





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2023/0764
Address	268 Trafalgar Street ANNANDALE
Proposal	Ground and first floor alterations and additions to dwelling
Date of Lodgement	17 September 2023
Applicant	Jacqueline Grace C/O Kreis Grennan Architecture
Owner	Mr Bernard A Grace Mrs Jacqueline LD Grace
Number of Submissions	Nil
Value of works	\$750,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10% (FSR and Site Coverage)
Main Issues	Departure from Floor Space Ratio development standard Departure from Site Coverage development standard
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standard – Floor Space Ratio
Attachment D	Section 4.6 Exception to Development Standard – Site Coverage
Attachment E	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for ground and first floor alterations and additions to the dwelling at 268 Trafalgar 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:

- 42% departure with the floor space ratio development standard pursuant to the *Inner West Local Environmental Plan 2022*
- 32% departure with site coverage development standard pursuant to the *Inner West Local Environmental Plan 2022*

The departure from the Floor Space Ratio (FSR) and Site Coverage (SC) development standards has been assessed to be acceptable as the proposal meets all heads of consideration under the provisions of Section 4.6 of the *Inner West Local Environmental Plan 2022* (IWLEP) including the relevant zone and development standard objectives.

The proposal generally complies with the provisions of *Inner West Local Environmental Plan 2022* and Leichhardt Development Control Plan 2013.

With consideration of the above and other matters discussed in this assessment report, the application is recommended for approval.

2. Proposal

The proposal seeks to carry out works to the existing dwelling including partial demolition works, renovations to the existing dwelling and first floor addition to the rear. The works are as follows:

Demolition works

- Existing backyard waste closet and adjacent deck area
- Dividing wall between the ground floor entry and living area
- The existing roofing over the rear single storey element of the building
- Sections of external and internal walls of bedroom 3 on the first-floor level

Ground Floor Works

- Reinstatement of the original pedestrian entrance point on the corner of Rose Street and Trafalgar Street, and enclosure of the existing entrance point on Rose Street;
- Reinstatement of the original window openings;
- Relocation of utility services;
- Replace the existing timber posts that support the existing street awnings;
- Minor internal repair works to the existing dwelling where required
- Replacement of the existing rear yard paving with landscaped area;
- Installation of floor-to-ceiling bi-fold doors with a hood above to provide weather protection;
- Widening to the rear deck and stairs to fill the space of the demolished rear WC.

First-Floor Works

- Construction of a first-floor addition above the existing rear single storey element of the building, containing a bedroom, bathroom and extension to the existing bedroom.
- Removal of the wardrobe between existing bedrooms 2 and 3 and repurposing of bedroom 2 into a home office space
- Installation of a new window on the corner splay
- Repair of the existing timber floor on the street facing balcony

Additional External Works

- Installation of a metal roof with skylights and provision for the installation of skylights over the proposed rear addition.
- New air conditioner condensers and ventilation exhausts to be installed on the existing roof
- Repair to the existing metal roof sheeting, and downpipes
- Installation of operable louvered timber windows to the first-floor addition
- Installation of a new timber fence facing the Rose Street frontage
- Installation of a low height retaining wall with timber fence above to the boundary with No.270 Trafalgar Street
- Amendments to the existing balcony balustrades to ensure they are BCA compliant

3. Site Description

The subject site is located on the western side of Trafalgar Street, and northern side of Rose Street. The site consists of one (1) allotment and is generally rectangular in shape with a total area of 110sqm.

The site has a frontage to Trafalgar Street of 4.8 metres and a secondary frontage to Rose Street of approximately 27.4 metres. The site does not contain any easements, however does have a drainage reserve located adjacent to the property at the rear.

The site supports a part 1 and part 2 storey terrace style dwelling. The adjoining properties support single and 2 storey terraces.

The subject site is listed as a local heritage item and is identified within Schedule 5 of the IWLEP 2022 as a *former shop and residence, including interiors*. The property is also located within the Annandale Heritage Conservation Area (HCA). The property is not identified as a flood prone lot.

There are no trees located on the site, and one street tree within the vicinity, located on the Rose Street frontage.

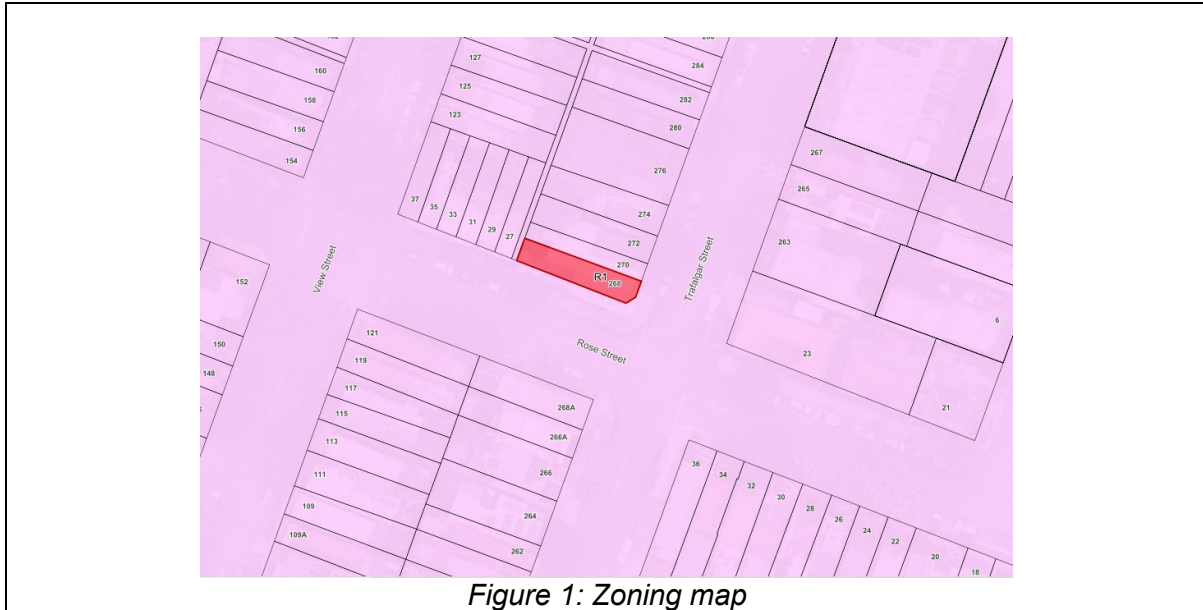


Figure 1: Zoning map



Figure 2: Subject Site

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
Development Application - D/2016/12	Alterations to the existing heritage-listed building, including internal layout changes and doors to rear elevation.	Approved – 06/04/2016
Awning Permit Application - AWN/670	Awning Permit	Approved - 01/06/2016
Modification Application - M/2016/108	S96 Modification to D/2016/12. Modification involves internal and external changes, including new internal stairs and new doors.	Approved – 28/06/2016
Heritage Exemption Certificate - HEC/2016/54	New timber door to front rooms	Approved – 21/12/2016
Heritage Exemption Certificate - HEC/2017/25	Replace street verandah timber awning post	Approved - 10/08/2017
Pre-Development Application - PDA/2023/0122	Alterations and additions to a heritage item including new bedroom and bathroom to the first-floor rear. Proposed reinstatement of existing openings and remediation work to facade, balcony, and awning.	Letter issued – 22/06/2023

Surrounding properties

270 Trafalgar Street Annandale

Application	Proposal	Decision & Date
Development Application - D/2010/364	Alterations and additions to an existing dwelling.	Approved – 14/09/2010

27 Rose Street Annandale

Application	Proposal	Decision & Date
Development Application - D/20002/112	Basement, ground and first floor additions and alterations to existing dwelling, including a new elevated rear deck at ground floor.	Approved – 18/12/2002

4(b) Application history

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

Date	Discussion / Letter / Additional Information
25/10/2023	Request for Further Information letter sent to applicant to address matters of heritage concerns involving: <ul style="list-style-type: none"> - Window fenestration - Materials and finishes - Location of services on the site including air-conditioning units, solar panels, and Electronic distribution boards
30/11/2023	Applicant provided response to Request for Further Information

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Inner West Local Environmental Plan (IWLEP) 2022*

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

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

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

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(iii) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise

Section 2.3 Land Use Table and Zone Objectives

The site is zoned as R1 – General Residential under the *IWLEP 2022*. The *IWLEP 2022* defines the development as:

“dwelling house means a building containing only one dwelling.”

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 zone as follows:

- The proposed development will retain the residential use of the site, which will continue to support the housing needs of the community. This will also provides for the variety of housing types and densities within the area.
- Subject to the recommended conditions, the amended design is considered to maintain the character of the built and natural features in the surrounding area.

Part 4 Principal Development Standards

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

Standard	Maximum	Proposal	Non-Compliance	Complies
Floor Space Ratio	99sqm or 0.9:1	140.9sqm or 1.28:1	41.9sqm or 42.32%	No – see discussion below

Landscape Area	Minimum 15%	15.09%	N/A – Complies with requirement	Yes
Site Coverage	66sqm or 60%	87.1sqm 79.18%	or 21.1sqm 31.97%	or No – See discussion below

Section 4.6 Exceptions to Development Standards

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

- Section 4.3C(3)(b) – Site Coverage
- Section 4.4 – Floor Space Ratio

Section 4.3C(3)(b) – Site Coverage

The applicant seeks a variation to the site coverage development standard under Section 4.3C(3)(b) of the IWLEP 2022 by 31.97% (21.1sqm)

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the IWLEP 2022 below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the IWLEP 2022 justifying the proposed contravention of the development standard which is summarised as follows:

- *The existing site has a site coverage of 80.09sqm (73.45%), which is being reduced as part of the proposal to become 79.26sqm (72.26%). The proposal therefore reduces the site coverage and achieves a greater level of consistency with the zone objectives compared to the existing site;*
- *The site coverage had exceeded 60% before the LEP requirement was in place for maximum 60% site coverage.*
- *The proposal increases the total landscaped area and demonstrates compliance with the landscaped area exceeding the 15% requirement (15.09% total landscaped area on the site).*
- *The development represents orderly use of the land and fits within the streetscape and surrounding development regarding site coverage, similar to adjoining lots at 268A Trafalgar Street, and 270 Trafalgar Street*
- *The proposed site coverage improves the amenity for residents in replacing the original WC with partial open space and deck area.*
- *The proposal will not introduce any unreasonable or adverse impacts on the amenity of adjoining residents, and will contribute positively to the local character;*

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

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

- a) *To provide for the housing needs of the community.*
- b) *To provide for a variety of housing types and densities.*
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- d) *To provide residential development that maintains the character of built and natural features in the surrounding area.*

It is considered the development is in the public interest because it is consistent with the objectives of the R1, and the objectives of the Site Coverage Development Standard, in accordance with Section 4.6(4)(a)(ii) of the IWLEP 2022 for the following reasons:

- The proposed development improves the amenity of the rear private open space and provides a development that overall provides for the housing needs of the occupants.
- The proposed rear first floor addition will contribute to providing a variety of housing density for the area.
- The proposal subject to conditions maintains the character of built and natural features in the surrounding area.

The objectives of the Site Coverage development standard are as follows:

- a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,*
- b) *to maintain and encourage a landscaped corridor between adjoining properties,*
- c) *to ensure that development promotes the desired character of the neighbourhood,*
- d) *to encourage ecologically sustainable development,*
- e) *to control site density,*
- f) *to provide for landscaped areas and private open space.*

It is considered the development is in the public interest because it is consistent with the objectives of the Site Coverage development standard, in accordance with Section 4.6(4)(a)(ii) of the IWLEP 2022 for the following reasons:

- The proposal will provide for housing compatible with the character, orientation, and pattern of surrounding buildings, streetscapes, works and landscaped areas;
- The proposal will comply with private open space provisions, and landscaped area requirements, creating a suitable balance between landscaped area and built form and producing acceptable on-site amenity outcomes for the residents.
- The breach will not result in any undue adverse amenity impacts on adjoining properties.
- The proposal conserves and reintroduces heritage characteristics of the item.

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 Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the IWLEP 2022. For the reasons outlined above, there are sufficient planning grounds to justify the departure from site coverage development standard and it is recommended the Section 4.6 exception be granted.

Section 4.4 Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard by 42.32%, or 41.9sqm, where it provides an FSR of 0.9:1 or 99sqm.

As previously noted, 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 Section 4.6 of the IWLEP 2022 below.

A written request has been submitted to Council in accordance with section 4.6(4)(a)(i) of the IWLEP 2022 justifying the proposed contravention of the development standard which is reproduced as follows:

- *The proposal will result in an FSR of 1.27:1 and will achieve symmetry and a comparable bulk and scale to the property across the road at No. 268A Trafalgar Street, which also has a two-storey height and extends a similar length.*
- *The site is unique with its corner location and was formerly used as a shop.*
- *The development includes restoration of the original building elements to ensure its longevity as a heritage item and contribution to local character within the HCA.*
- *The proposal will improve on the compliance with remaining development standards, including compliance with landscaped area with increased deep soil planting, and improvement to site coverage.*
- *The proposal does not create any adverse amenity impacts for adjacent properties due to the street frontages that occupy the southern parts of the site. The building design also addresses privacy impacts to neighbours, with the inclusion of the solid louvres concealing the west facing windows on the proposed bedroom.*

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

The objectives of the R1 General Residential Zone have been previously identified under Section 4.3C(3)(b) above.

It is considered the development is in the public interest because it is consistent with the relevant objectives of the R1 zone and the objectives of the Floor Space Ratio development standard, in accordance with Section 4.6(4)(a)(ii) of the IWLEP 2022 for the following reasons:

- The proposed development is of an appropriate density and will assist in meeting the housing needs of the community and residents.
- The proposal does not result in any undue adverse amenity impacts on adjoining properties.
- The proposed development will enhance the existing dwelling on the site and reintroduce original elements that help contribute to enhancement and maintenance of the heritage item.
- The development respects the surrounding streetscape.
- The proposed dwelling is consistent in scale, setbacks, character, and form with the existing and surrounding properties.

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

- a) *to establish a maximum floor space ratio to enable appropriate development density,*
- b) *to ensure development density reflects its locality,*
- c) *to provide an appropriate transition between development of different densities,*
- d) *to minimise adverse impacts on local amenity,*
- e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Section 4.6(4)(a)(ii) of the IWLEP 2022 for the following reasons:

- The proposed development results in a dwelling house with appropriate development density consistent with surrounding development
- The proposed development does not cause adverse impacts on surrounding sites having regard to overshadowing and solar access.
- The proposed development preserves the heritage characteristics of the item, and conservation area.
- The proposed development protects the use of the public domain and creates a dwelling with improved amenity for its residents.
- Subject to conditions, the development will increase the tree canopy for the subject site and Inner West.

