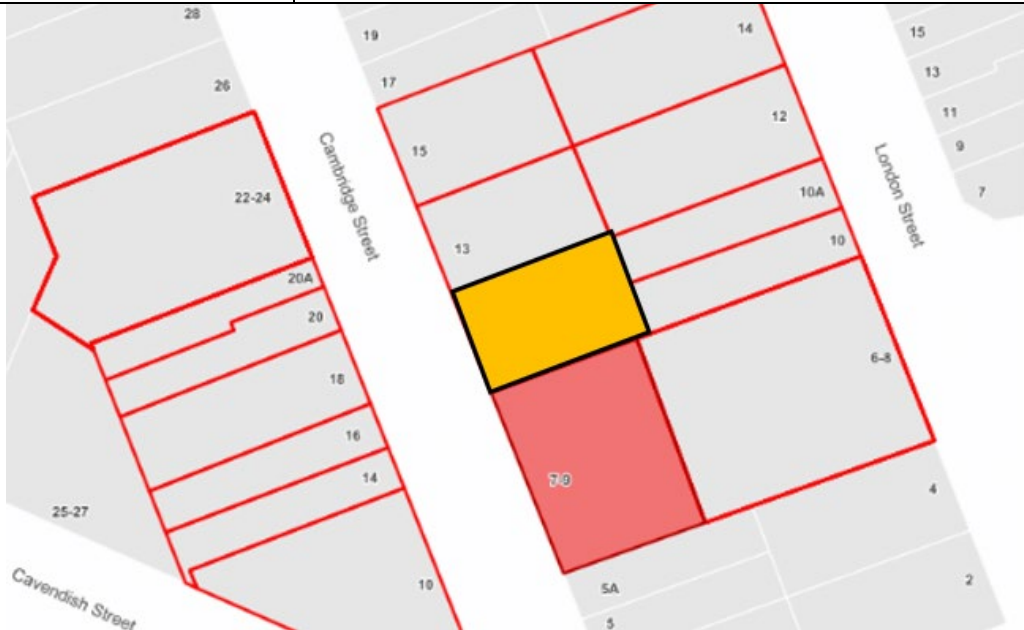





 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2021/1073			
Address	11 Cambridge Street ENMORE NSW 2042			
Proposal	Change of use to a dwelling with home office			
Date of Lodgement	21 December 2021			
Applicant	Andrew Ireland			
Owner	Mrs Maria P Cencigh			
Number of Submissions	One (1)			
Value of works	\$500.00			
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%			
Main Issues	<ul style="list-style-type: none"> • Unauthorised building works • Floor Space Ratio and Clause 4.6 variation • Solar Access • Private Open Space • Visual and Acoustic Privacy 			
Recommendation	Approved with Conditions			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Clause 4.6 Exception to Development Standards			
				
LOCALITY MAP				
Subject Site		Objectors		 N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for a change of use to a dwelling with home office at 11 Cambridge Street, Enmore.

The application was notified to surrounding properties and one (1) submission was received in response to the notification.

The main issues that have arisen from the application include:

- Unauthorised building works
- Floor Space Ratio and Clause 4.6 variation
- Solar Access
- Private Open Space
- Visual and Acoustic Privacy

Despite the items noted above, the proposal generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Marrickville Local Environmental Plan 2011*, and Marrickville Development Control Plan 2011.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable due to the scope of the proposal being for a change of use to a residential dwelling and recommended conditions.

The application is suitable for consent subject to the imposition of appropriate terms and conditions.

2. Proposal

The application seeks development consent for the conversion of an existing warehouse into a dwelling house. Specifically, the following is proposed:

- Use of the existing warehouse workshop space as a dwelling house; and
- Use of the previously approved caretaker's residence as a home office.

Note: No physical works are proposed as part of this application.

3. Site Description

The subject site is located on the eastern side of Cambridge Street, between Cambridge Lane and Liberty Street, Enmore.

The site consists of one allotment and is generally rectangular shaped with a total area of 290.1 square metres (sqm) and is legally described as Lot 1 DP 974299. The site has a frontage to Cambridge Street of 14 metres (m) and supports and warehouse building.

The site supports type of structures on building including use and scale. The surrounding properties support a range of residential uses including residential flat buildings.

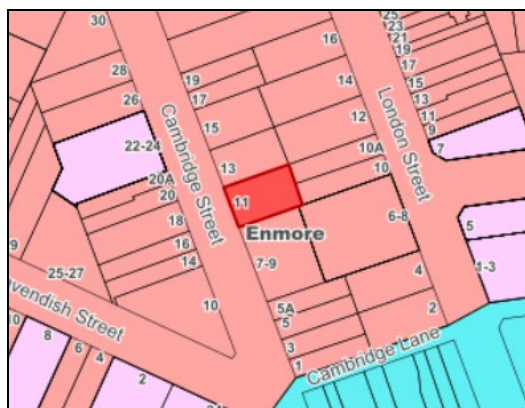


Figure 1: Zoning Map of the subject site (R2 – Low Density Residential highlighted red).



Figure 2: Photo of the subject site (as viewed from Cambridge Street).

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
DA 103/61	Use of the premises for the machining and assembly of garden chairs.	21/02/1961 - APPROVED
DA 123/66	Use of the premises for assembling stock brands.	22/02/1966 - APPROVED
DA200300466	To demolish part of the premises and carry out alterations to the existing factory/warehouse building.	09/01/2004 - REFUSED
DA200400087	To refurbish the existing building.	27/05/2004 - DEFFERED COMMENCEMENT (Operational 14/12/2004)
DA200600099	To carry out alterations and additions to the premises and use the premises as an artist studio and an associated caretaker's residence.	16/06/2006 - APPROVED

Plans from the last approval are reproduced below:

