications, gas, sewer and water services to each lot; and evidence of completion of engineering works required by this consent and payment of all relevant fees and bonds.

#### **ADVISORY NOTES**

##### **Permits**

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

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

- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

#### **Insurances**

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

#### **Prescribed Conditions**

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

#### **Storage of Materials on public property**

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

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

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

#### **Infrastructure**

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

#### **Toilet Facilities**

The following facilities must be provided on the site:

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

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

#### **Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

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

**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.

**Permits from Council under Other Acts**

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

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

- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

**Noise**

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

**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 <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

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

Attachment B – Plans of proposed development

**DEVELOPMENT APPLICATION**  
**FOR SUBDIVISION**  
**279 ANNANDALE STREET, ANNANDALE, NSW 2038**



279 ANNANDALE STREET,  
ANNANDALE.

**DRAWING LIST**

DA NO	COVER SHEET	NTS
DA_00	SITE PLAN FOR PROPOSED SUBDIVISION	1:200
DA_01		
DA_10	LOT 2 EXISTING LOW GROUND FLOOR PLAN (PIPER LANE)	1:100
DA_11	LOT 2 EXISTING GROUND FLOOR PLAN (PIPER LANE)	1:100
DA_12	LOT 1 EXISTING GROUND FLOOR PLAN (ANNANDALE STREET)	1:100
DA_13	LOT 1 EXISTING FIRST FLOOR PLAN (ANNANDALE STREET)	1:100
DA_14	LOT 1 EXISTING ATTIC FLOOR PLAN (ANNANDALE STREET)	1:100
DA_15	LOT 1 + LOT 2 EXISTING ROOF PLAN	1:200

**NOTES**

- THIS DRAWING IS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT ACT 1995 (NSW) AND THE LOCAL GOVERNMENT (GENERAL PURPOSES) ACT 1996 (NSW).
- THESE DOCUMENTS ARE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL GOVERNMENT (GENERAL PURPOSES) ACT 1996 (NSW) AND THE LOCAL GOVERNMENT (GENERAL PURPOSES) REGULATIONS 2006 (NSW).
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**LEGEND KEY**

REVISION	DATE	BY	REASON
A	2017/10	SC	SUBDIVISION DA

Project: **ALTERATIONS AND ADDITIONS 271 ANNANDALE STREET, ANNANDALE NSW 2038**

Client: **PAMELA FREEMAN**

Project Name: **COVER SHEET**

Drawn: **DA\_00**

Scale: **NTS**

Plot Date: **2017/10**

Drawn By: **SC**

DA Number: **1884**

Scale: **NTS**

Plot Date: **2017/10**

Drawn By: **SC**

Drawn Status: **Development Application**

Project Status: **DA\_00**

Author: **Benjamin Bernhart**

Designer: **Benjamin Bernhart**

Illustrator: **Benjamin Bernhart**

Checker: **Benjamin Bernhart**

Approver: **Benjamin Bernhart**

Client: **Benjamin Bernhart**

Project: **ALTERATIONS AND ADDITIONS 271 ANNANDALE STREET, ANNANDALE NSW 2038**

Client: **PAMELA FREEMAN**

Project Name: **COVER SHEET**

Drawn: **DA\_00**

Scale: **NTS**

Plot Date: **2017/10**

Drawn By: **SC**

Drawn Status: **Development Application**

Project Status: **DA\_00**

Author: **Benjamin Bernhart**

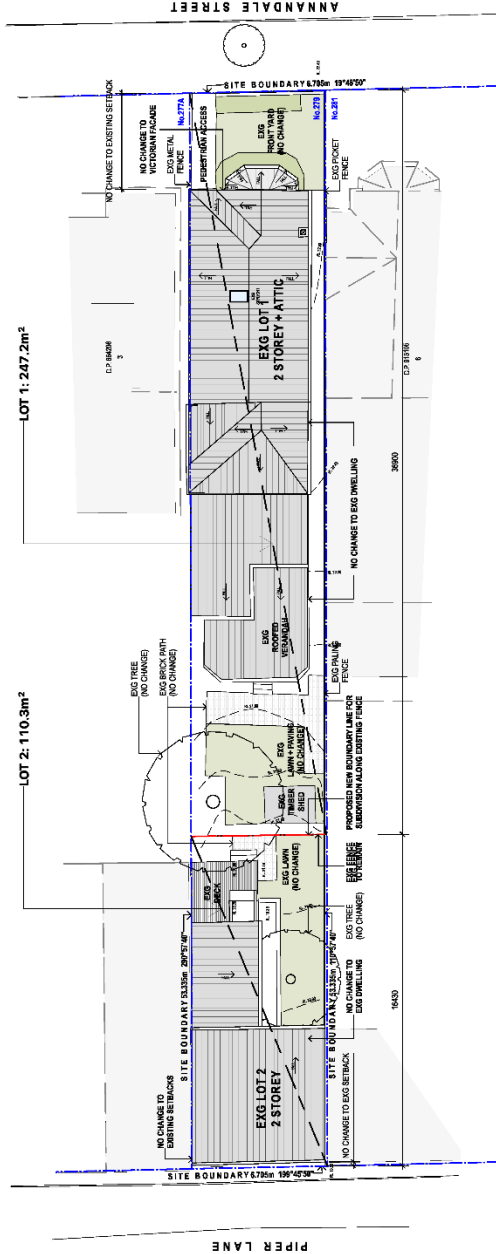
Designer: **Benjamin Bernhart**

Illustrator: **Benjamin Bernhart**

Checker: **Benjamin Bernhart**

Approver: **Benjamin Bernhart**

Client: **Benjamin Bernhart**



**NOTES**

- 1. THIS DA IS LIMITED TO THE SUBDIVISION ONLY
- 2. NO WORKS PROPOSED TO THE DWELLINGS
- 3. UPGRADE RAINWATER TANK AS DETAILED BY STORMWATER ENGINEER
- 4. OTHER STORMWATER WORKS AS DETAILED BY STORMWATER ENGINEER.