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 Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the IWLEP 2022. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor space ratio and site coverage development standards and it is recommended the Section 4.6 exception be granted.

Part 5 Miscellaneous Provisions

Section 5.10 Heritage Conservation

The subject site is a contributory building within the Annandale Heritage Conservation Area (C1 in schedule 5 of the Inner West LEP 2022), and is itself a heritage item, namely a former shop and residence, including interiors (Item No. 192). The proposal seeks to carry out works to the existing dwelling including partial demolition works, renovations to the existing dwelling and upper floor addition to the rear.

Clause 5.10: Heritage Conservation from the *IWLEP 2022* and Parts C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items, C1.5: Corner Sites and C.2.2.1.5: Trafalgar Street Distinctive Neighbourhood, from the Leichhardt Development Control Plan (LDCP) 2013 applies to the proposal.

During the assessment of the proposed development, the design was requested to be amended to address heritage matters surrounding the materials and finishes, design of windows and doors, balustrade railings, services vents, air conditioning unit and solar panel locations, and fixed horizontal timber louvres.

Further information and amended plans were received, and the drawings prepared by Kreis Grennan Architecture, dated 29 November 2023, and the Statement of Environmental Effects prepared by Avenue Town Planning, dated 31 August 2023, were subject to the additional heritage assessment undertaken by Council as part of this application. While the amended plans received satisfied some of the requests made from Council, concern was raised over some matters that were not changed.

Council requested the applicant study the details of typical windows and doors found of early federation buildings, specifically corner store buildings. From this research, it was requested that the detail of windows W01, W02, and W10 be redesigned accordingly, to be more sympathetic to these traditional forms. Historical research was not undertaken by the applicant, and the detail of W01, W02, and W10, were not changed.

Despite this requirement not being satisfied, Council considers these windows generally acceptable as originally proposed as they contain large panes of glazing to the main portion of the windows, with a top portion that is reminiscent of transom lights, which are a common feature seen on corner store federation style buildings.

Council required that windows W01, and W02 contain large panes of glazing divided by thick timber mulleins. This was not amended by the applicant; however, discussion was provided that satisfied the retention of proposed windows W01, and W02, and Council considers the original proposed windows are an improvement to the existing fenestration. Therefore, this is considered acceptable.

Windows W03 and W04 located on the south elevation of the living area were also subject to Council's amendment requirements, requiring that both windows be replaced with doors. Window W03 was replaced with a door, which was accepted from Council, however, W04, was not replaced. While Council considered it possible to replace W04 with a door, the window design is sympathetic to the designs of W01, and W02, and its fenestration enables the interpretation of this opening as a doorway, which is considered acceptable.

To reduce the visual impact of the introduced balustrading, Council also required that the additional balustrade railing be attached on top of, but recessed in behind from, the existing timber railings, between the timber posts, with supporting flanges evenly spaced in between. The applicant's response to this request contained plans that only displayed proposed balustrading set back from the existing balustrading. While this did not fulfill the complete request for balustrade amendments, the location of the proposed balustrading will still ensure that the existing balustrading remains the dominant visual detail when viewed from the public domain. The existing balustrade is also not original, and the additional detail will not affect the original building fabric. Council therefore considers this acceptable.

In addition, it was required that the relocation of the electronic distribution board (EDB) on the southern elevation be further moved, to be set further to the west on the southern elevation, adjacent to the exterior of the dining and kitchen area away from the original building form of the heritage item. The applicant did not relocate the EDB, however, council was satisfied with their justification, stating that the relocation of the EDB to this area would require additional chasing, which would result in more physical impacts on the building fabric. The current proposed location for the EDB, is therefore considered acceptable.

The hood, positioned over the rear door in the west elevation to the dining area was required to be lowered so it was set at the same height as the ground floor ceiling in the dining room. This was not undertaken by the applicant, however Council considers this acceptable, as the hood does have reduced visibility from being concealed behind a masonry wall to the south elevation.

While Council determined the above as acceptable, there were other issues raised that were not rectified. The horizontal timber louvres to bedrooms 2 and 3 on the west and south first floor elevations of the rear addition were to be replaced by vertically proportioned windows with traditional timber sash design with a timber frame. The materials and finishes were also to be amended so that the horizontal cladding with exposed studs to the rear addition be replaced with horizontally laid timber weatherboards with no studs visible. In addition, The proposed Resene “stack” for the window and door joinery were also to be replaced with an “off white”, and parapet detail be replaced with a darker tone of Resene “merino”. Not taking these changes onboard meant that the application did not comply with Condition 1 (b) of Chapter 1.3, Condition 2 (a) (e) of Chapter 1.4, and Conditions 1, 5, and 9 of Chapter 2.2.1.5, within the LDCP 2013. To ensure protection of the characteristics of the heritage item, and HCA, design change conditions have been included in this report.

Subject to the satisfaction of the following recommended conditions, it is considered the proposal will satisfactorily conserve the heritage significance of the heritage item and HCA, thereby satisfying Section 5.10 of *IWLEP 2022*.

Conditions to be included:

- a. *The proposed operable and fixed horizontal timber louvres to bedrooms 2 and 3 in the west and south first floor elevations of the rear addition must be replaced with vertically proportioned windows, employing traditional design (timber sash) and materials (timber frame).*
- b. *The proposed horizontal cladding with exposed studs to the rear addition must be replaced with horizontally laid timber weatherboards and be painted in Resene “Merino”. Studs must not be visible.*

Section 6.3 – Stormwater Management

Subject to standard conditions, the proposal will not result in any significant runoff to adjoining properties or the environment.

5(b) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes, subject to conditions
C1.4 Heritage Conservation Areas and Heritage Items	Yes, see discussion under Part 5(a)(iii) – Section 5.10 – Heritage Conservation

C1.5 Corner Sites	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes, see discussion
C1.17 Minor Architectural Details	Yes
Part C: Place – Section 2 Urban Character	
Trafalgar Street Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes - see discussion
C3.9 Solar Access	Yes - see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
Part F: Food	
	N/A
Part G: Site Specific Controls	
	N/A

The following provides discussion of the relevant issues:

C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings

This property includes an existing balcony that is positioned above the public domain footpath. The works proposed to the balcony balustrade include upgrading to meet NCC requirements and repair of existing lacework and reinstating a missing iron frieze, these restorative works are satisfactory in ensuring the development maintains an appropriate streetscape presentation and that the balcony is safe for occupants, as such the proposed works are considered satisfactory.

C1.3 Alterations and Additions and C2.2.1.5 Trafalgar Street Distinctive Neighbourhood

The proposed alterations and additions to the existing dwelling, as amended meets the objectives and requirements of C1.3 and C2.2.1.5 as it is considered the proposed development:

- Complements the scale, form and materials of the streetscape including wall height and roof form.
- Is sited to the rear of the existing dwelling and appears as a sympathetic addition to the existing dwelling, thus retaining the streetscape presentation.
- Is compatible with neighbourhood character, including prevailing site layout.
- Makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it
- Protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings;
- Facilitates development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.
- The proposal as amended, provides appropriate materials, and finishes sympathetic to the streetscape, desired future neighbourhood character and the surrounding HCA.

C3.2 Site Layout and Building Design

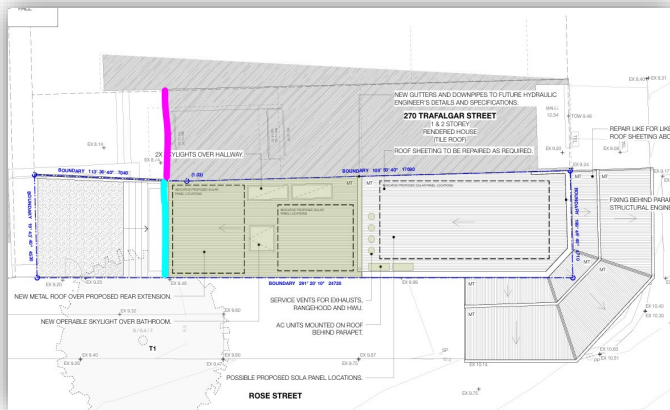
Building Location Zone (BLZ):

The proposal does not alter the rear ground floor building alignment, however, does create a new rear first floor addition that extends out to the full envelope of the ground floor. Despite this, the first floor of the subject site maintains alignment with the first floor of the adjoining site at No. 270 Trafalgar Street.

Existing BLZ (subject sight BLZ in blue adjoining sites BLZ in pink) – Existing aerial image



Proposed BLZ (subject sight BLZ in blue, adjoining site BLZ in pink) – Roof Plan



As the proposed development is on a corner lot, the average rear first floor setback of the subject site is to be determined by the location of the building on the adjacent property that most resembles the orientation, frontage width and site layout of the subject site. In this instance, the average rear first floor setback is to be determined by No. 270 Trafalgar Street.

The average BLZ for the rear first floor setback for the subject site at No. 268 Trafalgar Street, is therefore to be approximately 6m, as this is the rear first floor setback evident at No. 270 Trafalgar Street. The rear first floor addition at the subject site has been measured at approximately 6.1m. This is considered acceptable and complies with the control 6 within C3.2 of the LDCP 2013 for the following reasons:

- The development is consistent with the pattern of development in the immediate locality.
- The proposal does not cast any additional shadows onto the adjoining sites. As the site is a corner site, and is oriented east to west, with the shadows cast from the proposed first floor projected onto Rose Street.
- The proposed height of the first-floor addition matches that at the adjoining site, and minimises visual bulk and scale as viewed from the adjoining properties and their private open space.

- There are no privacy or view loss impacts on the surrounding properties.
- There are no significant trees being removed on the site and increased landscaping is provided.

Side Setbacks

The following is a compliance table assessed against the side setback control graph prescribed in Part C3.2 of the LDCP 2013 relating to the proposed rear first floor additions.

Elevation	Wall Height	Required Setback	Proposed Setback	Complies
South elevation – rear south first floor addition	6.4m - 6.65m	2.1m – 2.2m	Nil	No - See discussion below
North Elevation – rear first floor addition	7.67m – 7.98m	2.8m – 3m	Nil	No – See discussion below

As noted in the table above, the proposed rear first floor addition will not comply with the side setback graph to the southern and northern elevations.

Pursuant to clause 3.2 of the LDCP 2013, where a proposal seeks a variation to the Side Boundary Setbacks Graph, various tests need to be met. These tests are assessed below:

The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of the LDCP 2013 and complies with streetscape and desired future character controls.

Comment: The proposed rear addition is considered to be a satisfactory response to the Building Typology Statements. The dwelling is part of a set of attached terrace houses of similar bulk and scale and height. The proposal will be compatible with the existing and surrounding dwellings and the streetscape and will comply with desired future character controls of the LDCP 2013.

The pattern of development is not adversely compromised.

Comment: The proposed rear alterations and first floor addition is sited at the rear where additions are generally permitted to be carried out in accordance with relevant streetscape controls and amenity controls and will have wall heights and setbacks that will be compatible with the existing dwelling and that will not be out of character with adjoining and nearby development. This test is therefore deemed to be met.

The bulk and scale of the development has been minimised and is acceptable.

Comment: The proposal has been designed to reduce visual bulk and scale impacts when viewed from the neighbouring properties rear private open space by being of similar scale to the adjoining dwellings. There are also no overshadowing impacts on the adjoining sites as the shadows caused from the first-floor addition are cast onto Rose Street. This test is therefore deemed to be met.

The proposal is acceptable with respect to applicable amenity controls e.g. solar access, privacy and access to views.

Comment: For the reasons mentioned under Parts C3.9 of the DCP, the proposal will comply with solar access provision requirements and will not result in any undue adverse privacy or view loss implications.

The proposal does not unduly obstruct adjoining properties for maintenance purposes.

Comment: The proposed development will not result in obstruction of any walls of the adjoining properties and therefore does not result in maintenance issues for any neighbours.

Having regard to the above, and in consideration of the development's impact upon the streetscape and amenity impacts for adjoining properties, the proposal is considered to be satisfactory with respect to the provisions and objectives of Part C3.2 of the LDCP 2013.

C3.9 Solar Access

The submitted shadow diagrams display that the proposal will only cast new shadows onto Rose Street, due to its east-west orientation. There will be no additional shadows cast onto the adjoining sites at No. 270 Trafalgar Street, and No. 27 Rose Street. As a result, the proposal complies with Part C3.9 of the LDCP 2013.

C3.8 Private Open Space

The proposed alterations and additions to the existing dwelling, as amended meets the objectives and requirements of Part C3.8 of the LDCP 2013.

The proposal results in private open space at the rear of the ground floor that is of a size and dimension useable and capable of accommodating a range of private recreation needs for residents. The existing size of the private open space is retained, having a minimum dimension of 4.2m and an area of 26sqm. The private open space is directly connected to the primary living spaces of the dwelling.

5(c) 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(d) 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(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

No submissions were received in response to notification.

5(f) 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.

Heritage

- Acceptable subject to conditions

Property

- Acceptable subject to conditions

Development Engineering

- Acceptable subject to conditions

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies 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. A contribution of \$7,500.00 would be required for the development under the Inner West Local Infrastructure Contribution Plan 2023. 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 *Inner West Local Environmental Plan 2022* and the Leichhardt Development Control Plan 2013.

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the floor space ratio and site coverage standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0764 for ground and first floor alterations and additions to residential development at 268 Trafalgar 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
000, Rev B	Document Register + Legend	29/11/2023	Kreis Grennan Architecture
002, Rev A	Location Map + Controls	30/06/2023	Kreis Grennan Architecture
010, Rev A	Existing Ground Floor Plan	30/06/2023	Kreis Grennan Architecture
011, Rev A	Existing First Floor Plan	30/06/2023	Kreis Grennan Architecture
012, Rev A	Existing Roof Plan and Site Plan	30/06/2023	Kreis Grennan Architecture
020, Rev B	Recycling + Waste Management Plan	29/11/2023	Kreis Grennan Architecture
021, Rev B	Concept Drainage Plan	29/11/2023	Kreis Grennan Architecture
022, Rev B	Calculations	29/11/2023	Kreis Grennan Architecture
100, Rev B	Proposed Ground Floor And Landscape Plan	29/11/2023	Kreis Grennan Architecture
101, Rev B	Proposed First Floor Plan	29/11/2023	Kreis Grennan Architecture
102, Rev B	Proposed Roof and Site Plan	29/11/2023	Kreis Grennan Architecture
200, Rev B	Proposed East and West Elevations	29/11/2023	Kreis Grennan Architecture

201, Rev B	Proposed South Elevation	29/11/2023	Kreis Grennan Architecture
202, Rev B	Proposed North Elevation	29/11/2023	Kreis Grennan Architecture
300, Rev B	Proposed Section	29/11/2023	Kreis Grennan Architecture
350, Rev B	Schedule of Colour and Finishes	29/11/2023	Kreis Grennan Architecture
A50O2670	BASIX Certificate	22/08/2023	Kreis Grennan Pty Ltd

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

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

- a. The proposed operable and fixed horizontal timber louvres to bedrooms 2 and 3 in the west and south first floor elevations of the rear addition must be replaced with vertically proportioned windows, employing traditional design (timber sash) and materials (timber frame).
- b. The proposed horizontal cladding with exposed studs to the rear addition must be replaced with horizontally laid timber weatherboards and be painted in Resene "Merino". Studs must not be visible.