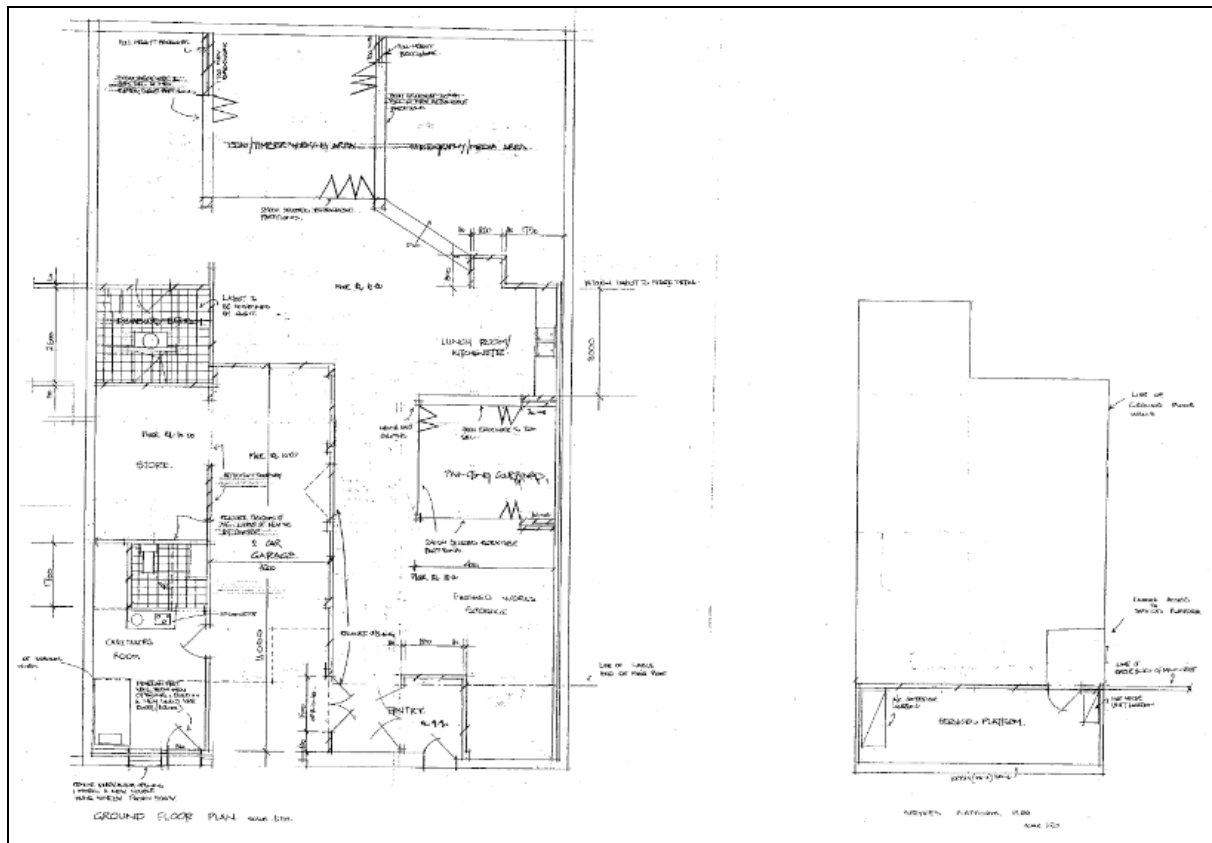


Figure 3: Floor plan (DA200600099)

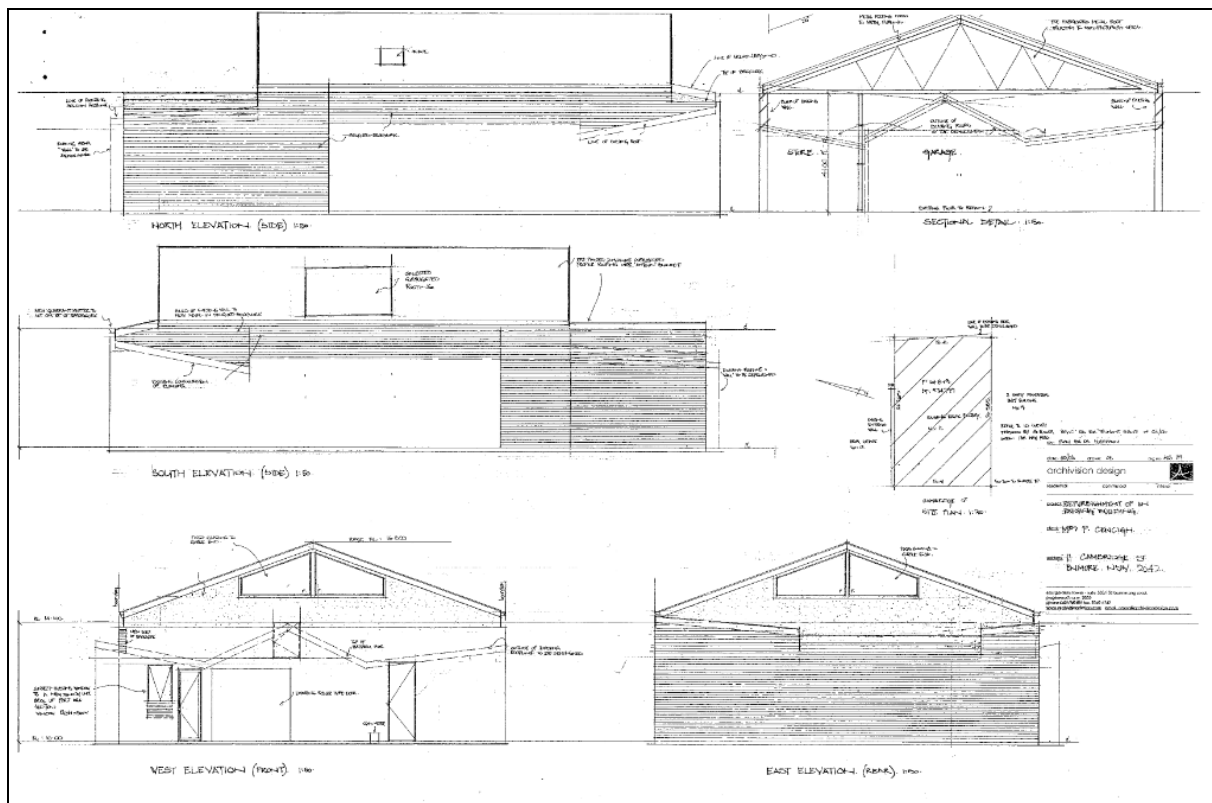


Figure 4: Elevations (DA200600099)

4(b) Application history

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

Date	Discussion
21/12/2021	Application Lodged.
20/01/2022 - 03/02/2022	Application notified.
06/04/2022	Request for information (RFI) letter issued to the applicant requiring amendments or additional information to address the following: <ul style="list-style-type: none"> - Unauthorised building works - Amended Statement of Environmental Effects - Floor Space Ratio and Clause 4.6 variation request - Solar Access - Private Open Space - Visual and Acoustic Privacy - Waste Management
06/04/2022	Building Certificate (BC/2022/0042) lodged with Council.
28/04/2022	Revised plans and additional information submitted in response to Council's RFI request. Note: This information forms the basis of the assessment outlined below.

Unauthorised Building Works

During the preliminary assessment it was established that the documentation submitted with the current application was inconsistent with the last approval recorded with Council (DA200600099). As illustrated above in figures 3 & 4 the plans submitted with DA200600099 indicate a single storey warehouse structure approved for use as an artist's studio with caretakers' residence.

A site inspection confirmed that the site is currently being used as a dwelling house, and internal alterations including the provision of a first floor and swimming pool have been completed without approval.

The unauthorised works are subject of a Building Information Certificate (BC/2022/0042) which is being assessed concurrently with this application. A condition is recommended that the building information certificate has been approved prior to the issue of an Occupation Certificate.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

The proposal does not approve any physical works and the last approved use included in part a care takers residence. There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. Considering the land will be suitable for the proposed use as there is no indication of contamination.

5(a)(ii) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

A BASIX Certificate was submitted with the application and the development is capable of complying which is a matter to be addressed under the Building Certificate.

5(a)(iii) *Marrickville Local Environment Plan 2011 (MLEP 2011)*

The application was assessed against the following relevant clauses of the *MLEP 2011*:

Part 1 – Preliminary

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	<p>The proposal is consistent with the relevant aims of the plan as follows:</p> <ul style="list-style-type: none"> • The design of the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain; • The proposal supports the efficient use of land, vitalisation of centres, integration of transport and land use and an appropriate mix of uses; and • The proposal increases residential and employment densities in appropriate locations near public transport while protecting residential amenity. 	Yes

Part 2 – Permitted of prohibited development

Zone	Proposed Use	Permitted with consent
<p>Clause 2.3 Zone objectives and Land Use Table</p> <p><i>R2 Low Density Residential</i></p>	<p>The proposal satisfies the Clause as follows:</p> <ul style="list-style-type: none"> • The application proposes a new dwelling house, which is permissible with consent in the R2 Low Density Residential zone; and • The proposal is consistent with the relevant objectives of the zone, as it will assist to provide for the housing needs of the community within a low density residential environment. 	Yes
Control	Proposed	Compliance
Clause 2.7 Demolition requires development consent	<p>The proposal satisfies the clause as follows:</p> <ul style="list-style-type: none"> • Whilst no works are proposed as part of this application, upgrade works will be required to comply with Part 2.10 of the MDCP 2011 as detailed further in this report.; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to condition

Part 4 – Principal development standards

Control	Proposed		Compliance
Clause 4.3 Height of building	Maximum	9.5m	Yes
	Proposed	8.5m (no change)	
	Variation	N/A	
Clause 4.4 Floor space ratio (FSR)	Maximum	0.8:1 or 232.1sqm	No
	Proposed	0.94:1 or 274sqm	
	Variation	41.9sqm or 18%	
Clause 4.5 Calculation of FSR and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the clause.		Yes
Clause 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Clause 4.6 to vary the FSR development standard.		See below

Clause 4.6 – Exceptions to Development StandardsFSR development standard

The applicant seeks a variation to the FSR under Clause 4.4 of the *MLEP 2011* by 41.9 sqm or 18%.