**EXTERNAL CALCULATIONS**

LOT AREA LANDSCAPE SITE COVERAGE	EXIST/TOTAL SITE 122.2 ha (34.46%) 288.4 ha (85.57%)	REQUIRED min 15% tree 60%	PROPOSED			
			LOT 2	COMPLIANT Y/N	LOT 1	COMPLIANT Y/N
			110.3 ha (11.1%)	N	247.2 ha (18.1%)	Y
			44.8 ha (16.4%)	Y	78.6 ha (14.8%)	Y
			63.8 ha (17.7%)	Y	145.8 ha (18.9%)	Y

REFER TO DRAWING DA\_50 FOR CALCULATIONS

**LANDSCAPE WORKS / EXTERNAL WORKS**

THERE ARE NO PROPOSED WORKS TO THE EXTERNAL LANDSCAPING, INCLUDING NO CHANGES TO HARD / IMPERVIOUS AREAS, PLANTING, TREES, LAWNS, PATHS ETC. EXISTING FENCE IS TO REMAIN  
EXG DEEP LANDSCAPING AREAS REMAIN, NO CHANGE

**NOTES**  
THIS DA IS LIMITED TO THE SUBDIVISION ONLY  
CONJUNCTION WITH ALL OTHER DOCUMENTS, VERIFY ALL INFORMATION, SPECIFICALLY ANY INFORMATION RELAYED TO THE ARCHITECT FOR VERIFICATION  
SUBDIVISION COVERAGE TO BE DETERMINED BY THE ARCHITECT AND THE STORMWATER ENGINEER  
THE DESIGN SHOWN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE AND IS NOT TO BE USED FOR THE PURPOSE OF OBTAINING A BUILDING PERMIT

**PROPOSED SUBDIVISION**  
SUBDIVISION DA  
20/11/20 SC

**PROJECT**  
ALTERATIONS AND ADDITIONS 878 ANNANDALE STREET, ANNANDALE NSW 2133  
CLIENT: PAMELA FREEMAN

**DATE**  
20/11/20

**SCALE**  
1:200 @ A3

**DATE**  
20/11/20

**DESIGNED BY**  
SC

**DRAWN BY**  
SC

**PROJECT NO.**  
DA\_01

**PROJECT NAME**  
SITE PLAN FOR PROPOSED SUBDIVISION

**ARCHITECT**  
Burrinell Murray Architects  
Sulla 4/04, 1 Chichester Street, St. Leonards NSW 2257 p: (02) 9403 6986 info@burrinellmurray.com.au

**DATE**  
20/11/20

**SCALE**  
1:200 @ A3

**DATE**  
20/11/20

**DESIGNED BY**  
SC

**DRAWN BY**  
SC

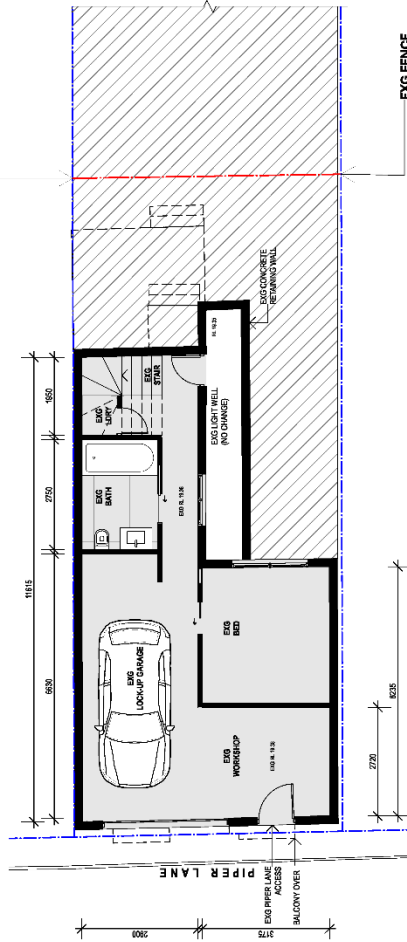
**PROJECT NO.**  
DA\_01

**PROJECT NAME**  
SITE PLAN FOR PROPOSED SUBDIVISION

**ARCHITECT**  
Burrinell Murray Architects  
Sulla 4/04, 1 Chichester Street, St. Leonards NSW 2257 p: (02) 9403 6986 info@burrinellmurray.com.au



PROPOSED NEW  
BOUNDARY LINE ALONG  
EXG FENCE



EXG FENCE

**NOTES**

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3. UPGRADE RAINWATER TANK AS DETAILED BY STORMWATER ENGINEER
4. OTHER STORMWATER WORKS AS DETAILED BY STORMWATER ENGINEER.

6m  
1:1000  
THIS DRAWING IS PART OF A SET AND SHOULD BE READ IN CONJUNCTION WITH THE PROJECT COMMUNICATIONS/CONSTRUCTION AGREEMENT AND ALL OTHER DOCUMENTS REFERENCED TO THE AGREEMENT FOR INFORMATION.  
DO NOT SCALE DRAWINGS. DIMENSIONS TAKE PRECEDENCE OVER DIMENSIONS SHOWN ON THE DRAWING. THE DIMENSIONS SHOWN ON THE DRAWING ARE FOR INFORMATION ONLY AND SHOULD NOT BE USED FOR THE PURPOSES OF 'TITLING'.