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$8,000.00
Inspection Fee:	\$374.50

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.

4. Long Service Levy

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

5. Section 7.12 Development Contribution Payments

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$7,500.00** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

- Cpayment = is the contribution at time of payment
- Cconsent = is the contribution at the time of consent, as shown above
- CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 136.4 for the first quarter of 2024.
- CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

GENERAL CONDITIONS

6. Boundary Alignment Levels

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

7. 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:

1. 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;
2. A concrete pump across the roadway/footpath;
3. Mobile crane or any standing plant;
4. Skip Bins;
5. Scaffolding/Hoardings (fencing on public land);
6. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
7. Awning or street veranda over the footpath;
8. Partial or full road closure; and
9. 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.

8. 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.

9. 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.

10. 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**11. 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.

12. 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.

13. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

14. Dilapidation Report – Pre-Development – Minor

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

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

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

1. The Stormwater Drainage Concept plan on Drawing No. C02 1 prepared by greenview CONSULTANTS and dated 9 August 2023, shall be amended to comply with the following:
 - a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
 - b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
 - c. 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;
 - d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);
 - e. 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;
 - f. Drainage pipes must be designed at a minimum grade of 1%. Access must be available to downpipe connections for cleaning and maintenance;
 - 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. As there is no overland flow/flood path available from the rear to the Trafalgar Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:

1. 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;
 2. 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
 3. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- i. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
 - j. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
 - k. No nuisance or concentration of flows to other properties;
 - l. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
 - m. 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;
 - n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
 - o. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
 - p. 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 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
 - q. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
 - r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
 - s. No impact to street tree(s);

16. Structural Certificate for retained elements of the building

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

17. 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**18. 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**19. 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.

20. 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.

21. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence in the form of an image of the planted tree/s and a copy of a purchase invoice to confirm that:

A minimum of 1 x 75 litre size tree/s, which will attain a minimum mature height of 8 metres and minimum mature canopy spread of {number} metres, has been/have been -planted in a suitable location within the property (at least 1 metre from any boundary and 1.5 metres from any structure)

and allowing for future tree growth. The purchased tree must meet the requirements of AS2303—*Tree stock for landscape use*. Trees listed as exempt species from [Council's Tree Management Development Control Plan](#), -and species recognised to have a short life span, will not be accepted. Trees required by this condition must be maintained and protected until they are protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

ON-GOING

22. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES

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 Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Noise

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

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.

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.

Asbestos Removal

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

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

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

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Attachment B – Plans of proposed development

Day	30	29
Month	09	11
Year	2021	23

Issue	DA
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Sheet No.	Sheet Title	Size
000	DOCUMENT REGISTER + LEGEND	A3
001	COVER SHEET	A3
002	LOCATION MAP + CONTROLS	A3
003	RMSX COMMITMENTS	A3
004	SITE ANALYSIS PLAN	A3
005	EXISTING EXTERIOR PHOTOS	A3
006	EXISTING INTERIOR PHOTOS	A3
007	EXISTING GROUND FLOOR PLAN	A3
008	EXISTING FIRST FLOOR PLAN	A3
009	EXISTING ROOF + SITE PLAN	A3
010	EXISTING EAST + WEST ELEVATIONS	A3
011	EXISTING SOUTH ELEVATION	A3
012	EXISTING NORTH ELEVATION	A3
013	EXISTING SECTIONS	A3
014	RECYCLING + WASTE MANAGEMENT PLAN	A3
015	CONCEPT DRAINAGE PLAN	A3
016	CONCEPT TRAFFIC PLAN	A3
017	PROPOSED GROUND FLOOR AND LANDSCAPE PLAN	A3
018	PROPOSED FIRST FLOOR PLAN	A3
019	PROPOSED ROOF & SITE PLAN	A3
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021	PROPOSED SOUTH ELEVATION	A3
022	PROPOSED NORTH ELEVATION	A3
023	PROPOSED SECTIONS	A3
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028	SHADOW DIAGRAMS - 13:00 - 14:00	A3
029	SHADOW DIAGRAMS - 15:00	A3

ANNOTATION LEGEND

AL	ALUMINIUM
AC	AIR-CONDITIONING UNIT
ADJ	ADJUSTABLE
AWN	AWNING
BDY	BOUNDARY
BWK	BRICK-WORK
CL	CENTRE LINE
CONC	CONCRETE
CONF	CONFIRMATION SITE
CPT	CARPET
CR	CEMENT RENDER
DOOR	DOOR
DP	DOWNPIPE
DR	DRYER
DRW	DRAWER
DW	DISHWASHER
DWG	DRAWING
ECB	ELECTRICAL CONTROL BOX
EQ	EQUAL
EX	EXISTING
EXH	EXHAUST
EXT	EXTERNAL
FC	FIBRE CEMENT
FCL	FINISHED CEILING LEVEL
FCP	FIBRE CEMENT PAINTED
FC	FIXED GLASS
FGL	FINISHED GROUND LEVEL
FLL	FINISHED FLOOR LEVEL
FL	FLOOR
FLS	FASHING
FR	FRIDGE
FRL	FIRE RESISTANCE LEVEL
FW	FLOOR WASTE
GS	GLASS
HR	HANDSAL
HWS	HOT WATER SYSTEM
L	LIGHT
LAM	LAMINATE
LVR	LOUVER
MC	METAL CLADDING

M	MIRROR
MM	MELAMINE
MP	METAL ROOF
MS	MILD STEEL
MT	METAL
MW	MICROWAVE
OF	OVERFLOW PIPE
OV	OVEN
PB	PLASTER BOARD
PLY	PLYWOOD
RH	RANGE-HOOD
RHO	ROBE HOOK
RWH	RAINWATER-HEAD
RWT	RAINWATER TANK
SS	STAINLESS STEEL
ST	STONE
TBA	TO BE ADVISED
TBC	TO BE CONFIRMED
TG	TRANSLUCENT GLASS
TL	TILES
TM	TIMBER
TMF	TIMBER FLOOR
TMV	TIMBER VENEER
TR	TOMEL RAIL
S	SMOKE ALARM
SFL	STRUCTURAL FLOOR LEVEL
SH	SHOWER
SK	SKYLIGHT
SNK	SINK
TP	TAP
THD	THRESHOLD
WAM	WATER METER
W	WINDOW
WC	TOILET
WM	WASHING MACHINE

REV	DATE	DESCRIPTION
A	30/06/23	FOR DA SUBMISSION
B	29/11/23	DA REVISION

PROJECT REFERENCE	23-202
SCALE	NTS
ISSUE	DA
REVISION	B
DRAWN	TC
SIZE	A3
DWG #	000

DOCUMENT REGISTER + LEGEND

PROJECT: 268 TRAFALGAR STREET, ANNANDALE 2038

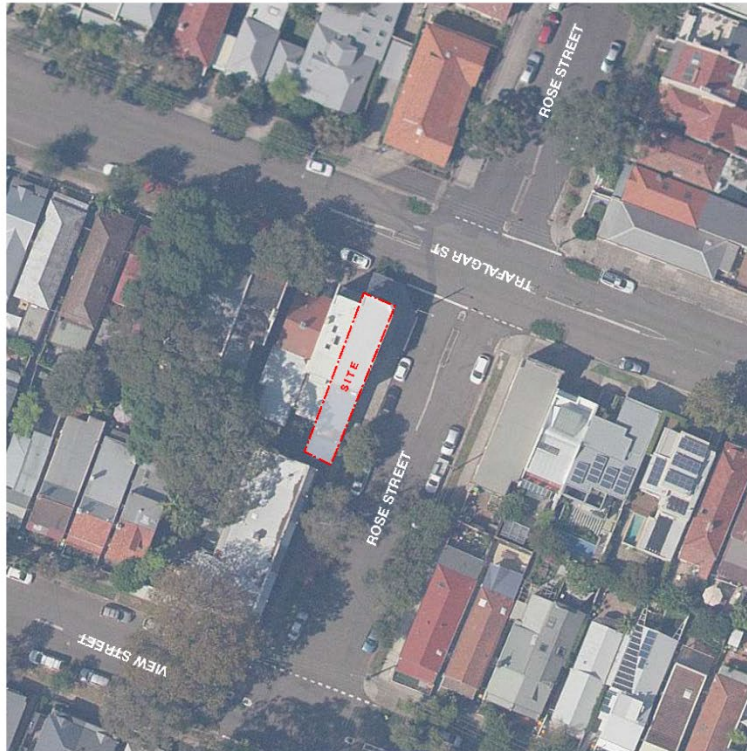
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LOCATION PLAN



CONTROLS SUMMARY

LOT INFORMATION	268 TRAFALGAR STREET, ANNANDALE 2038 DP 216796 LOT 1
AREA	110.0 SQM (BY SURVEY)
LEP CONTROLS	
ZONE	R1
FSR	0.9:1
HERITAGE	HERITAGE ITEM - B2 FORMER SHOP AND RESIDENCE, INCLUDING INTERIORS
LANDSCAPE AREA	MINIMUM 18%
SITE COVERAGE	MAXIMUM 60%
DCP CONTROLS	
SETBACKS	BUILDING LOCATION ZONE
PRIVATE OPEN SPACE	MINIMUM 16SQM



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Nominated Architect
Creative Consultant NSW Architect #0036

Kreis Brennan Architecture
Document ID: 23-202-002
Version: 1.1, Version Date: 26/02/2024

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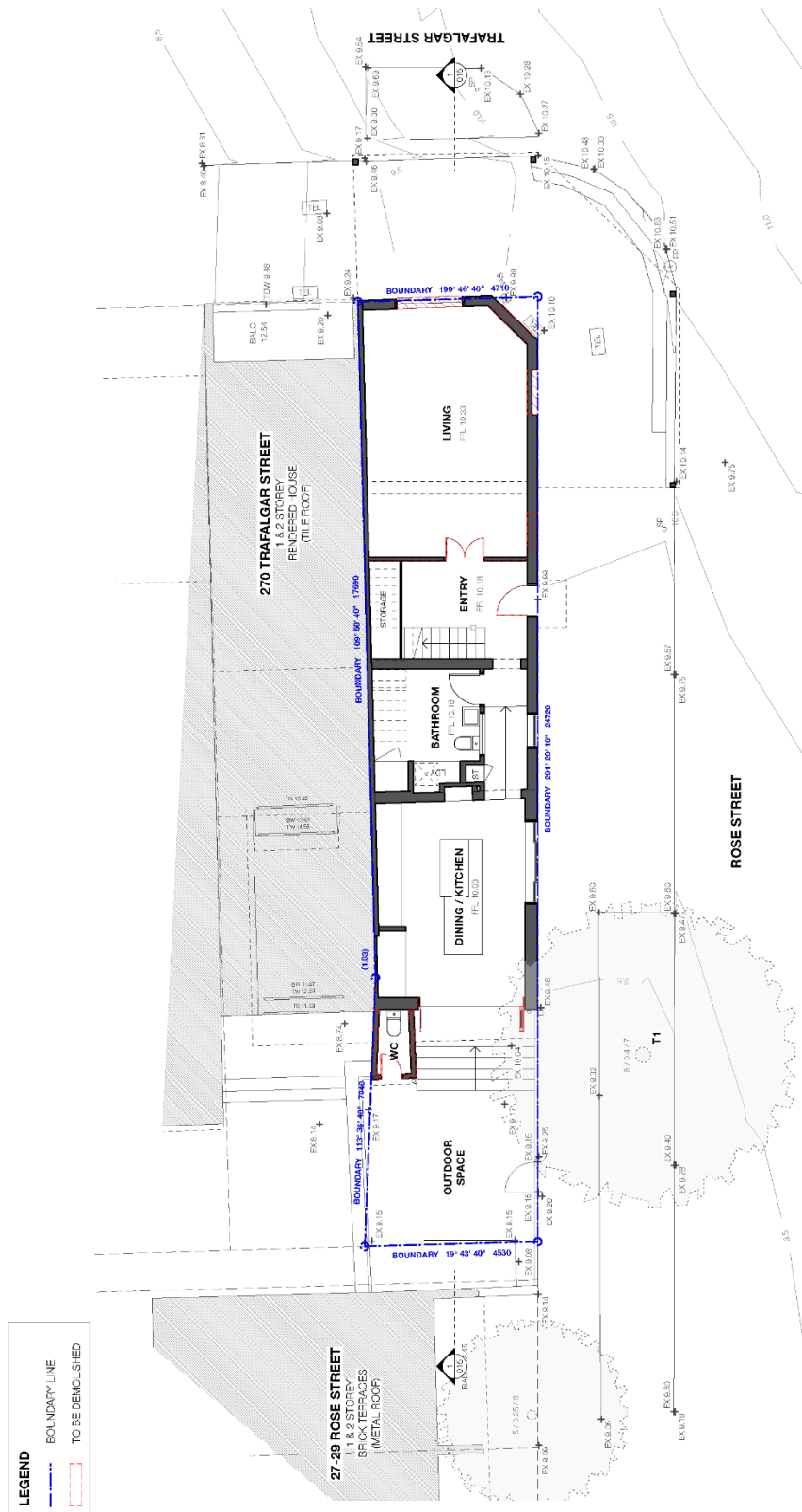
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REV A DATE 30/09/23 DESCRIPTION FOR DA SUBMISSION

DRAWING TITLE
LOCATION MAP + CONTROLS

PROJECT REFERENCE 23-202
DRAWN TC
ISSUE DA
SCALE NTS
REVISION A
SIZE A3
DWG # 002



LEGEND
 — BOUNDARY LINE
 - - - TO BE DEMOLISHED

PROJECT:
 268 TRAFALGAR STREET,
 ANNANDALE 2038

CLIENT:
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REV **DATE** **DESCRIPTION**