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/or 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 *MLEP 2011*.

The objectives of the FSR development standard are as follows:

- *To establish the maximum floor space ratio*
- *To control building density and bulk in relation to the site area in order to achieve the desired future character for different areas*
- *To minimise adverse environmental impacts on adjoining properties and the public domain*

The objectives of the R2 - zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *MLEP 2011* justifying the proposed contravention of the development standard, a summary of the main points of this are provided as follows:

- Minor variation;
- Adaptive reuse of existing industrial period building;
- Built from is previously approved;
- Minimal impact on adjoining properties; and
- The proposal satisfies other provisions in the LEP and DCP.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R2 zone, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* for the following reasons:

- The proposal maintains the existing building density and bulk and achieves the desired future character of the area by preserving a period warehouse building.
- The proposal maintains the existing impacts on adjoining properties and the public domain.
- The proposal provides for the housing needs of the community within a low density residential environment.

It is considered the development is in the public interest because it is consistent with the objectives of the FSR development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* for the following reasons:

- The change of use from an industrial use to a dwelling house, results in the applicable FSR changing from 0.6:1 to 0.8:1 due to Clause 4.4 (2A).
- The current proposal does not propose additional Gross Floor Area, nor alter the existing built form.
- The current proposal does not alter the bulk and scale. As such the proposal does not result in any adverse impacts to surrounding properties or the streetscape as a result of visual bulk or building setbacks and is therefore consistent with the desired future character of the area.
- The proposal seeks to change the use to a dwelling house, which results in a density and intensity of land-use which is in-line with that of existing neighbouring residential properties and in-keeping with today's expectations for dwelling houses/family homes.

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 *Marrickville Local Environmental Plan 2011*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from FSR and it is recommended the Clause 4.6 exception be granted.

Part 6 – Additional local provisions

Control	Proposed	Compliance
Clause 6.5 Aircraft noise	The site is located within the ANEF 20 -25 contour, and as such an Acoustic Report was submitted with the application. A condition has been included in the development consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions.	Yes, subject to condition

5(b) Draft Environmental Planning Instruments

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

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes
Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)	Yes

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Proposed	Compliance
Part 2.1 – Urban Design	The proposal satisfies the relevant provisions of Part 2.1 as follows: <ul style="list-style-type: none"> The proposal does not impact the definition between the public and private domain; and The proposal preserves the existing character of the streetscape. 	Yes
Part 2.6 – Acoustic and Visual Privacy	The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds in accordance with Part 2.6 as follows: <ul style="list-style-type: none"> The principal living areas and areas of POS are located on the ground floor and sufficiently screened by the existing double height masonry walls along the property 	Yes, subject to conditions

	<p>boundaries;</p> <ul style="list-style-type: none"> • The pool is located towards the rear of the site away from bedroom areas of the adjoining dwellings; • Conditions have been included to ensure that the noise levels associated with pool pumping unit will not result in adverse noise impacts for surrounding properties; and • The first floor western balcony services a bedroom, is of a depth of 2m and is orientated towards the street; and • The first floor rear balcony services a bedroom, however, is of a depth of 4.2m and an area of 12sqm. In addition, the balcony is located with a nil setback to north and east property boundaries and upon site inspection a trampoline was erected on the balcony. The proposed plans do not clearly indicate the wall heights of balcony walls. As such to ensure adequate levels of acoustic and visual privacy for the surrounding residential properties a condition is recommended to include a privacy screen to a height of 1.6m above the finished floor level of the balcony. Screen planting or planter boxes may supplement the above, however are unsatisfactory as a standalone privacy measure. 	
<p>Part 2.7 – Solar Access and Overshadowing</p>	<p>The proposal will have a satisfactory impact in terms of solar access and overshadowing on the surrounds in accordance with Part 2.7 as follows:</p> <p><i>Overshadowing</i> The proposed development does not alter the existing built form, there will be no impact to the adjoining properties solar access by the approval of the change of use.</p> <p><i>Solar access</i> The revised shadow diagrams submitted with the application demonstrate that the subject site does not achieve a minimum of 2 hours direct solar access to principal areas of POS between 9:00am and 3:00pm on 21 June. However, the development is considered acceptable, for the following reasons:</p> <ul style="list-style-type: none"> • At least one habitable room of the dwelling has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; • The first floor decks provide a supplementary area of private open space which receive varying degrees of solar access between 12:00pm and 3:00pm on 21 June; • The shadow diagrams for the equinox demonstrate that the proposal will receive varying degrees of solar access between 11:00am and 2:00pm to principal areas of 	<p>Acceptable</p>

	<p>private open space at March/September;</p> <ul style="list-style-type: none"> • The proposal also includes a double height space over the living areas, and extensive glazing to all 3 sides of each courtyard which positively improve the solar access and amenity of the dwelling; • The existing rear highlight windows service the principal living area are orientated east which will maximise solar access to the dwelling; and • The proposal is for an adaptive reuse of an existing warehouse form. The existing built form is not altered. 	
<p>Part 2.9 – Community Safety</p>	<p>The proposal satisfies the relevant provisions of Part 2.9 as follows:</p> <ul style="list-style-type: none"> • The principal entrance to the dwelling house is visible from the street; • The dwelling house overlooks the street; • The dwelling house has a Council approved house number that is clearly displayed; and • The entrance to the dwelling house is well lit. 	<p>Yes</p>
<p>Part 2.10 – Parking</p>	<p>A dwelling house is required to provide a minimum of one off-street car parking space. One car parking space is proposed utilising an existing vehicle crossing and garage. Standard conditions are recommended to ensure the vehicular crossing is upgraded to comply with the design requirements contained within Part 2.10 of MDCP 2011.</p>	<p>Yes, subject to conditions</p>
<p>Part 2.18 – Landscaping and Open Spaces</p>	<p>The development is required to provide a minimum of 58sqm (20% of the site area) of private open space. The proposal results in an area of approximately 34sqm of private open space and therefore does not comply. The extent of the variation is 24sqm. The noncompliance is considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The areas of private open space act as an extension of the living area of a dwelling. • The rear courtyard is easily accessible from the laundry and as such is easily usable for clothes drying • The areas of private open space provide dwellings with an area for outdoor recreation with the rear courtyard including the provision of a pool. • The areas of private open space incorporate green walls and vegetation where possible. • Bedrooms 1,2 & 3 have access to first floor balconies which provide an additional area of private open space. however, these areas do not strictly meet the definition and are not included in the above calculations. 	<p>Acceptable</p>

Part 2.21 – Site Facilities and Waste Management	The proposal satisfies the relevant provisions of Part 2.21 as follows: <ul style="list-style-type: none"> • The application was accompanied by a waste management plan in accordance with the Part; and • Standard conditions are recommended to ensure the appropriate management of waste during any upgrade works and ongoing use of the premises of a dwelling house. 	Yes, subject to condition
Part 2.25 – Stormwater Management	Standard conditions are recommended to ensure the appropriate management of stormwater.	Yes, subject to condition

Part 4 – Low Density Residential Development

Control	Assessment	Compliance
Part 4.1.4 – Good Urban Design Practice	The proposal satisfies the relevant provisions of Part 4.1.4 as follows: <ul style="list-style-type: none"> • The scale of the use is appropriate for the site; • The entrance to site is clearly visible from the street and footpath; and • The use as a dwelling is appropriate in terms of maintaining internal privacy and mitigating the chance of adverse acoustic and visual privacy impacts to neighbouring properties 	Yes
Part 4.1.5 – Streetscape and Design	The application does not seek to alter the existing streetscape presentation.	Yes
Part 4.1.6 – Built form and character	The application does not seek to alter the existing setbacks and site coverage.	Yes

Part 6 – Industrial Development

Control	Assessment	Compliance
Part 6.7 – Period Industrial Buildings	The proposal satisfies the relevant provisions of Part 1.1.4 as follows: <ul style="list-style-type: none"> • The application does not seek to alter the existing streetscape presentation. • The change of use maintains the integrity of the building and the contribution the warehouse makes to the area's character through retention of its characteristic form, massing, scale, proportions and materials. 	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.8 – Enmore North and Newington Central (Precinct 8)	The proposal satisfies the relevant provisions of Part 9.14 as the proposal does not alter the existing period dwelling on the site.	Yes

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 the Community Engagement Framework for a period of 14 days to surrounding properties. One (1) submission was received in response to the initial notification.