REVISION	DATE	BY	REVISION
A	20/11/20	SC	SUBMISSION

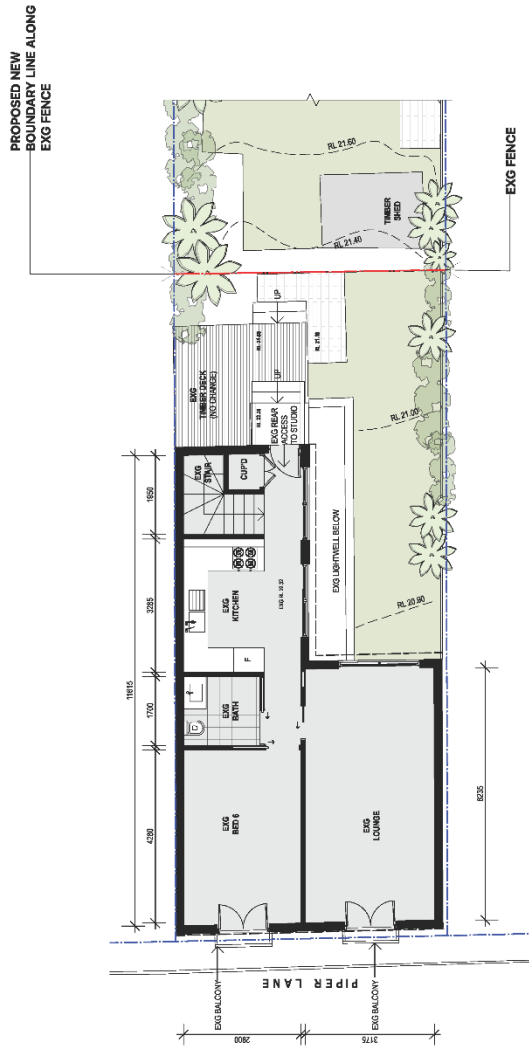
LEGEND / KEY

- EXISTING TREE
- EXISTING
- EXG
- EXISTING WALLS - PLAN

Job Number: 1891  
Scale: @ 1:1000  
Project: ALTERATIONS AND ADDITIONS 279 ANNANDALE STREET, ANNANDALE NSW 2235  
Client: PAMELA FREEMAN  
Drawn By: 20/11/20 SC  
Drawn Status: DEVELOPMENT APPLICATION  
Drawing No: DA\_10  
Revision: A

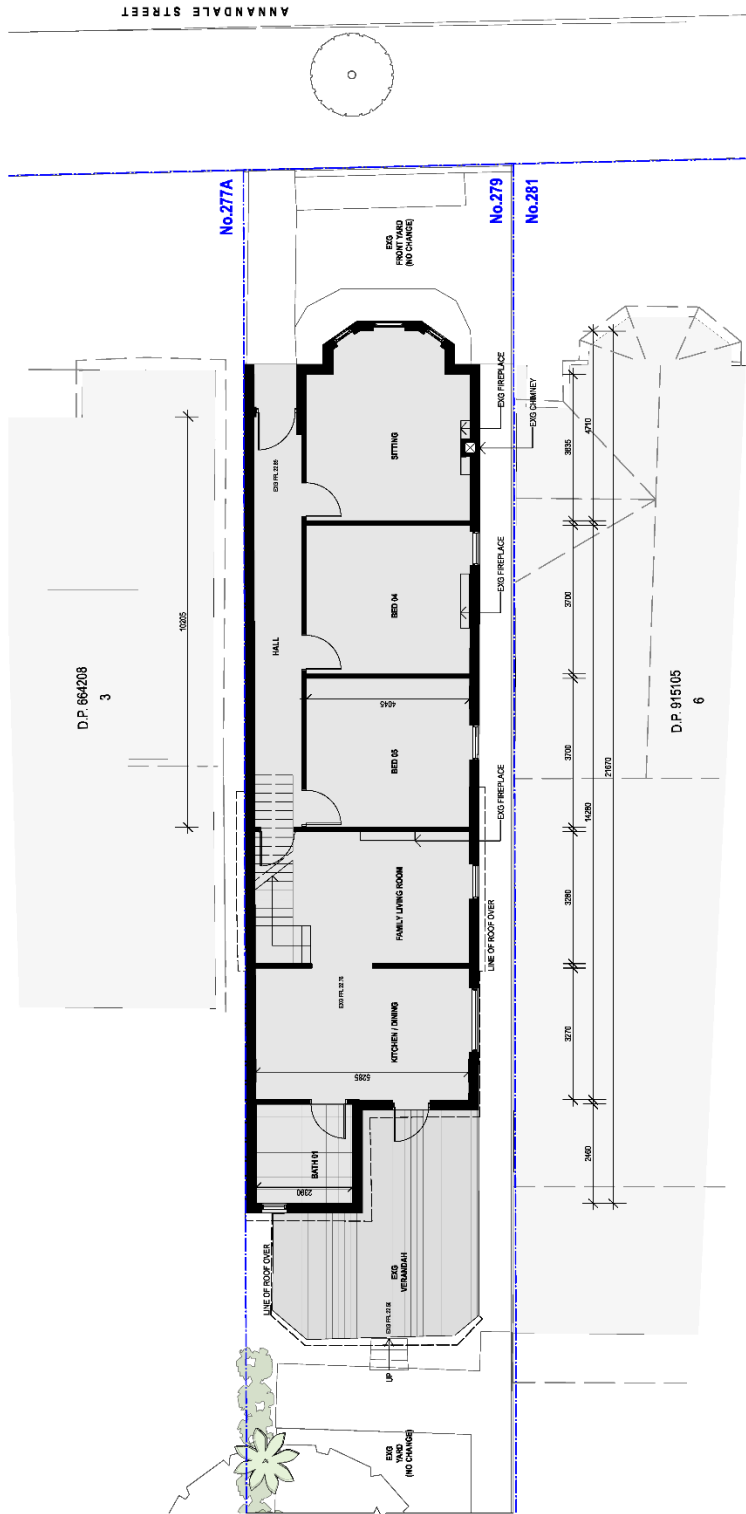


Site: 4/04, 1 Chancel Street, St. Leonards NSW 2065 ph: (02) 9443 9988 e: info@pamelafreeman.com.au  
nominated architect: Jacqueline Barnett 6336