A 30/09/23 FOR DA SUBMISSION

DRAWING TITLE:
 EXISTING GROUND FLOOR PLAN

PROJECT REFERENCE:
 23-202

DRAWN:
 TC

SCALE:
 1:100

ISSUE:
 DA

REVISION:
 A

SIZE:
 A3

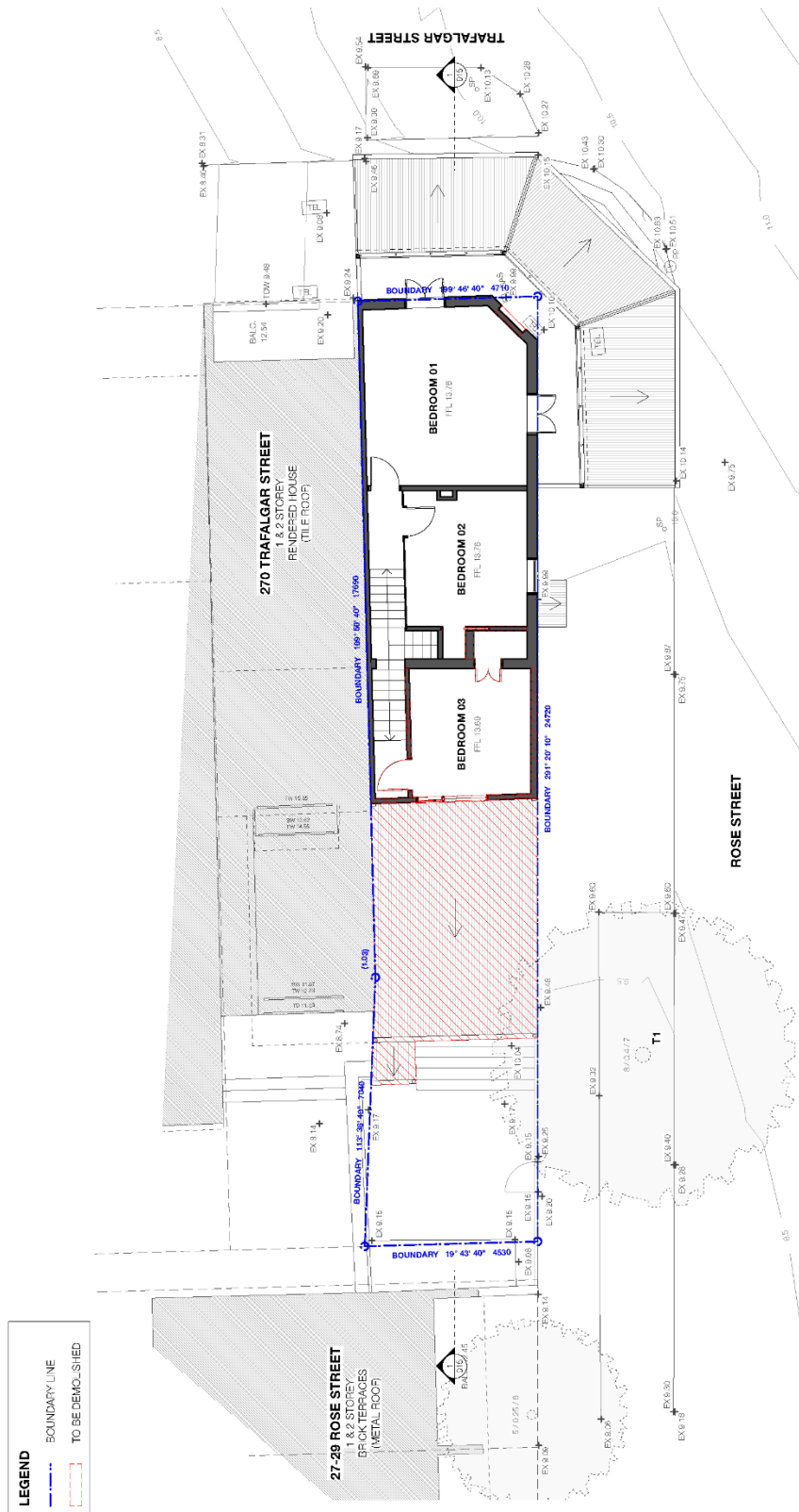
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 Version: 1, Version Date: 28/02/2024



DRAWING TITLE:
EXISTING FIRST FLOOR PLAN

PROJECT REFERENCE:
23-202

SCALE:
1:100

ISSUE:
DA

REVISION:
A

SIZE:
A3

DWG #:
011

REV:
A

DATE:
30/06/23

DESCRIPTION:
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PROJECT:
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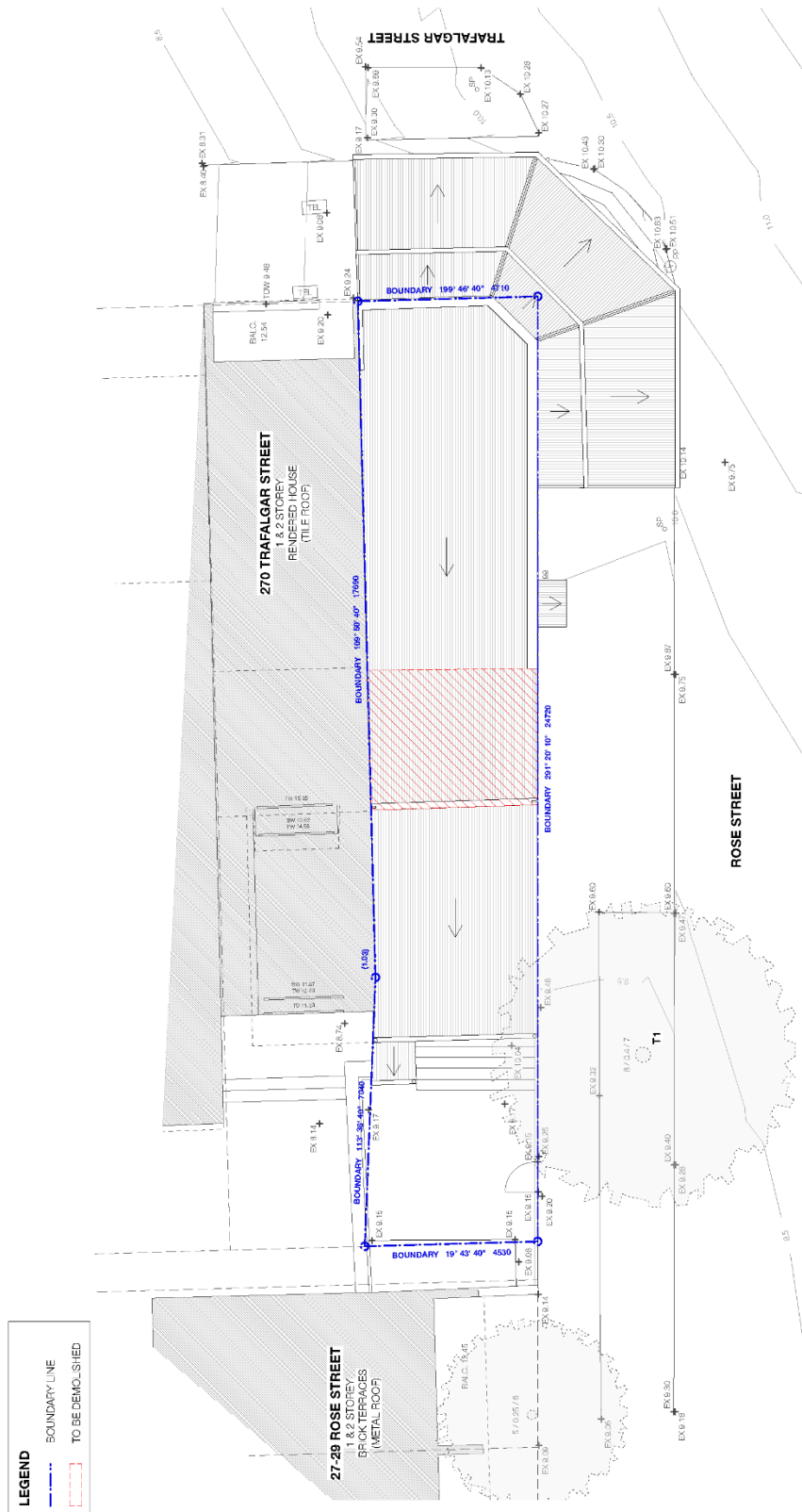
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Document: 23-202-011
Version: 1, Version Date: 28/02/2024



LEGEND
 - - - - - BOUNDARY LINE
 - - - - - TO BE DEMOLISHED

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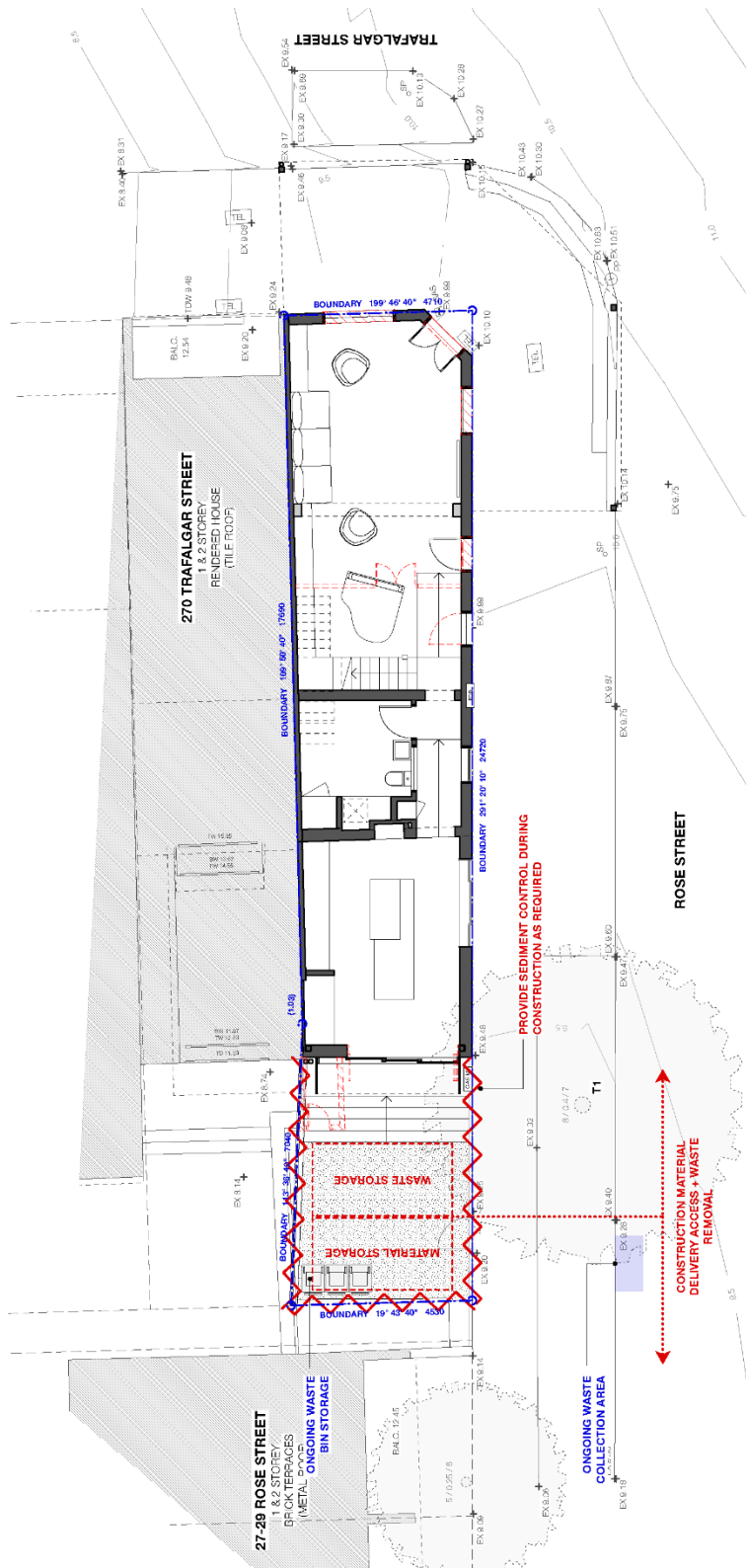
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 PROJECT REFERENCE: 23-202
 DRAWN: TC
 SCALE: 1:100
 ISSUE: DA
 REVISION: A
 DWG #: 012

REV A DATE 30/06/23 DESCRIPTION FOR DA SUBMISSION



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 Non-Indigenous Architects
 Christian Gorman NSW Arch No: #10336

KreisGangan Architecture
 Document: 23-202-012
 Version: 1, Version Date: 28/02/2024



DRAWING TITLE: **RECYCLING + WASTE MANAGEMENT PLAN**
 PROJECT REFERENCE: **23-202**
 DRAWN: **TC**
 SCALE: **1:100**
 ISSUE: **DA**
 REVISION: **B**
 DWG #: **020**

REV: **A** DATE: **30/06/23** DESCRIPTION: **FOR DA SUBMISSION**
B **29/11/23** **DA RFT REVISION**

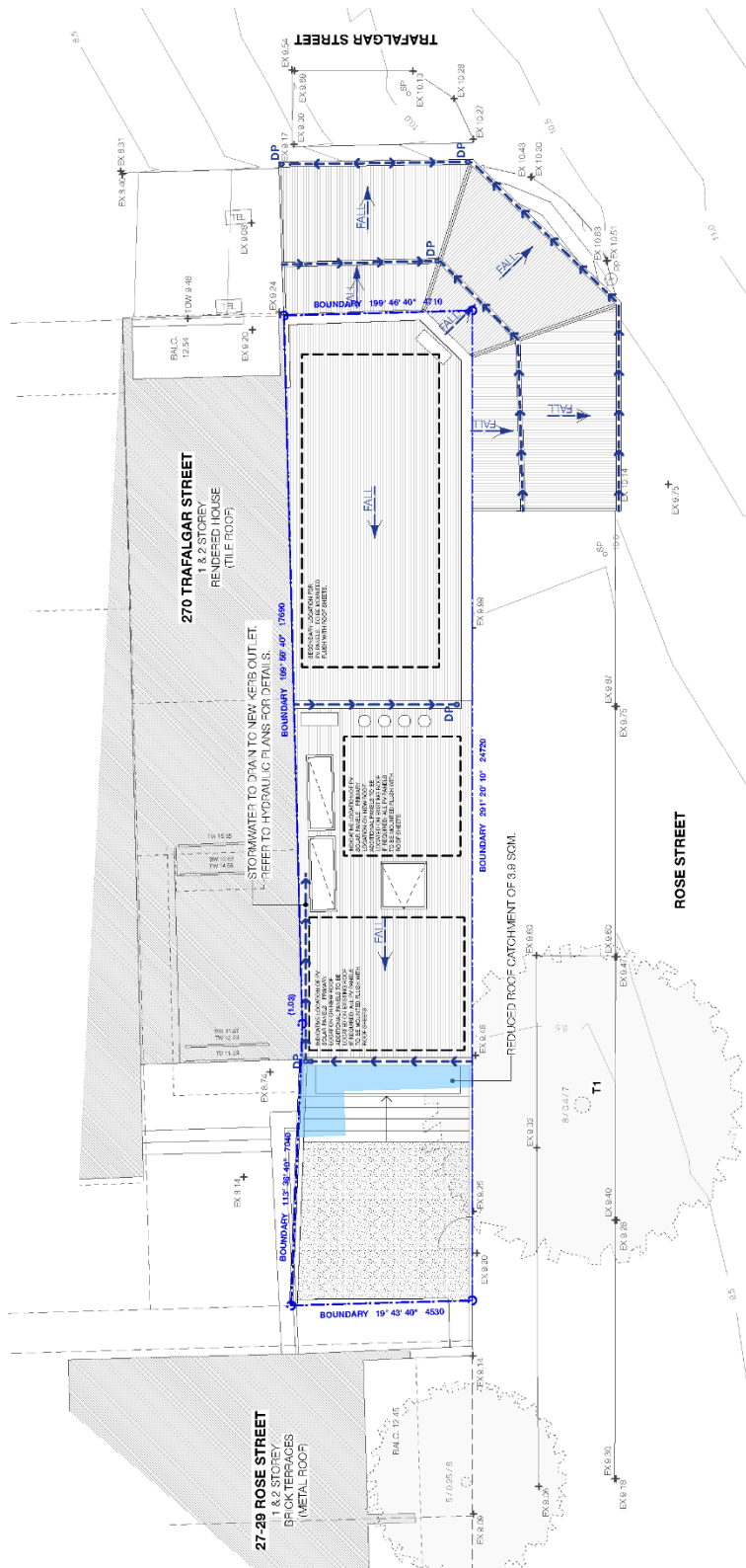
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 Christian Graham NSW Architect #10326
KreisGraham Architecture
 Version 1.1, Version Date: 28/02/2024