The submission raised the following concerns which are discussed under the respective headings below:

Issue: Tenants reporting noise at night from current construction.

Comment: These comments are noted, however the proposal under this application does not propose any building works nor does it appear that any building works are currently in progress on the subject site. Standard conditions regarding construction hours and noise levels, are recommended in the development consent to mitigate any significant impacts.

Issue: Tenants reporting tradesmen's have been blocking the driveway of 9 Cambridge Street.

Comment: These comments are noted, however the proposal under this application does not propose any building works nor does it appear that any building works are currently in progress on the subject site. Vehicles blocking driveways or any other parking arrangement that causes an obstruction to others, can be reported to Councils Regulatory Team.

Issue: Tradesmen impeding traffic in the area and increasing congestion.

Comment: These comments are noted, however the proposal under this application does not propose any building works. It is considered that the proposed development can reasonably be completed without any adverse impacts to neighbouring properties or traffic flows.

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.

- Building Certification
- Development Engineering
- Environmental Health
- Waste Management

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. Based on an existing industrial floor area of 216.6sqm being converted into one dwelling house, a contribution of \$19,933.30 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. The following is a summary of the breakdown:

Infrastructure Type	Contribution
Recreation Facilities	\$17,105.44
Community Facilities	\$2,093.97
Traffic Facilities	\$343.04
Plan Administration	\$390.85
TOTAL	\$19,933.30

A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 of the *Marrickville Local Environmental Plan 2011*. 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. (AI)
- 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/2021/1073 for the change of use to a dwelling with home office at 11 Cambridge Street, Enmore subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment A – Recommended 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
A201 rev D	Landscape & ground & first plans	26/04/2022	[a4A]d
A202 rev D	first floor	26/04/2022	[a4A]d

As amended by the conditions of consent.

FEES

2. Security Deposit

Prior to the commencement of demolition works, 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:	\$2254.00
Inspection Fee:	\$241.50

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. Section 7.11 (Former Section 94) Contribution

Prior to the issue of an Occupation Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$19,933.30 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 29 April 2022.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

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

Infrastructure Type	Contribution
Recreation Facilities	\$17,105.44
Community Facilities	\$2,093.97

Traffic Facilities	\$343.04
Plan Administration	\$390.85
TOTAL	\$19,933.30

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

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

Payment methods:

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

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

GENERAL CONDITIONS

4. Stormwater Drainage System

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. No concentration of flows or nuisance to other properties.

5. Balcony

Prior to the issue of an Occupation Certificate, the Certifying Authority must be satisfied that a privacy screen on the northern and eastern sides of the rear balcony having a minimum block out density of 75% and a height of 1.6 metres above the finished floor level of the balcony has been erected.

6. Noise Levels and Enclosure of Pool/spa Pumping Units

Noise levels associated with the operation of the pool/spa pumping units must not exceed the background noise level (L90) by more than 5dBA above the ambient background within habitable rooms of adjoining properties. Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed within a building so as not to create an offensive noise as defined under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

7. 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.

8. 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.

9. Standard Street Tree Protection

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

10. Works Outside the Property Boundary

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

11. Dilapidation Report – Pre-Development

Prior to the commencement of any work, 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. Sydney Water – Tap In

Prior to the commencement of any work, 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

PRIOR TO ANY DEMOLITION**13. Advising Neighbours Prior to Excavation**

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

14. 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.

DURING DEMOLITION AND CONSTRUCTION**15. 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.

16. Construction Hours – Class 1 and 10

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

PRIOR TO OCCUPATION CERTIFICATE**17. Protect Sandstone Kerb**

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

18. Aircraft Noise –Alterations and Additions

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

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

19. Bin Storage Area

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation 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 that 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.

20. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council 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. Light duty concrete vehicle crossing at the vehicular access location; and
- b. 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".

21. Light Duty Vehicle Crossing

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

22. building Certification

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a Building Information Certification approving all unauthorised works on site.

ON-GOING

23. Bin Storage

All bins are to be stored within the site. Bins are to be returned to the property within 12 hours of having been emptied.

ADVISORY NOTES

Notice to Council to deliver Residential Bins

if new bins are required, Council should be notified three weeks prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested

party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

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

Dividing Fences Act

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

Swimming Pools

Applicants are advised of the following requirements under the *Swimming Pools Act 1992*:

- a. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
- c. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
- d. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
- f. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

Permits from Council under Other Acts

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

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

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

Noise

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

Amenity Impacts General

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

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

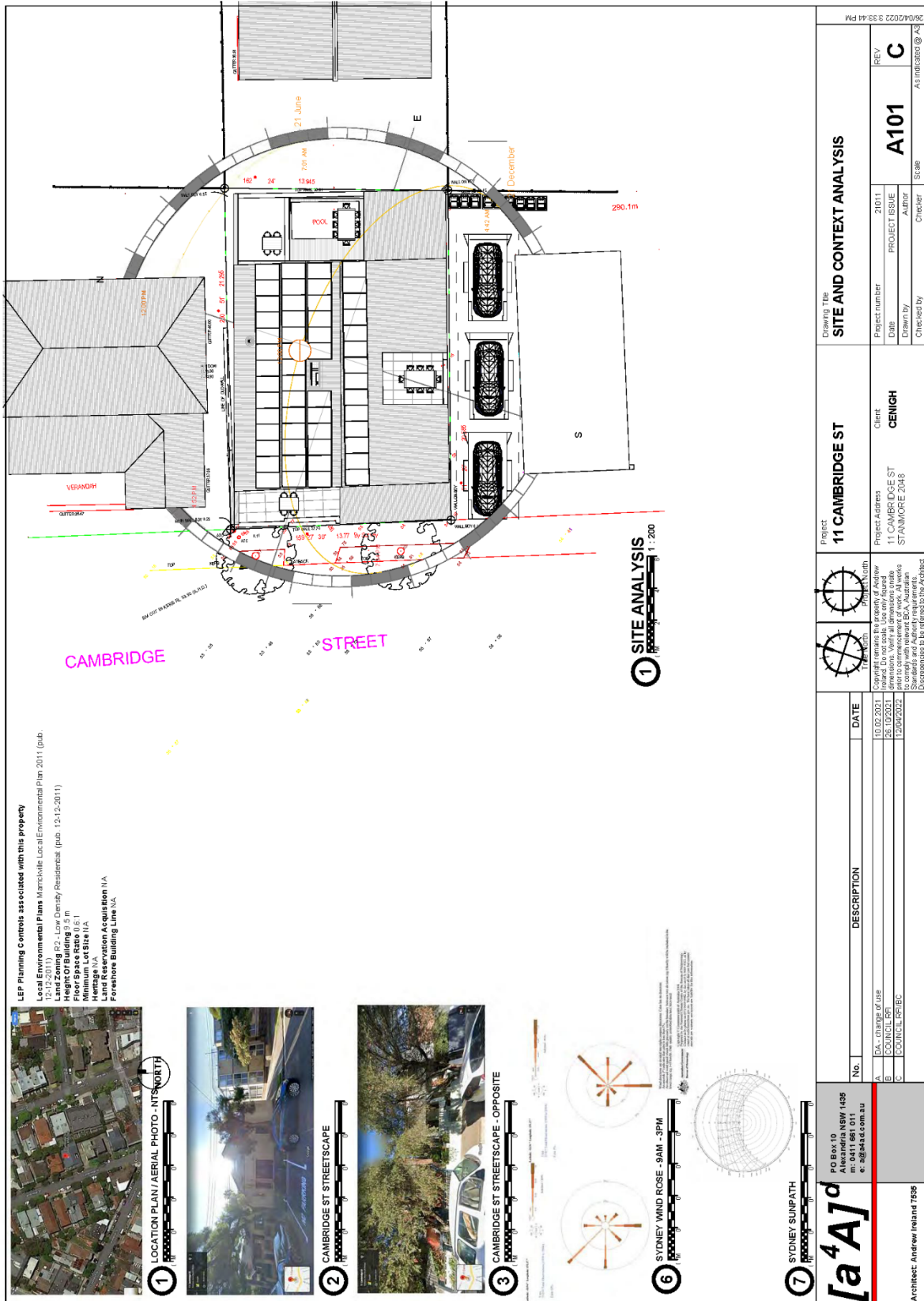
BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"