- NOTES**
1. THESE PLANS ARE ISSUED FOR INFORMATION ONLY
  2. NO WORKS PROPOSED TO THE DWELLINGS
  3. UPGRADE RAINWATER TANK AS DETAILED BY STORMWATER ENGINEER
  4. OTHER STORMWATER WORKS AS DETAILED BY STORMWATER ENGINEER.

<p><b>REVISIONSCHEDULE</b></p> <table border="1"> <tr> <th>No.</th> <th>Date</th> <th>By</th> <th>Description</th> </tr> <tr> <td>A</td> <td>2011/02</td> <td>SC</td> <td>SUBMITTALS DA</td> </tr> </table>	No.	Date	By	Description	A	2011/02	SC	SUBMITTALS DA	<p><b>LEGEND/KEY</b></p> <table border="0"> <tr> <td></td> <td>EXISTING TREE</td> </tr> <tr> <td></td> <td>EXISTING WALLS - PLAN</td> </tr> </table>		EXISTING TREE		EXISTING WALLS - PLAN	<p><b>Job Number:</b> RSH 1</p> <p><b>Project:</b> RSH 1 ANNANDALE NSW 2033</p> <p><b>Client:</b> PAMELA FREEMAN</p> <p><b>Drawn By:</b> 2011/02 SC</p> <p><b>Drawn's Status:</b> 2011/02 SC</p> <p><b>Drawing Name:</b> LOT 2 EXISTING GROUND FLOOR PLAN (PIPER LANE)</p> <p><b>Drawn No:</b> DA_11</p> <p><b>Revision:</b> A</p> <p><b>Scale:</b> 4.04, 1 Chandon Street, St Leonards NSW 2055 pt (02) 9443 9988 or info@innerwesthumbala.com.au normalised architect: Jacqueline Bennett 0538</p>
No.	Date	By	Description											
A	2011/02	SC	SUBMITTALS DA											
	EXISTING TREE													
	EXISTING WALLS - PLAN													



**NOTES**

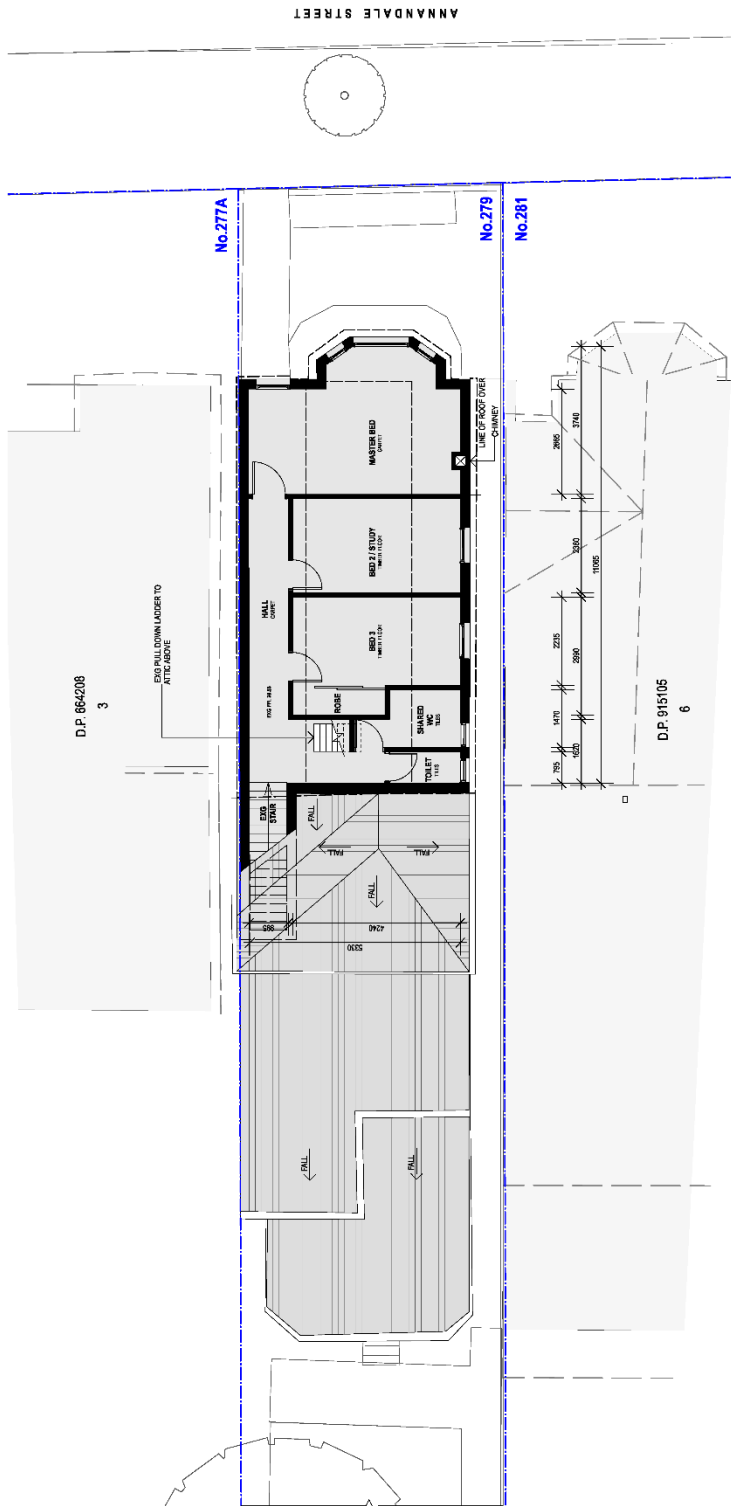
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2. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY PROPOSED CHANGES TO THE PLANS
3. UPGRADE RAINWATER TANK AS DETAILED BY STORMWATER ENGINEER
4. OTHER STORMWATER WORKS AS DETAILED BY STORMWATER ENGINEER.