DRAWING TITLE
CONCEPT DRAINAGE PLAN

PROJECT REFERENCE
 23-202

SCALE:
 1:100

ISSUE
 DA

REVISION
 B

DWG #
 021

REV A 30/06/23 FOR DA SUBMISSION
 B 29/11/23 DA RFT REVISION

DATE
 29/11/23

DESCRIPTION
 DA RFT REVISION

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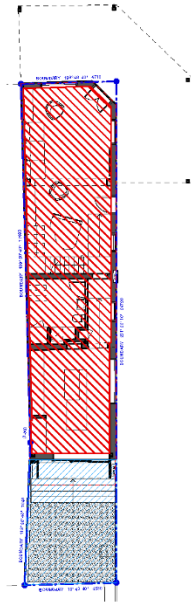
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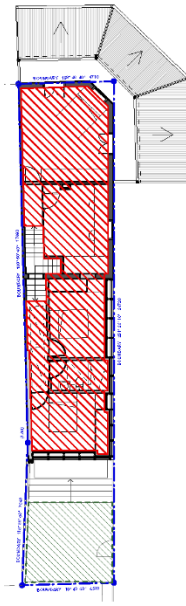
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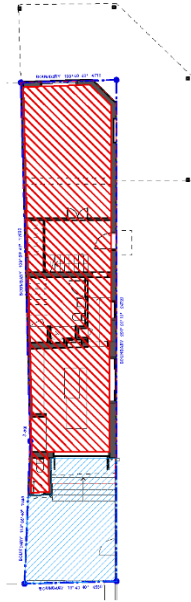




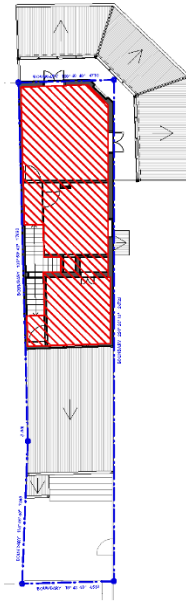
3 PR GROUND FLOOR
1:200



4 PR GROUND FLOOR
1:200



1 EX GROUND FLOOR
1:200



2 EX FIRST FLOOR
1:200



	EXISTING	REQUIRED / ALLOWED	PROPOSAL	ASSESSMENT
SITE AREA (SQM)	110.00	-	-	NO CHANGE
FSR	1.12 : 1	0.90 : 1	1.27 : 1	INCREASE
GFA (SQM)	122.81	90.00	139.97	INCREASE
SITE COVERAGE (%)	80.06	60% - 66.00	79.49	REDUCED
PRIVATE OPEN SPACE (SQM)	24.99	45 SQM	26.99	IMPROVED
LANDSCAPE AREA (SQM)	0.00	15% - 16.5 SQM	16.59	NO CHANGE



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Non-Residential Architecture
Christian Graham NSW Arch No: #10316

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Version: 1, Version Date: 28/02/2024

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CLIENT:
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DRAWING TITLE:
CALCULATIONS

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REV B 29/11/23 DA REF REVISION

PROJECT REFERENCE: **23-202**

DRAWN: **TC**

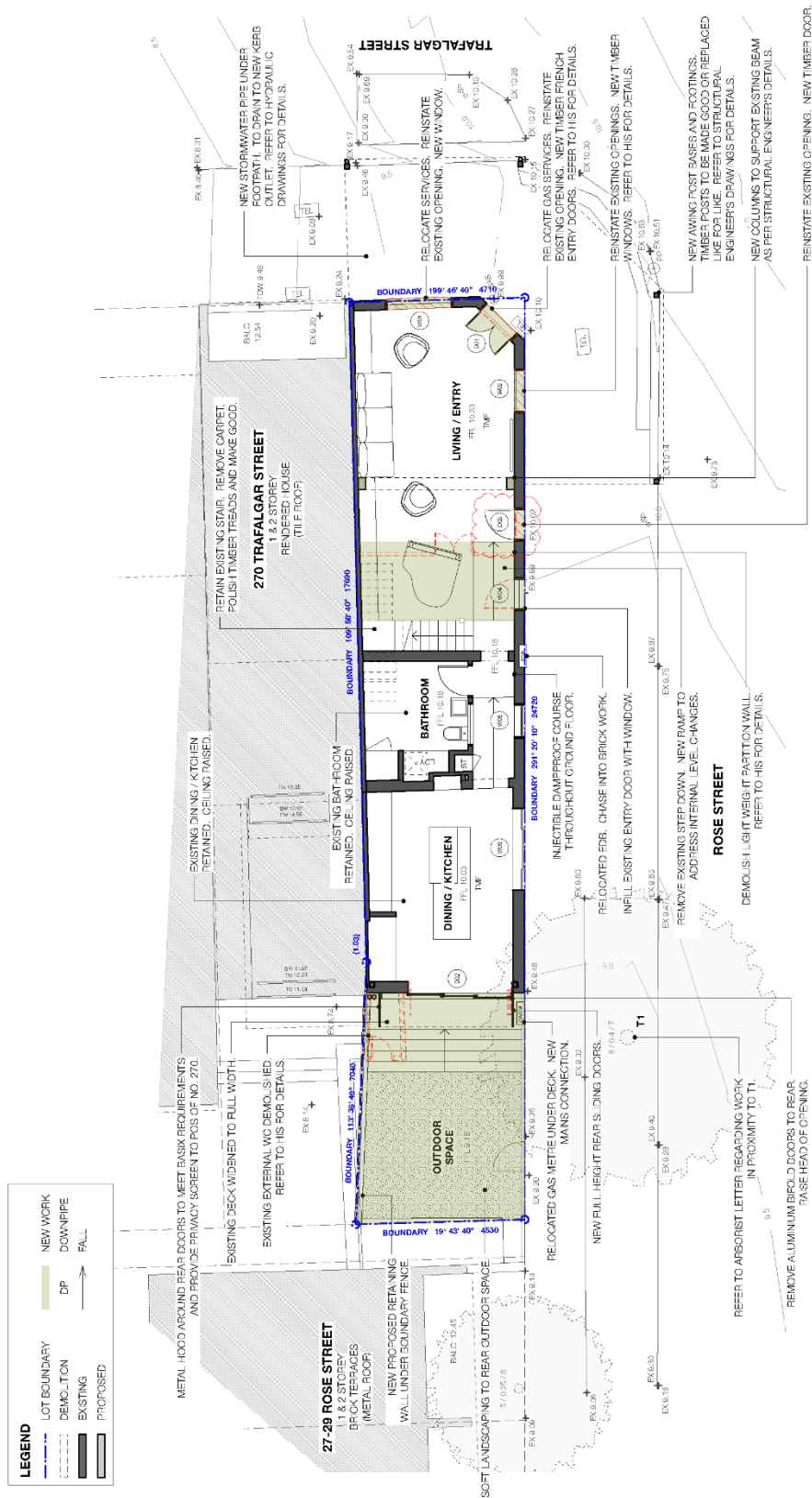
ISSUE: **DA**

REVISION: **B**

SCALE: **1:100**

SIZE: **A3**

DWG #: **022**



DRAWING TITLE:
PROPOSED GROUND FLOOR AND LANDSCAPE PLAN
PROJECT REFERENCE: 23-202
DRAWN: TC
SIZE: A3
DWG #: 100

REV **DATE** **DESCRIPTION**
 A 30/09/23 FOR DA SUBMISSION
 B 28/11/23 DA REVISION

PROJECT:
 268 TRAFALGAR STREET,
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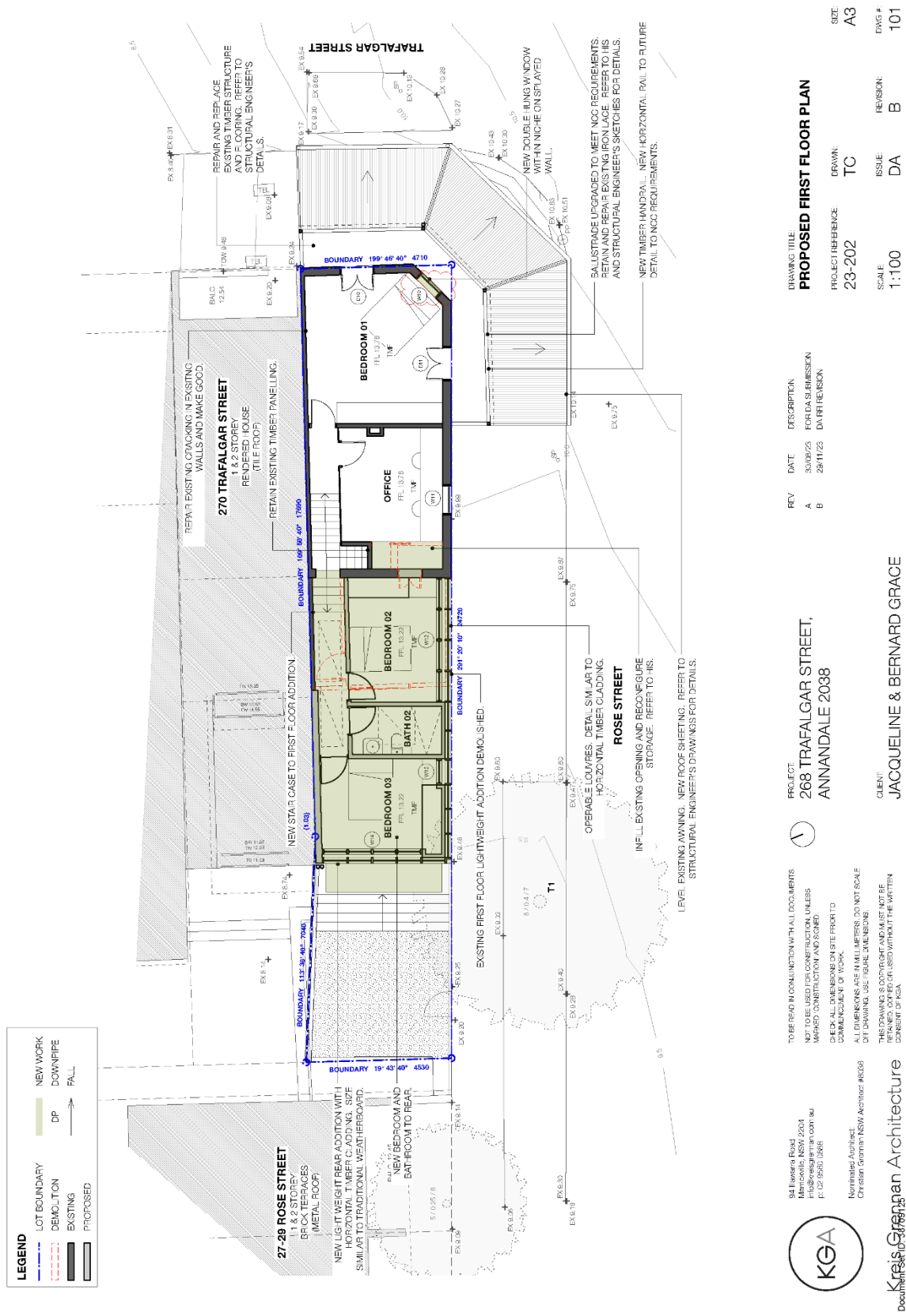
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DRAWING TITLE: PROPOSED FIRST FLOOR PLAN
PROJECT REFERENCE: 23-202
ISSUE: DA
SCALE: 1:100
REVISION: B
DATE: 28/11/23
DESCRIPTION: FOR DA SUBMISSION
CLIENT: JACQUELINE & BERNARD GRACE