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

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



LPP Planning Controls associated with this property
 Local Environmental Plans: Murrumbidgee Local Environmental Plan 2011 (pub. 12-12-2011)
 Land Zoning R2 - Low Density Residential (pub. 12-12-2011)
 Height of Building 3.5 m
 Maximum Lot Size 1000 sqm
 Minimum Lot Size N/A
 Heritage N/A
 Land Reservation Acquisition N/A
 Foreshore Building Line N/A



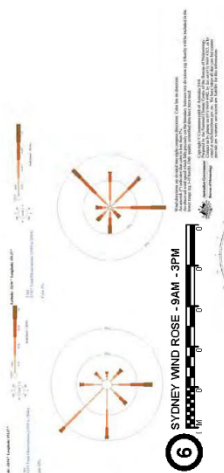
1 LOCATION PLAN/AERIAL PHOTO - NTS NORTH



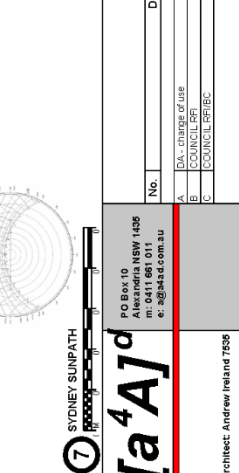
2 CAMBRIDGE ST STREETSCAPE



3 CAMBRIDGE ST STREETSCAPE - OPPOSITE

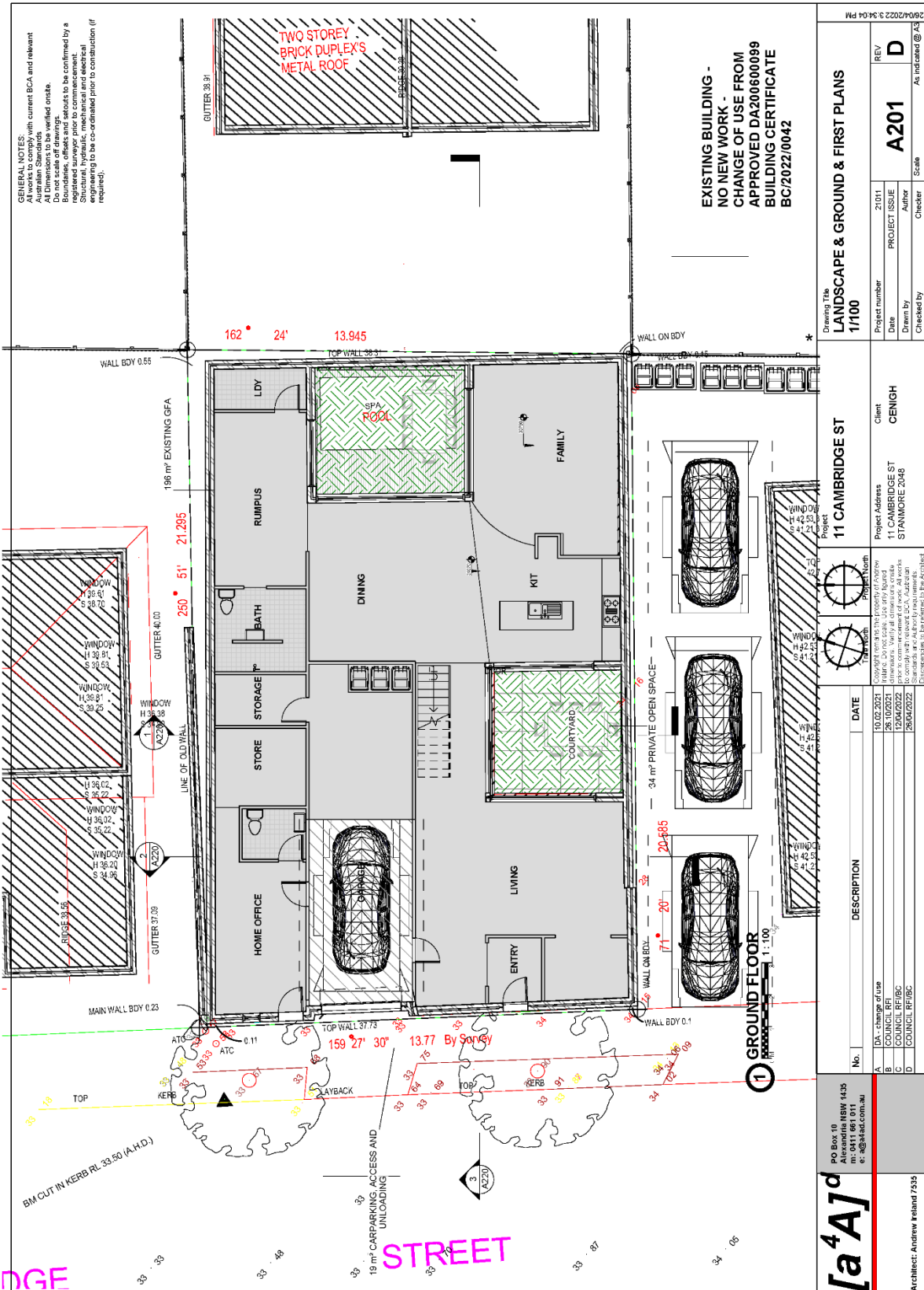


6 SYDNEY WIND ROSE - 9AM - 3PM



7 SYDNEY SUNPATH

PO Box 10 NEWY 1436 m: 0411 681 011 e: a@aa4.com.au		[a4A] ^o		Architect: Andrew Ireland 7555	
No.	DESCRIPTION	DATE			
A	DA - change of use	10.02.2021			
B	COUNCIL RR	25.10.2021			
C	COUNCIL PRIBEC	12.04.2022			
Copyright remains the property of Andrew Ireland. Do not reuse. Use only in relation to the project for which it was prepared. All works are to be completed in accordance with the Australian Standards and relevant requirements. Discrepancies to be referred to the Architect prior to construction.			Drawing Title: SITE AND CONTEXT ANALYSIS Project: 11 CAMBRIDGE ST Client: CENIGH Project Address: 11 CAMBRIDGE ST STANMORE 2048 Project number: 20011 Date: 2011 Project ISSUE: A101 Drawn by: Author Checked by: Checker Scale: As indicated @ A101 REV: C As indicated @ A101		



GENERAL NOTES:
 1. Comply with current BCA and relevant Australian Standards.
 2. All dimensions to be verified onsite.
 3. All work to be carried out in accordance with the Board's, officer's and setouts to be confirmed by a registered surveyor prior to commencement.
 4. Structural, mechanical and electrical work to be completed prior to construction (if required).