<p><b>LEGEND</b></p> <p>EXISTING TREE (○)</p> <p>EXISTING (EXG)</p> <p>EXISTING WALLS - PLAN (—)</p>		<p><b>PROFESSIONAL SEAL</b></p> <p>Rev: 2011/02 SC SUBDIVISION DA</p>		<p><b>JOB NUMBER:</b> 1988.1</p> <p><b>SCALE:</b> 1:100 @ A3</p> <p><b>PLG DATE:</b> 20/11/20</p> <p><b>DRAWN BY:</b> SC</p>	
<p><b>DATE:</b> 20/11/20</p> <p><b>PROJECT:</b> ALTERATIONS AND ADDITIONS 279 ANNANDALE STREET, ANNANDALE NSW 2038</p> <p><b>CLIENT:</b> PAMELA FREEMAN</p>		<p><b>DRAWING NAME:</b> LOT 1 EXISTING GROUND FLOOR PLAN (ANN. ST)</p> <p><b>DRAWING NO.:</b> DA, 12</p> <p><b>RELEASED:</b> A</p>		<p><b>DATE:</b> 20/11/20</p> <p><b>PROJECT:</b> DEVELOPMENT APPLICATION</p> <p><b>DRAWING NO.:</b> DA, 12</p> <p><b>RELEASED:</b> A</p>	
<p><b>PROPOSED WORKS:</b></p> <p>ALTERATIONS AND ADDITIONS 279 ANNANDALE STREET, ANNANDALE NSW 2038</p>		<p><b>PROFESSIONAL SEAL:</b></p> <p>Rev: 2011/02 SC SUBDIVISION DA</p>		<p><b>DATE:</b> 20/11/20</p> <p><b>PROJECT:</b> DEVELOPMENT APPLICATION</p> <p><b>DRAWING NO.:</b> DA, 12</p> <p><b>RELEASED:</b> A</p>	
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Scale: 1:100 @ A3  
 Plot Date: 20/11/20  
 Drawn By: SC  
 Drawing Name: LOT 1 EXISTING GROUND FLOOR PLAN (ANN. ST)  
 Drawing No: DA, 12  
 Release: A

Scale: 1:100 @ A3  
 Plot Date: 20/11/20  
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 Drawing No: DA, 12  
 Release: A