REV: A
DATE: 30/09/23
DESCRIPTION: FOR DA SUBMISSION

REV: B
DATE: 28/11/23
DESCRIPTION: DA REVISION

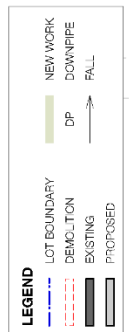
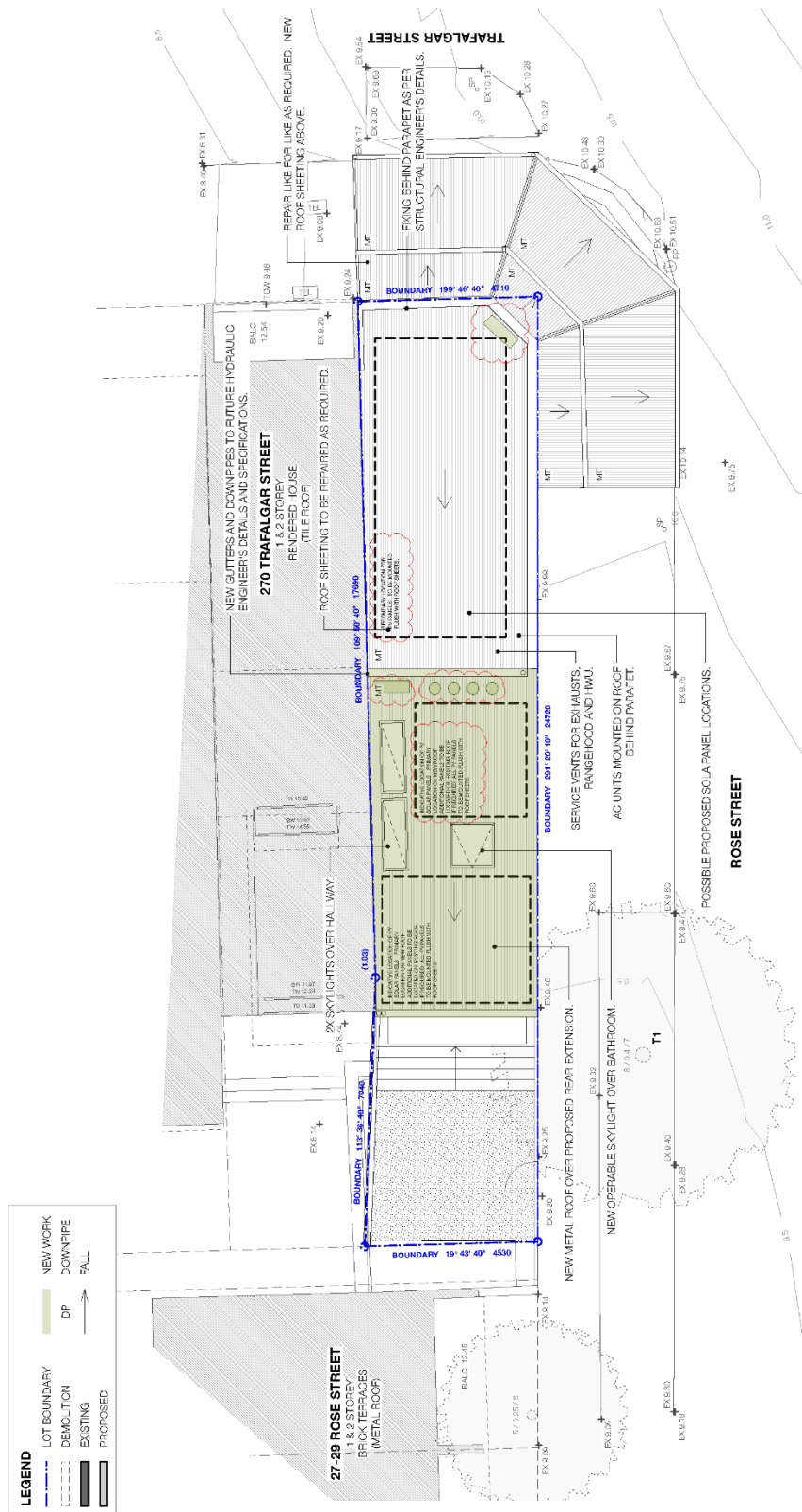
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DRAWING TITLE: PROPOSED ROOF & SITE PLAN
PROJECT REFERENCE: 23-202
SCALE: 1:100
ISSUE: DA B
REVISION: B
DWG #: 102

REV: A, B
DATE: 30/09/23, 29/11/23
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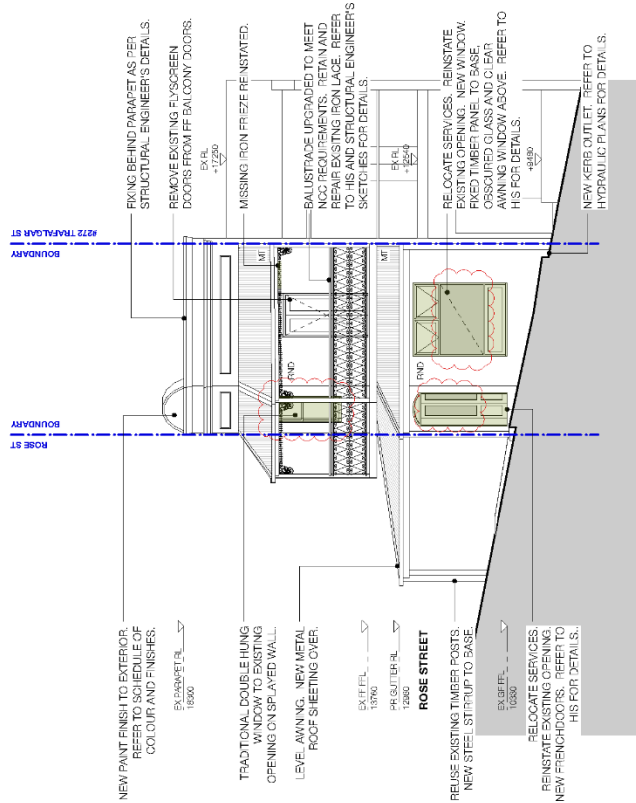
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 Document ID: 23-202-01
 Version: 1, Version Date: 28/02/2024

LEGEND

- LOT BOUNDARY
- - - DEMOLITION
- ▬ EXISTING
- ▬ PROPOSED
- ▬ NEW WORK
- ▬ DOWNPIPE
- FALL



1 PROPOSED EAST ELEVATION

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Notified Architect
 Christian Graham NSW Arch No: #16316

KreisGragan Architecture
 Version 1, Version Date: 28/02/2024

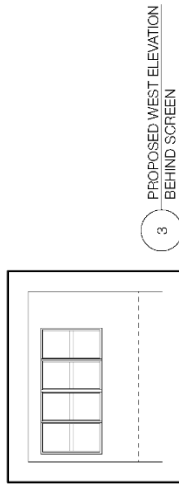
PROJECT:
**268 TRAFALGAR STREET,
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CLIENT:
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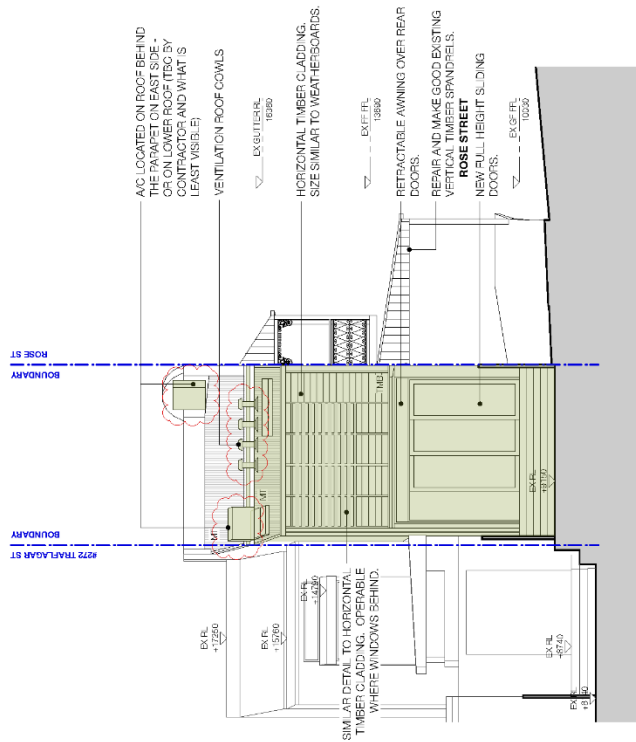
REV DATE DESCRIPTION
 A 30/06/23 FOR DA SUBMISSION
 B 29/11/23 DA REVISION

DRAWING TITLE:
PROPOSED EAST AND WEST ELEVATIONS

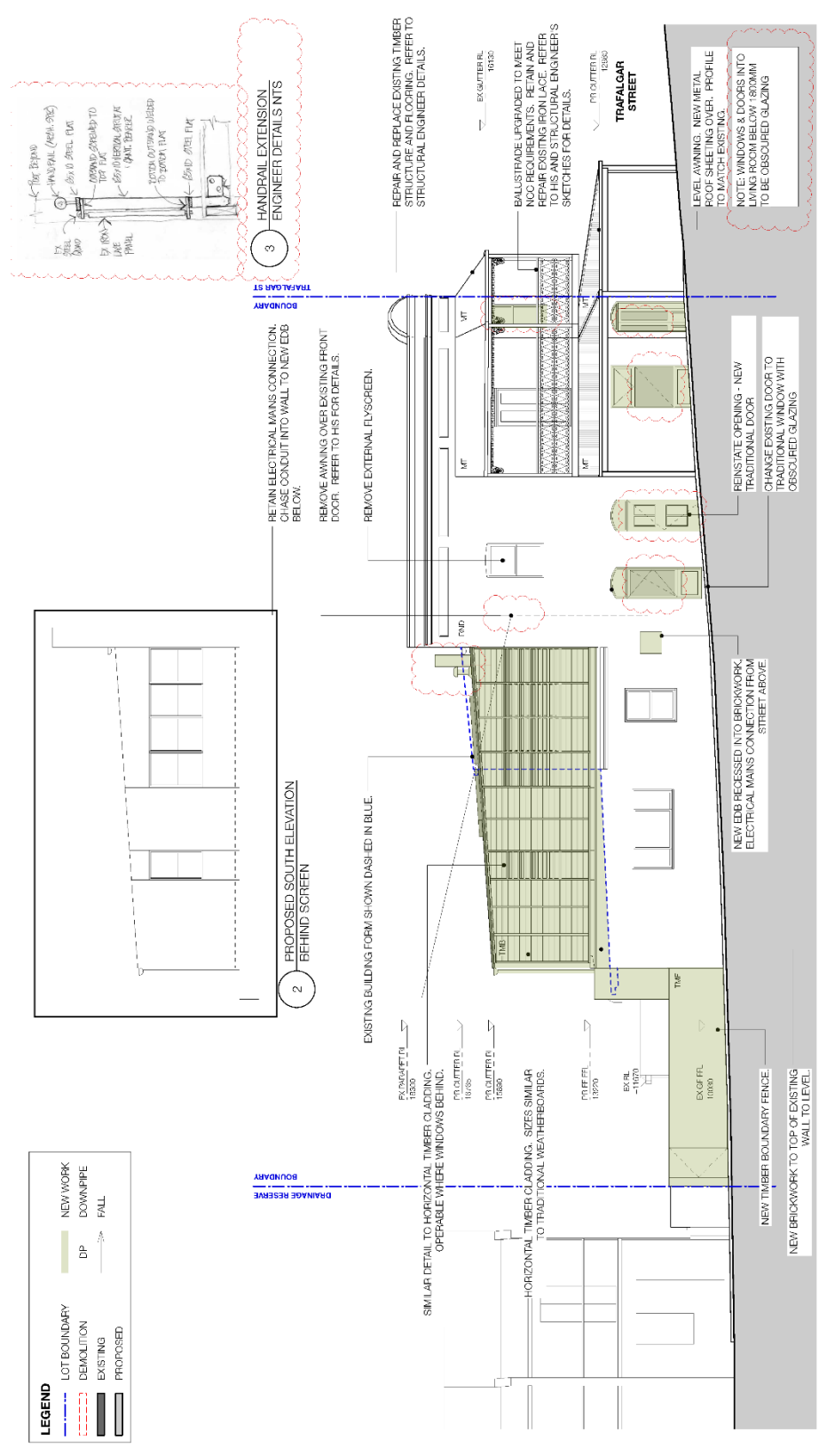
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 DRAWN: **TC**
 SCALE: **1:100**
 ISSUE: **DA**
 REVISION: **B**
 DWG #: **200**



3 PROPOSED WEST ELEVATION BEHIND SCREEN



2 PROPOSED WEST ELEVATION



1 PROPOSED SOUTH ELEVATION

2 PROPOSED SOUTH ELEVATION BEHIND SCREEN

3 HANDRAIL EXTENSION ENGINEER DETAILS NTS

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Chris Grogan NSW Arch/Reg: 400338

CLIENT: JACQUELINE & BERNARD GRACE

PROJECT: 268 TRAFALGAR STREET, ANNANDALE 2038

DRAWING TITLE: **PROPOSED SOUTH ELEVATION**

DATE: 30/08/23

REV: A FOR DA SUBMISSION B 23/11/23 DA-REV REVISION

DESCRIPTION: FOR DA SUBMISSION DA-REV REVISION

DRAWN: TC

PROJECT REFERENCE: 23-202

SCALE: 1:100

ISSUE: DA

REVISION: B

SIZE: A3

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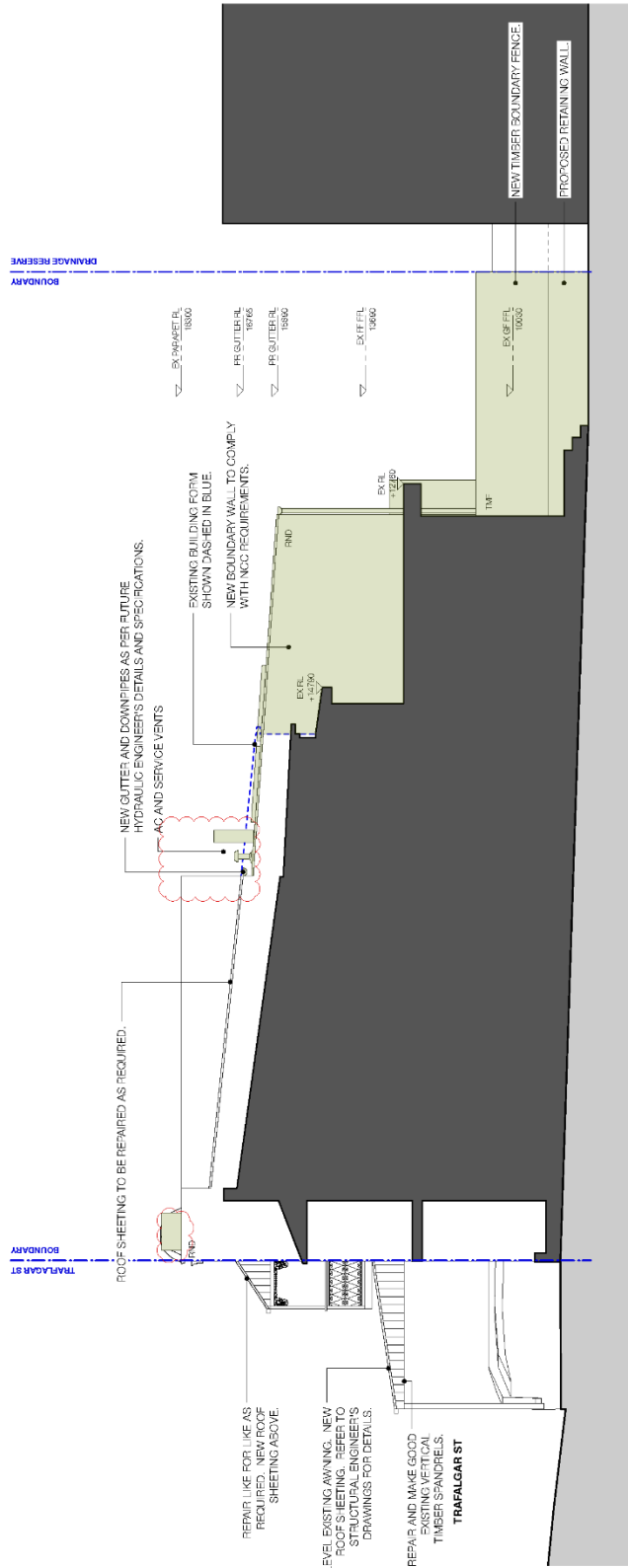
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Document Ref: 23/08/23
Version: 1, Version Date: 28/02/2024