TWO STOREY BRICK DUPLEX'S METAL ROOF

EXISTING BUILDING - NO NEW WORK - CHANGE OF USE FROM APPROVED DA200600099 BUILDING CERTIFICATE BC/2022/0042

Drawing Title: LANDSCAPE & GROUND & FIRST PLANS 1/100

Project number: 21011

Date: 28/10/2021

Drawn by: Author

Checked by: Checker

Scale: As indicated @ A2

Client: CEMGH

Project Address: 11 CAMBRIDGE ST STANMORE 2048

Project: 11 CAMBRIDGE ST STANMORE 2048

Project North

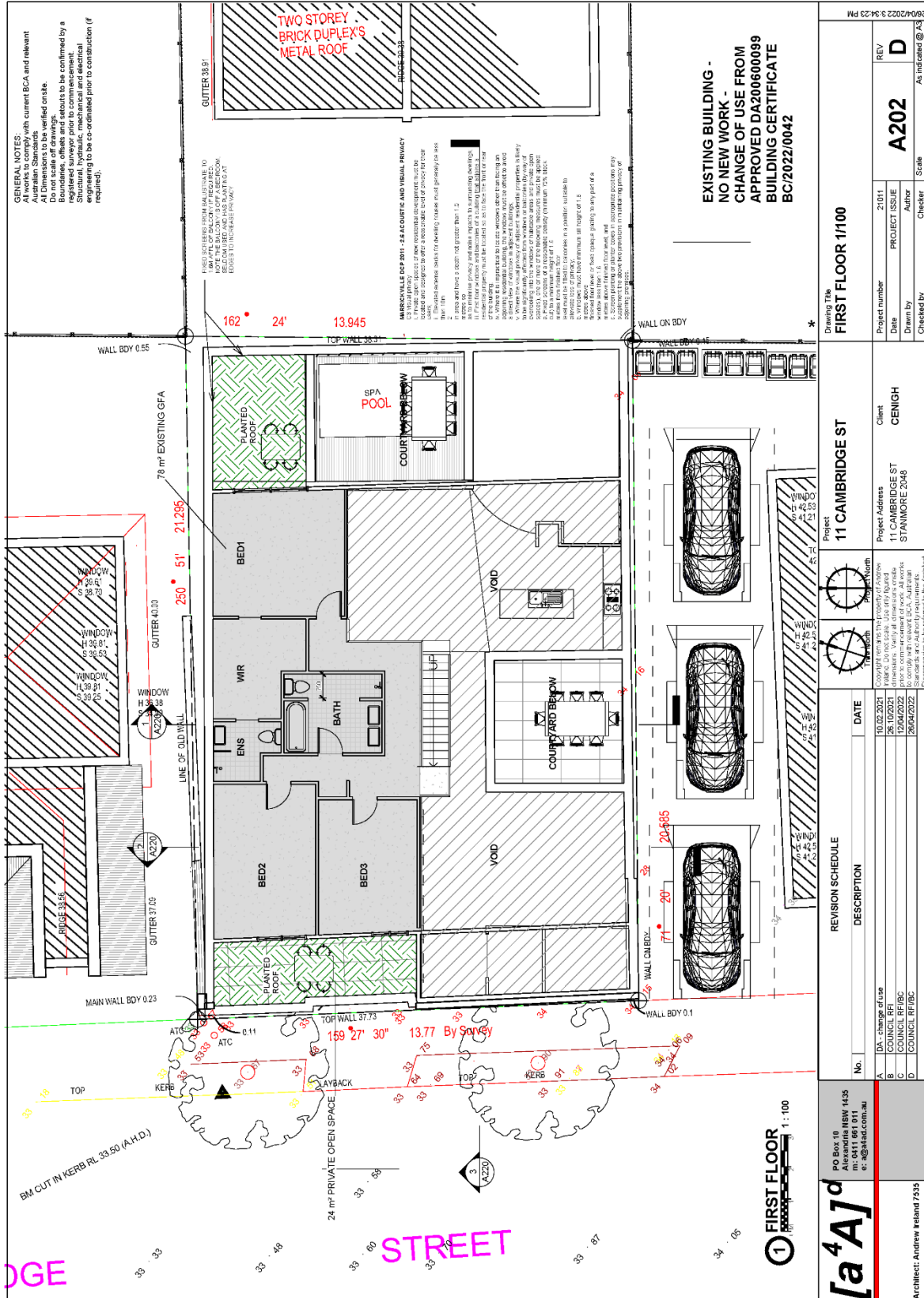
Project South

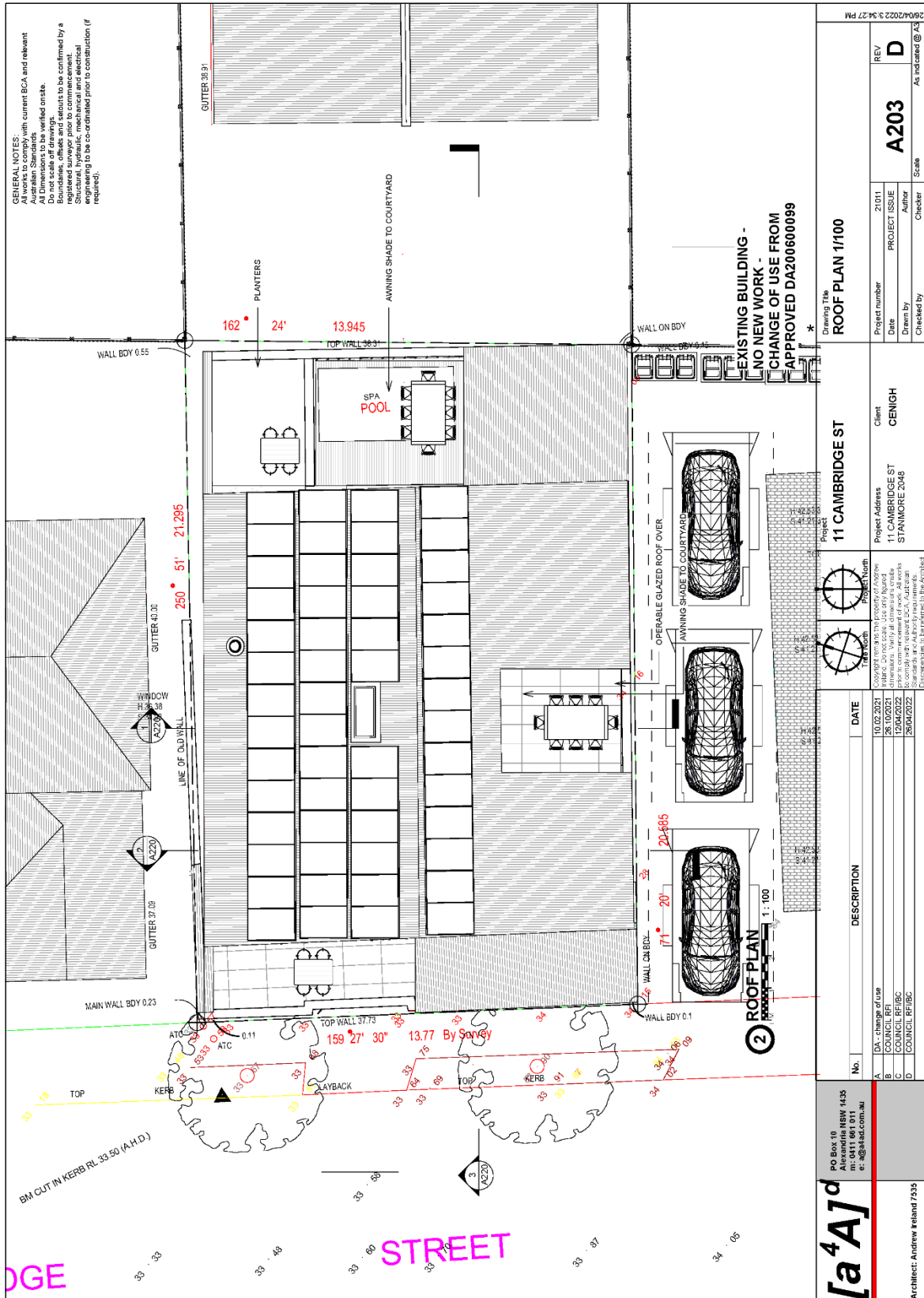
No.	DESCRIPTION	DATE
A	DA - change of use	10/02/2021
B	COUNCIL REF	28/10/2021
C	COUNCIL REF/BC	12/04/2022
D	COUNCIL REF/BC	26/04/2022