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**REVISIONS**

No.	Date	By	Reason
A	20/11/20	SR	SUBMISSION DA

**LEGEND**

- EXISTING TREE
- EXISTING WALLS - PLAN

**SCALE**

1:100

**NOTES**

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**PROJECT INFORMATION**

Project: ALTERATIONS AND ADDITIONS 279 ANNANDALE STREET, ANNANDALE NSW 2038

Scale: @ A3

Client: PAMELA FREEMAN

Drawings Status: DEVELOPMENT APPLICATION

Drawing No: DA\_13

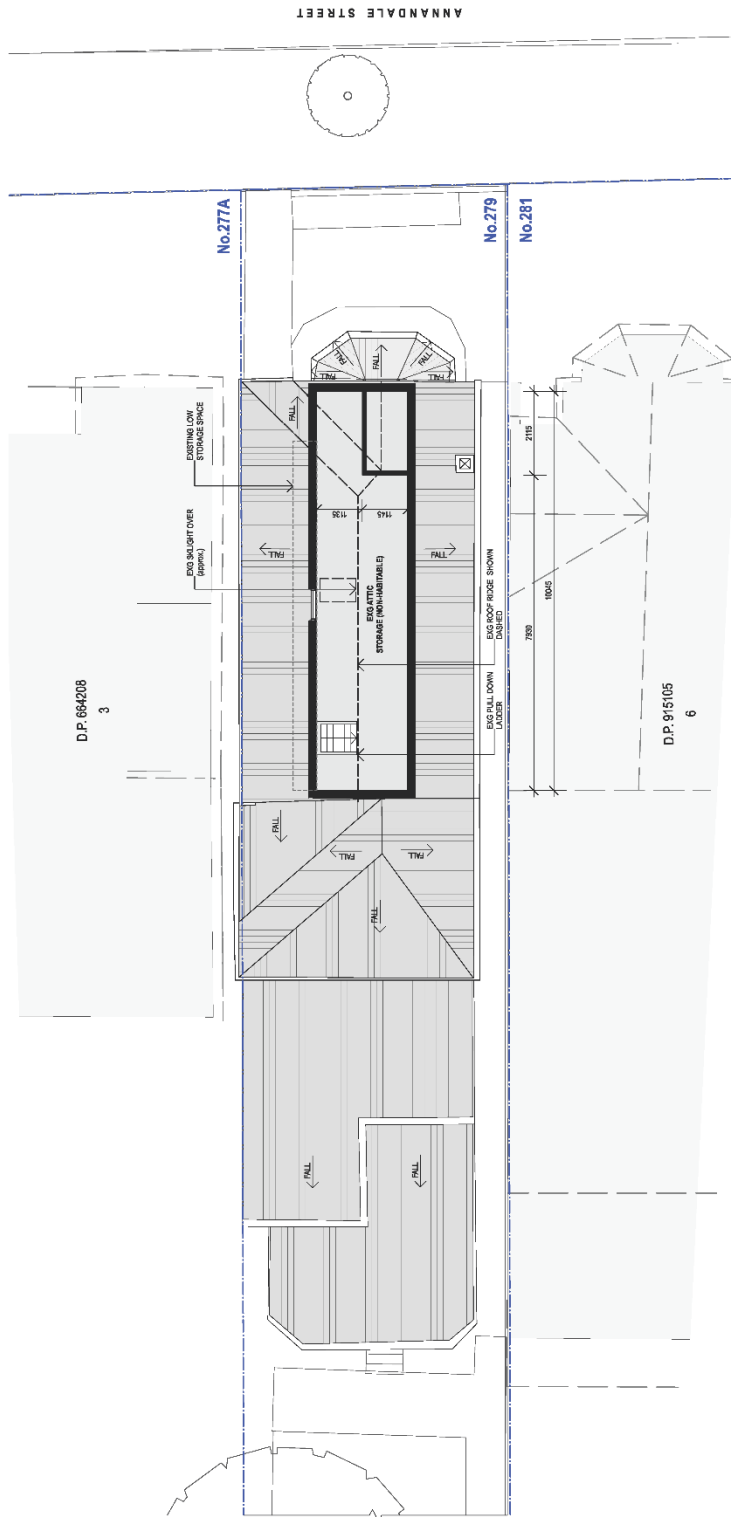
Revision: A

Author: JACQUELINE BLAYNEY

**ARCHITECT**

Garrett Bourke Architects

1 Chisholm Street, St Leonards NSW 2060 Ph: (02) 943 9999 e: info@garrettbourke.com.au



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**LEGEND**

- EXISTING TREE
- EXISTING
- EXISTING WALLS - PLAN

**REVISION SCHEDULE**

NO.	DATE	DESCRIPTION
A	20/11/20	SC SUBMITTED

**DATE** 20/11/20

**SCALE** 1:100 @ A3

**PROJECT** OPERATIONS AND ADDITIONS 275 ANNANDALE STREET, ANNANDALE NSW 2038

**CLIENT** PAMELA FREEMAN

**DESIGNER NAME** LOT 1 EXISTING ATTIC FLOOR PLAN (ANN. ST)

**DESIGNER ADDRESS** BARNETT MURADA ARCHITECTS  
 1/4 CHARDOS STREET, ST LEONARDS NSW 2065 P.O. BOX 9968  
 A

**DATE** 20/11/20

**DRAWN BY** SC

**PROJECT TYPE** DEVELOPMENT APPLICATION

**ARCHITECT** BARNETT MURADA ARCHITECTS  
 1/4 CHARDOS STREET, ST LEONARDS NSW 2065 P.O. BOX 9968  
 A

**SCALE** 1:100 @ A3

**DATE** 20/11/20

**PROJECT** OPERATIONS AND ADDITIONS 275 ANNANDALE STREET, ANNANDALE NSW 2038

**CLIENT** PAMELA FREEMAN

**DESIGNER NAME** LOT 1 EXISTING ATTIC FLOOR PLAN (ANN. ST)

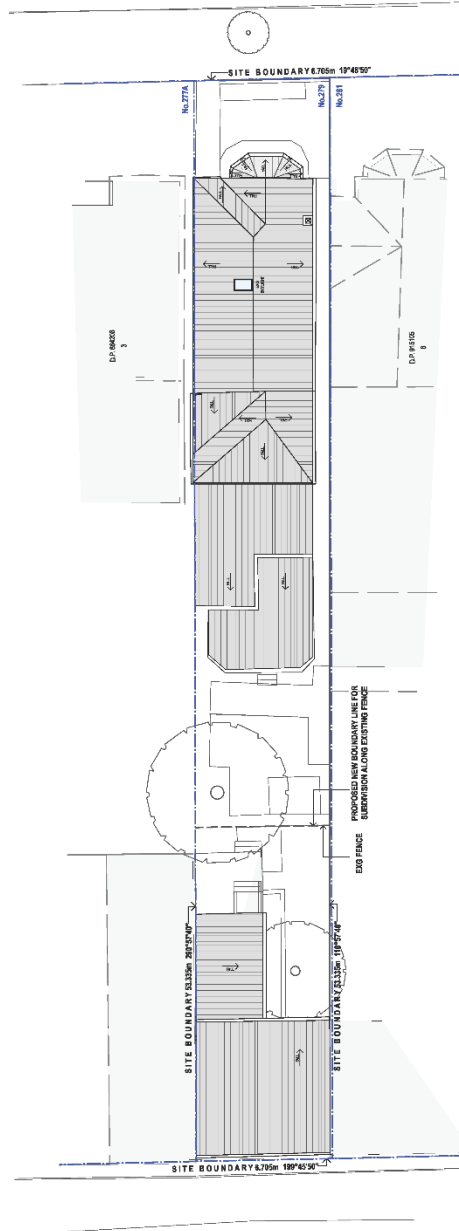
**DESIGNER ADDRESS** BARNETT MURADA ARCHITECTS  
 1/4 CHARDOS STREET, ST LEONARDS NSW 2065 P.O. BOX 9968  
 A

**DATE** 20/11/20

**DRAWN BY** SC

**PROJECT TYPE** DEVELOPMENT APPLICATION

**ARCHITECT** BARNETT MURADA ARCHITECTS  
 1/4 CHARDOS STREET, ST LEONARDS NSW 2065 P.O. BOX 9968  
 A



NOTE: NO CHANGE TO ROOF PLAN

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Attachment C- Clause 4.6 Exception to Development Standards



279 ANNANDALE STREET  
–  
ANNANDALE – MINIMUM  
LOT SIZE

Clause 4.6 Variation Statement – November 2020

[MODURBAN.COM.AU](http://MODURBAN.COM.AU)



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Version: 1, Version Date: 23/12/2020





INTRODUCTION

1. Overview

This Clause 4.6 Variation request has been prepared in support of the development application for the proposed subdivision of the lot from one single lot to two torrens title lots.