LEGEND

- LOT BOUNDARY
- NEW WORK
- DEMOLITION
- EXISTING
- PROPOSED
- DOWNPIPE
- FALL



1 PROPOSED SOUTH ELEVATION



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KreisGorman Architecture
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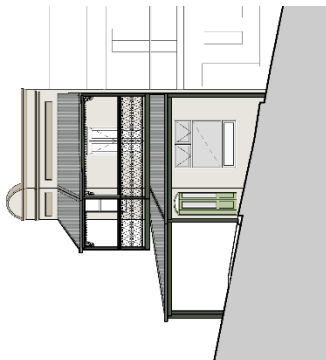
PROJECT:
**268 TRAFALGAR STREET,
 ANNANDALE 2038**

CLIENT:
JACQUELINE & BERNARD GRACE

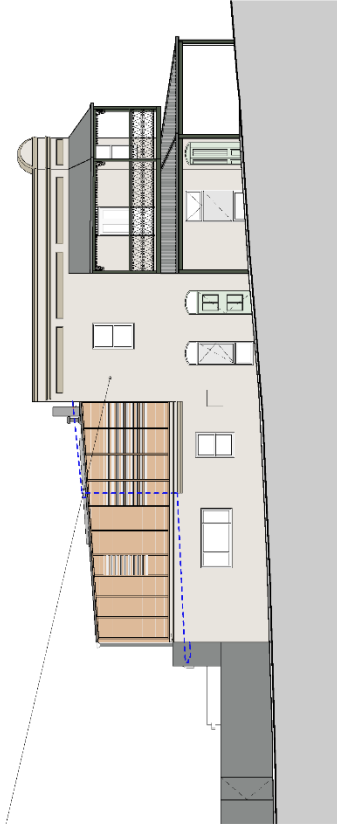
REV DATE DESCRIPTION
 A 30/06/23 FOR DA SUBMISSION
 B 29/11/23 DA REF REVISION

DRAWING TITLE:
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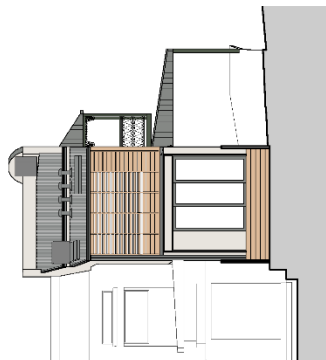
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 DRAWN: **TC**
 ISSUE: **DA**
 REVISION: **B**
 SCALE: **1:100**
 SIZE: **A3**
 DWG #: **202**





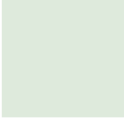

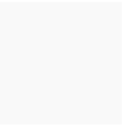

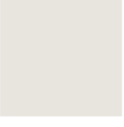
1 PROPOSED EAST ELEVATION




2 PROPOSED SOUTH ELEVATION



3 PROPOSED WEST ELEVATION

	PITCHER TUBER TMB WEATHERBOARD CLADDING		RESINE HERITAGE COLOUR SCHEMES RESINE 'EARTH GREEN' AWNING POSTS + BEAMS, BALCONY STRUCTURE, IRON RAILING AND BALUSTRADE.		RESINE HERITAGE COLOUR SCHEMES RESINE 'CHIFFIN LAMP' ENTRY DOORS.		RESINE HERITAGE COLOUR SCHEMES RESINE 'TRIFF FRENCH ONLORAMP' PARAPET & WALL DETAILING
	OFF WHITE WINDOW AND DOOR LINERY		COLORBOND 'WINDSPRAY' ROOF CUTTER, DOWNPIPE AND FLASHING.		RESINE HERITAGE COLOUR SCHEMES RESINE 'VENETIAN' IND. OPS EXTERNAL WALLS		



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PROJECT: 268 TRAFALGAR STREET,
 ANNANDALE 2038

CLIENT: JACQUELINE & BERNARD GRACE

REV	DATE	DESCRIPTION
A	30/08/23	FOR DA SUBMISSION
B	23/11/23	DA-REV REVISION

DRAWING TITLE: **SCHEDULE OF COLOUR & FINISHES**
 PROJECT REFERENCE: 23-202
 DRAWN: TC
 SCALE: 1:100
 ISSUE: DA
 REVISION: B
 SIZE: A3
 DWG #: 350

Attachment C – Section 4.6 Exception to Development Standard – Floor Space Ratio



Ref: 22175
30 August 2022

CLAUSE 4.6 VARIATION – FLOOR SPACE RATIO

ADDRESS: 268 Trafalgar Street, Annandale
LEP: Inner West LEP 2022

This Clause 4.6 Variation Request accompanies a development application to Inner West Council seeking consent for the construction of alterations and additions to the existing dwelling and landscape works at No. 268 Trafalgar Street, Annandale.

The variation request relates to a proposed FSR non-compliance which will result in an FSR of 1.27:1. The maximum permitted Gross Floor Area (GFA) for the site is 99m² (FSR of 0.9:1) and the proposal has a total GFA of 139.97m² (FSR 1.27:1), resulting in an additional GFA of 40.97m² and a 41.4% variation to the development standard. The existing building exceeds the permitted GFA by 23.81m², which represents a variation of 24.1%.

This variation request demonstrates that the proposed FSR variation will not bring with it any impact on local character or neighbour amenity, but instead, will be consistent with the objectives of the zone and the development standard, and will create a building appearance that has a superior contribution to local character and the Annandale HCA. On this basis, it would be unreasonable and unnecessary for strict compliance to be enforced and the development will remain within the public interest, particularly with relation to the building restoration and improved streetscape outcomes which will result as part of the overall proposal.

The remaining parts of this variation responds to the statutory requirements of Clause 4.6 of Inner West LEP 2022 detailing that the application of flexibility to the development standard in this instance is appropriate.

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

Inner West Local Environmental Plan 2022.

2. What is the zoning of the land and what are the objectives of the zone?

Objectives of R1 – General Residential zone

- To provide for the housing needs of the community within a low density residential environment.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide residential development that maintains the character of built and natural features in the surrounding area.

3. Identify the Development Standard to which this Clause 4.6 Variation applies?

Clause 4.4(2C) of Inner West LEP 2022 – prescribes a maximum permitted Floor Space Ratio for the site (site area <150m²) of 0.9:1.

4. Is the standard expressly excluded from operation of Clause 4.6

Clause 4.4 is not identified as being expressly excluded from operation of 4.6 as it is not identified at Clause 4.6(6) or (8) of the LEP.

5. What are the objectives of the development standard?

Objectives of Clause 4.4 – FSR, are:

- a. to establish a maximum floor space ratio to enable appropriate development density,
- b. to ensure development density reflects its locality,
- c. to provide an appropriate transition between development of different densities,
- d. to minimise adverse impacts on local amenity,
- e. to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

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

Clause 4.4 (2C) of the LEP requires a maximum FSR of 0.9:1 (GFA of 99m² for the site).

7. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?

The proposal has a total GFA of 139.97m² (FSR 1.27:1), resulting in an additional GFA of 40.97m² and a 41.4% variation to the development standard. The existing building exceeds the permitted GFA by 23.81m², which represents a variation of 24.1%.

8. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.

Test 1: In our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

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

In considering whether there are sufficient environmental planning grounds to support the existing FSR non-compliance, the following principles are relied on.

In the recent Court decision Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

As held in Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) does not require the consent authority to directly form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only indirectly in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.

By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

With regard to the above, it is our view that there are sufficient environmental planning grounds to support the proposed non-compliance for the following reasons:

- a. The development includes restoration of the original building elements to ensure its longevity a locally listed heritage item and to bolster its contribution to the HCA and local built form character. The submitted Heritage Impact Statement (prepared by an independent heritage architect) concludes that the proposal will result in positive outcome for the existing building and local character.
- b. The proposal will improve compliance with the remaining development standards, including a reduction in site coverage and creation of compliant landscaped area in place of the existing provision (nil). Such matters were seen by Council during the pre-DA meeting process as critical items to assist with justifying the FSR contravention.
- c. The site is unique with its corner location and former use as a shop. In addition, the proposal does not have any adverse amenity related impacts on a neighbouring property due to the street frontages occupying the southern parts of the site and the building design preventing privacy impacts on the neighbours, including an outer skin of solid louvres that conceal west facing windows of the proposed bedroom.
- d. The building on the opposite corner to the south (No. 268A Trafalgar Street) has a 2 storey height for a similar length fronting Rose Street as the proposed development. The proposal will therefore create an appropriate degree of symmetry and will not appear to be incongruent in the streetscape and surrounding built form. These aspects are visually described in Figures 1 and 2 over page.



Figure 1: Building length comparison



Figure 2: No. 268A Trafalgar Street (to the south)

It is therefore our view that the development brings with it streetscape and urban design outcomes that outweigh any perceived impact created by the numerical non-compliance. The proposal is therefore consistent with the following objectives of Part C of LDCP 2013:

- *C1.3 Alterations and Additions:*
 - O1 To ensure that development:*
 - a. complements the scale, form and materials of the streetscape including wall*

- height and roof form;*
- b. where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
 - c. makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
 - d. is compatible with neighbourhood character, including prevailing site layout;*
 - e. protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings;*
 - f. maintains views and glimpses from the public domain to natural and built elements that contribute to local character and sense of place;*
 - g. reasonably protects views obtained from surrounding development and promotes view sharing;*
 - h. retains existing fabric wherever possible and maintains and repairs, where necessary, rather than replaces the fabric.*
- *C1.4 Heritage Conservation Areas and Heritage Items:*
Development:
 - a. does not represent an unsympathetic alteration or addition to a building;*
 - b. encourages the protection, restoration, continued use and viability of buildings for their original purpose;*
 - c. encourages the removal of unsympathetic elements;*
 - d. is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter;*
 - e. conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting;*
 - f. maintains the visual unity of groups of buildings, in particular semi-detached and attached terraces;*
 - g. makes an appropriate visual and physical distinction between the existing building and new parts of the building;*
 - h. protects and enhances views of the existing building from the public domain;*
and
 - i. new buildings are sympathetic in scale, form, architectural detail, fenestration and siting to the Heritage Conservation Area or Heritage Item and conforms with the Burra Charter.*
 - *C1.5 Corner Sites:*
 - C4 Building elements including wall height, roof form and front setback and architectural features including balconies, awnings, verandahs, parapets and dormers are to be compatible in scale with the streetscape.*
 - C5 The development does not have an adverse impact on surrounding properties, the streetscape of public domain.*
 - O11 To ensure alterations and additions to residential period dwellings do not detract from the individual character and appearance of the dwelling being added to and the wider streetscape character.*

In addition to the above, the proposal is in the public interest because it is consistent with the objectives of the standard and the zone in which the development proposed to be carried out.

Provided below is an assessment of the proposal with respect to the objectives of the FSR development standard and the R1 – General Residential zone.

Clause 4.6 Variation Request
 Floor Space Ratio – 268 Trafalgar Street, Annandale

The proposal is consistent with the objectives of **Clause 4.4 – Floor Space Ratio** as detailed below.

Compliance with the objectives of Clause 4.4 of IWLEP 2022	
Objective	Response
a. to establish a maximum floor space ratio to enable appropriate development density,	The LEP sets the maximum FSR for the site of 0.9:1 and the proposal seeks to vary this requirement on the basis of the proposed building restoration works and associated streetscape benefits, whilst avoiding any material amenity impacts on neighbours that are associated with the proposed variation. Visually, and with consideration to the existing development located on the opposite side of Rose Street (No. 268A), the proposal will achieve a comparable bulk and scale, although with a superior appearance and form.
b. to ensure development density reflects its locality,	For the reasons outlined above, the proposed density is considered to reflect the varied density of existing buildings within the locality.
c. to provide an appropriate transition between development of different densities,	Not applicable.
d. to minimise adverse impacts on local amenity,	The appearance of the existing building is proposed to be restored and improved, and will therefore have a positive impact on heritage conservation and local character. Given the southern orientation of the adjoining street frontages, no overshadowing impact on an adjoining residential property will result from the proposal. Similarly, as previously outlined, there will be no associated privacy impacts.
e. to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.	The proposal includes a substantial increase in deep soil landscaping on the site (including the creation of LEP compliant landscaped area) and will protect and retain the existing street tree, as detailed in the submitted Arborist Report prepared by Arborlize.

On this basis, the proposal is consistent with the FSR development standard objectives, despite the proposed numerical non-compliance.

The proposal is consistent with the objectives of the **R1 – General Residential zone** as detailed below.

Compliance with the objectives of the R1 – General Residential Zone	
Objective	Response
<ul style="list-style-type: none"> To provide for the housing needs of the community within a low-density residential environment. 	The existing building is to be internally and externally improved and renovated, and will clearly improve occupant amenity and offer improved dwelling accommodation.

Compliance with the objectives of the R1 – General Residential Zone	
Objective	Response
<ul style="list-style-type: none"> to ensure development density reflects its locality. 	The proposed building size is comparable to the size of the existing building on No. 268A Trafalgar Street. In addition, as outlined, there will be no adverse amenity impacts and the subject site is unique, having a corner location and former use as a shop and residence above. The development will restore and improve the heritage significance of the site and be beneficial to local character, including the Annandale HCA. The development is therefore reflective of the density of development on the site and locality, as evidenced by the positive streetscape outcomes and absence of amenity related impacts.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	Not applicable.
<ul style="list-style-type: none"> To provide residential development that maintains the character of built and natural features in the surrounding area. 	Matters relating to built form character have been addressed previously in this variation request.

10. The concurrence of the Secretary has been obtained

Clause 4.6(4)(b) requires that a development consent cannot be granted to a development that contravenes a development standard unless the concurrence of the Secretary of the Department of Planning, Industry and the Environment (DPIE) has been obtained. As outlined in the DPIE’s Planning Circular PS 20-002 dated 5 May 2020, the consent authority may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table attached to the Circular. The conditions are not applicable to the FSR development standard and the Secretary’s concurrence can therefore be assumed.

11. Matters of significance for State or Regional Environmental Planning.

The proposed variation to the FSR development standard does not raise any matter of significance for State or regional environmental planning.