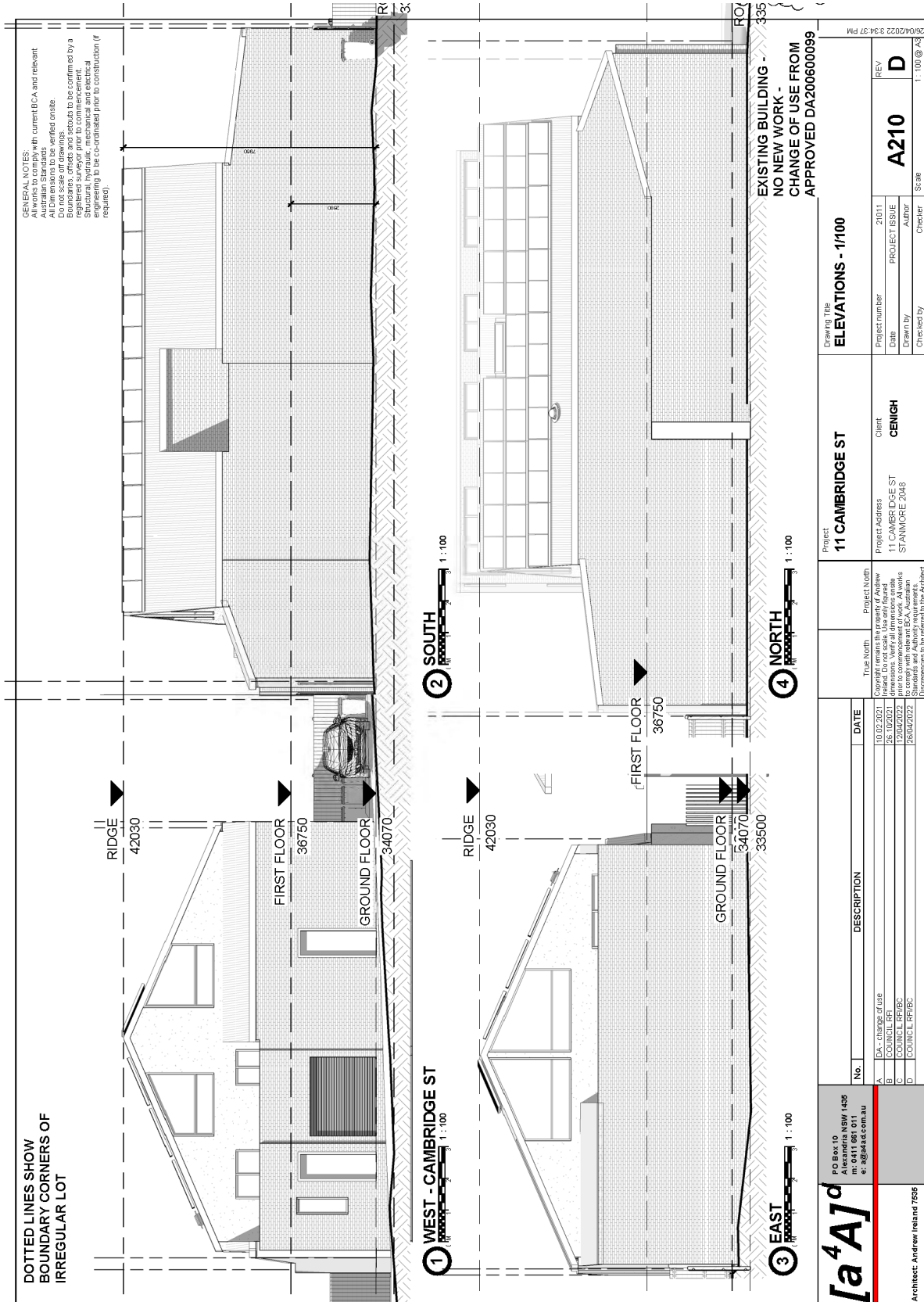
PO Box 10
 Ashfield NSW 1585
 Tel: 0411 661 011
 e: a@4ad.com.au

[a⁴A]^d

Architect: Andrew Ireland 7335







GENERAL NOTES:
 All drawings to be prepared in accordance with current BCA and relevant Australian Standards.
 All dimensions to be verified onsite.
 Boundaries, setbacks and setbacks to be confirmed by a registered surveyor prior to commencement.
 All work to be completed in accordance with the approved plans and specifications, and in accordance with the relevant building codes of practice (if required).

26/04/2022 3:34:40 PM

REV **D**

A220

Scale 1:100 @ A3

1 SECTION 1

RIDGE 42030

FIRST FLOOR 36750

GROUND FLOOR 34070

33500

1 : 100

2 SECTION 2

RIDGE 42030

FIRST FLOOR 36750

GROUND FLOOR 34070

33500

1 : 100

3 SECTION 3

RIDGE 42030

FIRST FLOOR 36750

GROUND FLOOR 34070

33500

EXISTING BUILDING - NO NEW WORK - CHANGE OF USE FROM APPROVED DA200600099

1 : 100

1/100 SECTIONS

Project Title **11 CAMBRIDGE ST**

Client **CENICH**

Project Address **11 CAMBRIDGE ST STANMORE 2048**

Project Number **21011**

Date **26/04/2022**

Drawn by **Author**

Checked by **Checker**

Scale **1:100 @ A3**

[a4AJ]d

PO Box 10 Ashby NSW 1458
 m: 0411 661 011
 e: ag44ad.com.au

Architect: Andrew Ireland 7538

No.	DESCRIPTION	DATE
A	DA - CHANGE OF USE	10/02/2021
B	COUNCIL RFI	26/10/2021
C	COUNCIL RFI/BC	12/04/2022
D	COUNCIL RFI/BC	26/04/2022

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Attachment C- Clause 4.6 Exception to Development Standards

LEP/DCP COMPLIANCE
 11 CAMBRIDGE ST ENMORE - 2042
 [s'A] - ANDREW IRELAND - ARCHITECT (NSW) 7535 - 0411 661 011

CLAUSE 4.6 REQUEST - FSR-

Request for exception under clause 4.6 of Marrickville Local Environmental Plan 2011 to clause 4.4 of Marrickville Local Environmental Plan 2011

MLEP 2021 – clause 4.6 Exceptions to development standard**Introduction:**

This application for an exception to a development standard is on behalf of the owners of 11 Cambridge St Stanmore and associated with an Application for a Change of Use of the existing approved Building (DA200600099) at 11 Cambridge St Stanmore (LOT 1 DP974299) from Artists Studio and Workshop with Caretakers Residence to a Single Residential Dwelling with Home Office.

It is noted that the application is for the adaptive reuse of existing built form and does not include any additional built form. The built form anomalies are being addressed by BC/2022/0042.

This is to be read in conjunction with the drawings submitted as part of the application.

Site Information:

Address: 11 Cambridge St Enmore, 2042

Lot/DP: LOT 1 DP 974299

Zone: R2 Low Density Residential

Site Area: 290.1 sqm (survey)

Proposal: Change of use from **Artists Studio and Workshop with Caretakers Residence to a Single Residential Dwelling with Home Office** – no additional built works

Control: 4.4 (2A) Floor Space Ratio

Clause: Clause 4.4 (2A) of MLEP 2011 provides that development for the purpose of dwelling houses on a lot size >250<300 is not to exceed an FSR of 0.8:1 .