This Clause 4.6 Variation has been submitted in conjunction with the Statement of Environmental Effects (SEE) that assessed the proposed works as described above. The request for variation of the development standard has been prepared in accordance with the requirements of Clause 4.6 of the Leichardt LEP 2013 (LLEP 2013) which has the following aims and objectives:

- 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.

The proposed variations to development standards for the proposed development are in relation to Clause 4.1 Minimum subdivision lot size of the LLEP 2013. In summary the following variations are proposed:

Leichardt LEP 2013 Clause	LLEP 2013 Development Standard	Proposed Development Non Compliance
4.1 Minimum subdivision lot size	Minimum Lot Size = 200m <sup>2</sup>	Minimum Lot Size (Annandale Street frontage) = 247.2m <sup>2</sup> (complies)  Minimum Lot Size (Piper Lane Frontage) = 110.3m <sup>2</sup> (Seeking Clause 4.6 Variation)

In accordance with Clause 4.6 of the LLEP 2013 Council is required to consider the following:

*Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

This Clause 4.6 Variation request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards.





THE STANDARDS BEING OBJECTED TO

2. Relevant Development Standards

The development standards being requested to be varied are 4.1 Minimum subdivision lot size of the LLEP 2013.

2.1 The objectives/underlying purpose of the clause

A key determination of the appropriateness of a variation to a development standard is the proposal's compliance with the underlying objectives and purpose of the development standard. Therefore, while there is a specified numerical control for Clause 4.1 Minimum subdivision lot size, the objectives and underlying purpose behind each of the development standards are basic issues for consideration in the development assessment process.

Section 3 of this Clause 4.6 Variation addresses the proposed variation to Clause 4.1 Minimum subdivision lot size development standard.

2.2 Proposed Variation to Standards

The proposed variations to development standards for the proposed development are in relation to Clause 4.1 Minimum subdivision lot size of the LLEP 2013. In summary the following variations to development standards are proposed:

Leichardt LEP 2013 Clause	LLEP 2013 Development Standard	Proposed Development Non Compliance
4.1 Minimum subdivision lot size	Minimum Lot Size = 200m <sup>2</sup>	Minimum Lot Size (Annandale Street frontage) = 247.2m <sup>2</sup> (complies)  Minimum Lot Size (Piper Lane Frontage) = 110.3m <sup>2</sup> (Seeking Clause 4.6 Variation)





## PROPOSED VARIATION TO CLAUSE 4.1 MINIMUM SUBDIVISION LOT SIZE

### 3. Overview

Pursuant to Clause 4.6 of LLEP 2013, we hereby seek exception to the 200m<sup>2</sup> minimum subdivision lot size standard applicable pursuant to Clause 4.1 Minimum subdivision lot size of LLEP 2013. Clause 4.6(4)(ii) requires that such a request must establish that the proposed contravention is consistent with the objectives of the standard and the zone.

The proposed variation to the minimum lot size standard is a result of the applicant seeking to subdivide the lot to ensure the main dwelling house (Annandale Road) and the studio accommodation (Piper Lane) are on individual lots. The proposal essentially formalizes an existing arrangement whereby the applicant has erected a fence that separates the main dwelling and the studio.

#### 3.1 Objectives of the Standard

The objectives of the standard are as follows:

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
- (b) to ensure that lot sizes are capable of supporting a range of development types.

Notwithstanding the proposed variation to the numerical standard, the proposed development is nevertheless consistent with these objectives:

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,

The proposal does not result in any significant reduction to the existing rear garden of the dwelling. The proposal will maintain compliance with the relevant Clause 4.3 landscape and site coverage requirements.

With the exception of FSR that is already non-compliant at the site, the two existing dwellings that will be situated on individual lots as a result of the subdivision comply with all relevant development controls.

The proposed subdivision will still maintain the character of the area, and will not significantly alter the patterns of subdivision. The proposal is essentially a new boundary internal to the lot which would not be discernable from the Piper Lane frontage or Annandale Street frontages.


The existing building fronting Piper Lane already presents as a different dwelling from the main dwelling house fronting Annandale Street.

- (b) to ensure that lot sizes are capable of supporting a range of development types.

The two new lots created as a result of the subdivision are suitable for residential development and is therefore considered to provide a positive outcome in terms of the development attributes, visual quality and amenity of the neighbourhood.

There are no changes to either street frontage.

The overall scale and bulk of two existing dwellings do not change and as a result of the subdivision are similar to surrounding residential developments in the area, and are considered appropriate to the locality.



In light of the proposals contribution to achieving the desired future character of the area, a strict compliance with the minimum lot size would serve no material planning purpose, other than numerical compliance with a generic Council control. The proposal is essentially a new boundary internal to the lot which would not be discernable from the Piper Lane frontage or Annandale Street frontages.