Extent of variation:

Site Area = 290.1 sqm

Permissible MAX FSR = 0.8:1

Permissible MAX GFA = 232.1 sqm

Existing Floor Space = 274 sqm

Existing FSR = 0.944

Variance = 41.9 sqm = 18% of permissible

It is noted that the dwelling is located within an existing approved envelope and no variation to the envelope is required.

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

To utilise the flexibility provided by clause 4.6 of MLEP 2011 it is necessary for the applicant to demonstrate:

(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.

In addition, Council must be satisfied that:

(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.

In exercising delegation from the Director-General of the Department of Planning, Council must consider:

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

This clause 4.6 request has been structured in accordance with the approach adopted by the Court in

LEP/DCP COMPLIANCE
11 CAMBRIDGE ST ENMORE - 2042
 [e*]A* - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011

Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46 and also considers the ways in which a SEPP 1 objection can be sustained as listed in Webbe v Pittwater Council [2007] NSWLEC 827 at [26] and the judicial guidance provided in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1. Is the planning control in question a development standard?

The Environmental Planning and Assessment Act 1979 No 203 – defines development standards as follows:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

Clause 4.4 (2A) of MLEP 2011 is a development standard as defined by the Environment and planning act 1979 as it controls the floor space of a building (d).

2. What is the underlying object or purpose of the standard?

4.4 Floor space ratio

- (1) The objectives of this clause are as follows—
 - (a) to establish the maximum floor space ratio,
 - (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,
 - (c) to minimise adverse environmental impacts on adjoining properties and the public domain.

3. Is compliance with the development standard consistent with the objectives of clause 4.6?

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- The proposal is for the adaptive reuse of and existing building form envelope which has previously been approved (DA200600099) and constructed without receiving building certification or occupation certification. A concurrent application (BC/2022/0042) has been submitted to properly address any building anomaly.
 - The additional gross floor area is the result of a mezzanine/attic conversion within the existing roof form and does not add to perceived bulk and massing.
 - Strict compliance with the control will not affect the control objective of perceived "building density and bulk in relation to site area".
 - Strict compliance with the development standard will not affect the desired future character of the area;
 - Strict compliance with the development standard would require partial demolition of an approved envelope, contrary to ESD principles and the control objective "to minimise environmental impacts on adjoining properties and the public domain";

- Strict compliance with the development standard does not provide a degree of flexibility in applying development standards.
- Strict compliance with the controls will not achieve better outcomes for and from the development.
- Flexibility of the standard will achieve a better outcome environmentally and on the adjoining properties and public domain.
- The proposal meets the objectives of clause 4.6

4. Does non-compliance with the development standard raises any matter of significance for State or regional environmental planning?

No.

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

Compliance with the development standard is unreasonable and unnecessary for the following reasons:

5(a). Achievement of the underlying objectives of the standard

(1) The objectives of this clause are as follows—

(a) to establish the maximum floor space ratio,

- Comment: The proposal utilises existing built floor space within a previously approved envelope. Previously the building was a light industrial use with a caretaker residence built to boundaries. The change of use does not add floor space.

(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,

- Comment: The proposal utilises existing built envelope based on a previously approved DA. Previously the building was a factory built to boundaries. The change of use does not affect streetscape building density and bulk in relation to the site area. The adaptive reuse of a historical warehouse structure for residential maintains historical reference in keeping with desired future character.

(c) to minimise adverse environmental impacts on adjoining properties and the public domain

- Comment: The proposal utilises existing built envelope based on a previously approved DA. Previously the building was a light industrial use built to boundaries. The change of use from light industrial to residential while maintaining the existing built form minimises adverse environmental impacts on adjoining properties

and the public domain and achieves the objectives of the clause.

- The proposal achieves the underlying objectives of the standard without strictly complying with the numerical standard.

5(b). Is the standard relevant to this development?

- Comment: The proposal involves the adaptive reuse of former industrial warehouse to a single residence with home office in an R2 zone. Adaptive reuse of existing buildings should be properly considered against clause 6.9 (4) below.

6.9 *Converting industrial or warehouse buildings to multi dwelling housing, office premises or residential flat buildings in residential zones*

(1) *The objective of this clause is to permit multi dwelling housing, office premises and residential flat buildings in residential zones where they are part of an adaptive reuse of existing industrial buildings or warehouse buildings.*

(2) *This clause applies to land in the following zones—*

- (a) *Zone R1 General Residential,*
- (b) *Zone R2 Low Density Residential,*
- (c) *Zone R3 Medium Density Residential,*
- (d) *Zone R4 High Density Residential.*

(3) *Development consent must not be granted to development for the purpose of office premises on land to which this clause applies unless the development relates to a building that was designed and lawfully erected for an industrial or warehouse purpose, and was erected before the commencement of this Plan.*

(3A) *Development consent must not be granted to development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential for the following purposes unless the development relates to a building that was designed and lawfully erected for an industrial or warehouse purpose, and was erected before the commencement of this Plan—*

(a) *if the building is on land in Zone R2 Low Density Residential—multi dwelling housing,*

(b) *if the building is on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—a residential flat building.*

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- (3B) *In determining whether to grant development consent under this clause, the consent authority must consider the following—*
- (a) *the impact of the development on the scale and streetscape of the surrounding locality,*
 - (b) *the suitability of the building for adaptive reuse,*
 - (c) *the degree of modification of the footprint and facade of the building.*
 - (4) *Despite clause 4.3(2) or 4.4, development carried out under this clause is not subject to any height or floor space ratio limits shown for the land on the [Height of Buildings Map](#) or the [Floor Space Ratio Map](#).*

5(c). Would the underlying objective be defeated or thwarted if compliance was required?

The following are the underlying objectives of the control:

- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*

Comment: The proposal utilises existing built envelope based on a previously approved DA. Previously the building was a factory built to boundaries. Strict compliance would require demolition of part of the existing approved structure and modify the historical density and bulk. The change of use does not affect streetscape building density and bulk in relation to the site area. The reuse of a historical warehouse structure for residential

maintains historical reference in keeping with desired future character.

- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain.*

Comment: The proposal utilises existing built envelope based on a previously approved DA. Previously the building was a factory built to boundaries. Strict compliance would require the demolition of part of the existing structure. The change of use from factory to residential while maintaining the existing built form minimises adverse environmental impacts on adjoining properties and the public domain and achieves the objectives of the clause.

5(d). Has the development standard been abandoned or destroyed by Council's own actions?

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

5(e). Is the zoning of the particular land unreasonable or inappropriate?

The applicant does not rely upon this method of demonstrating that compliance with the development standard is unreasonable or unnecessary.

6. Are there sufficient environmental planning grounds to justify varying the development standard?

The following environmental planning grounds justify the proposal:

(a) The proposal is for the retention and adaptive reuse of an existing approved industrial storage building for a single residence. The proposal minimises adverse environmental impacts on adjoining properties and the public domain through minimising waste, construction resources and impact of work on adjoining properties and the public. The retention and adaptive reuse of an existing structure is considered to be best practice environmentally sustainable design and building practice and should be encouraged in environmental planning

(b) The proposed retention of the existing structure connects environmental heritage and provides a link to the historical occupation of the area.

(c) The numerical variation is considered to be minimal and consistent with existing built form and recent approvals.

7. Is the proposal consistent with the objectives of the zone?

The site is zoned R2 Low Density Residential. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposal is for the adaptive reuse of an existing warehouse structure to provide housing within a low density environment. The proposal is consistent with the objectives of the zone.

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

Comment: This objective is not relevant to the proposal.

8. Is the exception request well founded?

The exception request is considered to be well founded.

Please don't hesitate to contact me if you wish to discuss any of the above.

Regards,
**Andrew Ireland
& Architecture**

Property

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