### 3.2 Objectives of the Zone

The site is currently zoned R1 General Residential under the Leichardt LEP 2013. The proposal results in the subdivision of the lot into two lots, and is therefore considered permissible within the R1 zone, as outlined in the accompanying SEE.

The proposed subdivision is consistent with the R1 zone objectives in that:

- *To provide for the housing needs of the community.*
  - The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population by providing a greater number of smaller family dwellings to meet the changing population as well as increasing overall supply to ease pressures in the rental market.
- *To provide for a variety of housing types and densities.*
  - The proposal gives provision of additional smaller family housing (Piper Lane) for entry level type residents within the Sydney housing market, that adds to the diversity of dwelling types in Sydney, whilst maintaining the existing dwelling located on site.
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - The proposed use gives provision of improved residential dwellings that are compatible with the surrounding residential land uses and provides for the continued use of the site as a residential allotment.
  - The scale of the development and its typology is considered to be appropriate for the site and the surrounding area and meets the needs of the local residents and the wider Sydney metropolitan area.
- *To improve opportunities to work from home.*
  - Whilst not specifically designed as a work from home dwellings, there is opportunity for future occupiers to work from either living spaces or bedrooms.
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
  - The proposed subdivision lots are of a compatible scale and orientation to the adjoining dwellings which are directly adjacent to the site. The scale and bulk and massing of both dwellings is not altered by the proposal, and is appropriate for the surrounding streetscape.
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*

- The proposal maintains all existing landscape features and the pattern of landscaped areas is as existing through maintaining the existing fence, and private rear garden for each dwelling, and will enable future use by 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.*
  - The proposed subdivision will still maintain the character of the area, and will not significantly alter the patterns of subdivision. The proposal is essentially a new boundary internal to the lot which would not be discernable from the Piper Lane frontage or Annandale Street frontages.
  - The existing building fronting Piper Lane already presents as a different dwelling from the main dwelling house fronting Annandale Street.
  - The proposal will maintain regular shaped lots.
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*
  - The proposal will preserve neighbouring amenity including with respect to views, solar access, natural ventilation and privacy.
  - No overshadowing will occur to neighbouring dwellings and their open space.
  - The level of solar access received by the dwelling is acceptable and gives good provision of natural light to habitable rooms.
  - No overlooking or loss of privacy is likely to occur.

### 3.3 Establishing if the Development Standard is Unreasonable or Necessary

In *Wehbe v Pittwater Council [2007] NSWLEC 827* Preston CJ set-out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

1. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".*

### 3.4 Establishing if the Development Standard is Unreasonable or Necessary

In applying the tests of *Wehbe v Pittwater Council* [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, as demonstrated in Sections 3.1 and 3.2, the proposal is consistent with the underlying objectives of the standard for site coverage and the R1 zone of LLEP 2013.


### 3.5 Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the Land and Environment Court (LEC) addressed the 'sufficiency' of environmental planning grounds:

*The environmental planning grounds relied on in written request under cl 4.6 must be 'sufficient'. There are two respects in which the written request needs to be 'sufficient'. First the environmental planning grounds advanced in the written request must be sufficient 'to justify contravening the development standard' The focus of Cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must satisfy the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, the LEC found that the environmental ground advanced by the applicant in the Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site. In this regard, the proposed variation is particular to the circumstances of the proposed development on the site for the following reasons:

- The proposal is consistent with the underlying objective or purpose of the standard as demonstrated in **Section 3.1**.
- The objectives of the zone are still achieved.
- It should be considered that the site has a unique opportunity to provide improved standards of residential accommodation, and in terms of two dwelling types that are in demand in Sydney, and flexibility in the application of built form controls to the subject site should be considered.
- The existing building envelope of both buildings is maintained and is consistent with the existing building envelope of the adjoining dwellings and other similar development.
- The proposed subdivision will still maintain the character of the area, and will not significantly alter the patterns of subdivision. The proposal is essentially a new boundary internal to the lot which would not be discernable from the Piper Lane frontage or Annandale Street frontages. The existing building fronting Piper Lane already presents as a different dwelling from the main dwelling house fronting Annandale Street.
- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.

- 
- The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population by providing a greater number of smaller family dwellings to meet the changing population as well as increasing overall supply to ease pressures in the rental market.
  - The proposal will not significantly impact on the amenity of adjoining occupiers.
  - The proposal will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties.

### 3.6 The public benefit of maintaining the development standard

There is no public benefit in maintaining the numerical minimum lot size development standard in this instance as it is not achievable. As outlined in Section 3.5 above, there are a number of planning and urban design outcomes that warrant the proposed variation to the development standard and it is therefore considered to be in the public interest for the variation to be supported in this case.

### 3.7 Overview

This exception to the development standard demonstrates that the proposed variation to minimum lot size standard should be supported because:

- The proposed subdivision formalises the existing arrangement of the site, of two standalone residential buildings and their built form and character are consistent with the underlying objectives of the zone.
- The proposed variation allows for the provision of improved residential accommodation, for small family housing.
- The proposed variation does not result in any unreasonable privacy, sunlight, view loss or visual impacts.
- The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning.
- There is no public benefit in maintaining strict compliance with the standard.
- Strict application of the standard is therefore unreasonable and unnecessary in the circumstances of the case.

Overall, it is considered that the proposed variation to the minimum subdivision lot size is entirely appropriate and can be clearly justified having regard to the matters listed within LLEP Clause 4.6.

### 3.8 Conclusion

It is requested that council supports the proposed variation to Clause 4.1 of the LLEP 2013 for the following reasons:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposed variation allows for the provision of separate residential accommodation, for small family housing.
- No unreasonable environmental impacts are introduced as a result of the proposal.
- There is no public benefit in maintaining strict compliance with the standards.