12. The public benefit of maintaining compliance with the Development Standard

This variation request demonstrates that the proposed variation is consistent with the relevant zone and standard objectives, and that insistence on strict compliance is unreasonable unnecessary in the circumstances. As also demonstrated in this variation request, there are no unreasonable impacts that will result from the contravention to the FSR standard.

On this basis, there is no public benefit in maintaining strict compliance with the development standard. The proposal’s consistency with the relevant zone objectives and development standard objectives deems that the subject application is in the public interest.

Clause 4.6 Variation Request
Floor Space Ratio – 268 Trafalgar Street, Annandale

13. Conclusion

As outlined above, the floor space ratio non-compliance brings with it streetscape outcome benefits and will result in a superior visual outcome for local character.

On these grounds as well as based on the above assessment of the Statutory tests of Clause 4.6 of IWLEP 2022, it is requested that Council support the variation as proposed.

Attachment D – Section 4.6 Exception to Development Standard – Site Coverage



Ref: 22175
September 2023

CLAUSE 4.6 VARIATION – SITE COVERAGE

ADDRESS: 268 Trafalgar Street, Annandale
LEP: Inner West LEP 2022

This Clause 4.6 Variation Request is to accompany a development application to Inner West Council seeking consent for the construction of alterations and additions to the existing dwelling at No. 268 Trafalgar Street, Annandale.

The variation request relates to the existing site coverage non-compliance, which although being improved by the proposal, remains non-compliant with the LEP. Clause 4.3C(3)(b) of Inner West LEP 2022 prescribes a maximum permitted site coverage for the site of 66m² (60% of the Site Area) and the site has an existing site coverage of 80.08m² (73.45%) which is being improved by the proposal to 79.49m² (72.26%). The new variation to the development standard is 20.40%. The improved level of compliance is achieved by the removal of the existing outdoor toilet within the backyard and partial replacement as open space and as a deck.

This variation request demonstrates that the proposed Site Coverage variation will not bring with it any impact on local character or neighbour amenity, but will be consistent with the objectives of the zone and the development standard. On this basis, it would be unreasonable and unnecessary for strict compliance to be enforced and the development will remain within the public interest.

The remaining parts of this variation responds to the statutory requirements of Clause 4.6 of Inner West LEP 2022 detailing that the application of flexibility to the development standard in this instance is appropriate.

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

Inner West Local Environmental Plan 2022.

2. What is the zoning of the land and what are the objectives of the zone?

Objectives of R1 – General Residential zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

3. Identify the Development Standard to which this Clause 4.6 Variation applies?

Clause 4.3C(3)(b) of Inner West LEP 2022 – prescribes a maximum permitted Site Coverage of 60% of the site area (66m²).

Inner West LEP includes the following definition for Site Coverage:

Site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage—

- (a) any basement,*
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- (c) any eaves,*
- (d) unenclosed balconies, decks, pergolas and the like.*

Clause 4.3C(4)(c) of the LEP provides the following clarification with relation to particular (d) of the above definition, as follows (emphasis added):

- (4) For subclause (3)—*
 - (a) the site area must be calculated in the way set out in clause 4.5, and*
 - (b) the following areas must not be included as landscaped areas—*
 - (i) a landscaped area with a length or width of less than 1m,*
 - (ii) a landscaped area located more than 500mm above ground level (existing), and*
 - (c) a deck, balcony or similar structure, whether enclosed or unenclosed, must not be included in calculating the site coverage if—*
 - (i) the underside of the deck, balcony or structure is at least 2.4m above ground level (existing), and the area below the structure is able to be landscaped or used for recreational purposes, or*
 - (ii) the finished floor level is 500mm or less above ground level (existing).*

4. Is the standard expressly excluded from operation of Clause 4.6

Clause 4.3C is not identified as being expressly excluded from operation of 4.6 as it is not identified at Clause 4.6(6) or (8) of the LEP.

5. What are the objectives of the development standard?

- (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- (b) to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) to ensure that development promotes the desired future character of the neighbourhood,*
- (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*
- (e) to control site density,*
- (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

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

Clause 4.3C(3)(b) of the LEP requires a maximum permitted Site Coverage of 60% of the site area (66m²).

7. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?

Clause 4.3C(3)(b) of Inner West LEP 2022 prescribes a maximum permitted site coverage for the site of 66m² (60% of the Site Area) and the site has an existing site coverage of 80.08m² (73.45%) which is being improved by the proposal to 79.49m² (72.26%). The new variation to the development standard is 20.40%. The improved level of compliance is achieved by the removal of the existing outdoor toilet within the backyard and partial replacement as open space and as a deck.

8. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.

Test 1: In our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Refer to discussion below relating to compliance with the objectives of the development standard.

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

In considering whether there are sufficient environmental planning grounds to support the existing FSR non-compliance, the following principles are relied on.

In the recent Court decision Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

As held in Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) does not require the consent authority to directly form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only indirectly in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.

By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

With regard to the above, it is our view that there are sufficient environmental planning grounds to support the proposed non-compliance for the following reasons:

- The proposal will improve compliance with the development standard and will therefore achieve a greater level of consistency with the zone objectives compared to existing;
- The existing building and its site coverage was in existence prior to the LEP and its requirement for a maximum 60% site coverage. The site therefore enjoys Existing Use Rights in which case the development standards are set aside;
- The heritage incentive provisions of Clause 5.10 are relevant as the existing building is being improved in several areas, including the removal of the existing outdoor WC. In such scenarios, Clause 5.10 gives power to Council to set aside any requirement of the LEP;
- Overall, as outlined in the accompanying Statement of Environmental Effects, the proposal will make a positive contribution to local character and will not introduce any adverse or unreasonable impacts on the amenity of the adjoining residents;
- To the casual observer and as viewed from the public domain, the subject site provides a positive contribution to local character and the site coverage variation visually imperceptible.

In addition to the above, the proposal is in the public interest because it is consistent with the objectives of the standard and the zone in which the development proposed to be carried out. Provided below is an assessment of the proposal with respect to the objectives of the site coverage development standard and the R1 – General Residential zone. It is noted that the below objectives apply to the landscaped area and site coverage development standards.

Compliance with the objectives of Clause 4.3C of IWLEP 2022	
Objective	Response
(a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,	The proposal creates compliance with the landscaped area development standard. Accordingly, the proposal is consistent with this objective.
(b) to maintain and encourage a landscaped corridor between adjoining properties,	Landscaping is increased at the site as a result of the proposal and is located at the rear of the site to create a landscaped space and corridor to the adjoining properties. Accordingly, the proposal will create a collective landscape benefit in the context of the surrounding landscape corridors and connections, and is consistent with this objective.

Clause 4.6 Variation Request
 Site Coverage – 268 Trafalgar Street, Annandale

Compliance with the objectives of Clause 4.3C of IWLEP 2022	
Objective	Response
(c) to ensure that development promotes the desired future character of the neighbourhood,	<p>The proposal includes alterations and additions to the existing dwelling as well as increases in landscaped area, and retention and improvement to the primary building façades to the street frontages.</p> <p>The proposal provides a suitable infill development that represents the orderly use of the land to provide improved residential accommodation within a form that fits comfortably within the applicable planning controls and immediate streetscape character.</p> <p>The proposal seeks to increase compliance with the development standard and therefore improves compliance with this objective.</p> <p>Accordingly, the proposal is consistent with this objective.</p>
(d) to encourage ecologically sustainable development	<p>The proposal includes an increase in landscaped area and permeable surfaces at the site with compliant landscaped area. Compliance with the landscaped area requirement is assumed to achieve compliance with this control.</p> <p>Accordingly, the proposal is consistent with this objective.</p>
(e) to control site density,	<p>The proposal seeks to increase compliance with the development standard and therefore improves compliance with this objective.</p>
(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.	<p>As outlined, the landscaped area development standard is complied with as a result of the proposal and site coverage compliance is being improved. Accordingly, the proposal is consistent with this objective.</p>

The proposal is consistent with the objectives of the R1 – General Residential zone as detailed below.

Compliance with the objectives of the R1 – General Residential Zone	
Objective	Response
<ul style="list-style-type: none"> To provide for the housing needs of the community within a low-density residential environment. 	<p>The existing building is to be internally and externally improved and renovated, and will clearly improve occupant amenity and offer improved dwelling accommodation.</p>
<ul style="list-style-type: none"> to ensure development density reflects its locality. 	<p>The proposed building size is comparable to the size of the existing building on No. 268A Trafalgar Street. In addition, as outlined, there will be no adverse amenity impacts and the subject site is unique, having a corner location and former use as a shop and residence above. The development will restore and improve the heritage significance of the site and be beneficial to local character,</p>

Compliance with the objectives of the R1 – General Residential Zone	
Objective	Response
	including the Annandale HCA. The development is therefore reflective of the density of development on the site and locality, as evidenced by the positive streetscape outcomes and absence of amenity related impacts.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	Not applicable.
<ul style="list-style-type: none"> To provide residential development that maintains the character of built and natural features in the surrounding area. 	Matters relating to built form character have been addressed previously in this variation request.

10. The concurrence of the Secretary has been obtained

Clause 4.6(4)(b) requires that a development consent cannot be granted to a development that contravenes a development standard unless the concurrence of the Secretary of the Department of Planning, Industry and the Environment (DPIE) has been obtained. As outlined in the DPIE’s Planning Circular PS 20-002 dated 5 May 2020, the consent authority may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table attached to the Circular. The conditions are not applicable to the site coverage development standard and the Secretary’s concurrence can therefore be assumed.

11. Matters of significance for State or Regional Environmental Planning.

The proposed variation to the site coverage development standard does not raise any matter of significance for State or regional environmental planning.

12. The public benefit of maintaining compliance with the Development Standard

This variation request demonstrates that the proposed variation is consistent with the relevant zone and standard objectives, and that insistence on strict compliance is unreasonable unnecessary in the circumstances. As also demonstrated in this variation request, there are no unreasonable impacts that will result from the contravention of the site coverage standard and to the contrary, the proposal creates compliance with the landscaped area requirement that provided for functional open space, improved water infiltration and high amenity residential living.

On this basis, there is no public benefit in maintaining strict compliance with the development standard. The proposal’s consistency with the relevant zone objectives and development standard objectives deems that the subject application is in the public interests.

13. Conclusion

As noted above, the proposal relates to the alterations and additions to an existing dwelling that increases the existing landscaped areas at the site to achieve compliance. The variation relating to site coverage is being improved by the proposal, and is

Clause 4.6 Variation Request
Site Coverage – 268 Trafalgar Street, Annandale

demonstrated to improved compliance with the relevant zone and development standard objectives.

The proposal results in an appropriate infill addition that is responsive to the site circumstances. Accordingly, sufficient environmental planning grounds exist, and the proposal is in the public interest because it is consistent with the objectives of the standard and the zone within which it is located.

Based on the above assessment of the Statutory tests of Clause 4.6 of Inner West LEP 2022, it is requested that Council support the variation as proposed.

Attachment E– Statement of Heritage Significance

**STATEMENT OF HERITAGE IMPACT FOR
ALTERATIONS AND ADDITIONS TO
268 TRAFALGAR STREET
ANNANDALE**



Graham Hall

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AUGUST 2023

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1

Cover: The building from the south-east

Statement of Heritage Impact, Alterations/Additions, 268 Trafalgar St Annandale

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1 INTRODUCTION

1.1 Purpose

This report was commissioned by Mr. B. and Mrs. J. Grace, owners of a former shop and residence at 268 Trafalgar Street, Annandale. It is intended to assist Inner West Council, its professional advisers and interested members of the public when considering a Development Application for alterations and additions to the property designed by Kreis Grennan Architecture.

The basis of assessment is the ICOMOS *Burra Charter* and the NSW Department of Planning and Environment publications *Guidelines for preparing a statement of heritage impact*, and *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW criteria, 2023*.

1.2 Authorship

The author is Graham Hall, who is registered as an architect by the Architects Registration Board of New South Wales (No. 2600), and listed as a Conservation Architect and Heritage Consultant by Heritage NSW.

He is or has been Heritage Adviser to several metropolitan and country councils since 2002, advising on development applications, conservation work and grant applications. He has co-ordinated community-based heritage studies in Fairfield, Walgett and Moree; undertaken assessments of numerous potential heritage items, notably for the City of Parramatta and the National Parks and Wildlife Service; and written Conservation Management Plans and schedules of conservation work for the Coonamble Museum, the State-listed Old Dubbo Gaol and various other items.

Photographs are by Graham Hall unless otherwise noted.

1.3 Copyright

This work is copyright. Apart from any use permitted under the Copyright Act 1968, no part may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of Graham Hall of 263 Trafalgar Street, Annandale NSW 2038.

1.4 Site identification

The site known as 268 Trafalgar Street, Annandale, comprises Lot 1 in DP 216795. Its location is shown on the maps overleaf.

1.5 Planning instruments

The current planning instruments are the Inner West Local Environmental Plan 2022 ("the LEP"), and the Leichhardt Development Control Plan 2014 ("the DCP"). The site is within the Trafalgar Street Distinctive Neighbourhood as defined in the DCP.

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1.6 Heritage status and proximity to heritage items

The building is listed as an item of environmental heritage in Schedule 5 of the Leichhardt Local Environmental Plan, and is within the Annandale Heritage Conservation Area. The only other individually listed item in its vicinity is Item 31, the sandstone retaining wall and Winkworth steps at the intersection of Johnston and Rose Streets.

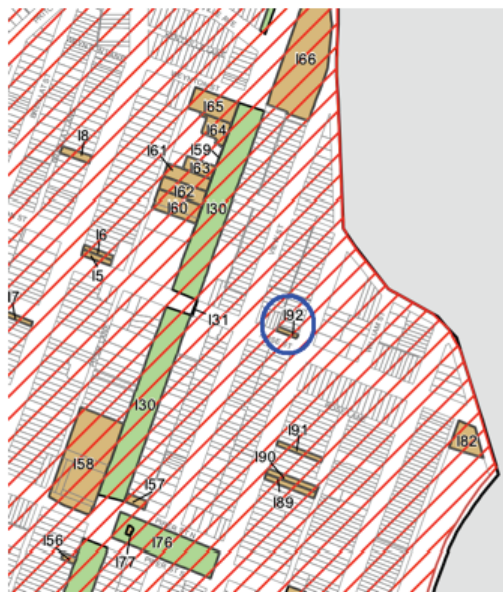
1.7 Consultation

The architects met with the author on site at the commencement of the project. They consulted on initial concept sketches, met again on site with the structural engineer, liaised and met yet again on site through the design development process.

1.8 Limitations and acknowledgements

Council's property file under the GIPA Act was requested at the outset of the project. It became available on 1 August but the records do not provide full details of the changes to the property. Some drawings are rudimentary, and notification drawings include elevations but not internal plans. The report also relies on careful fabric analysis, the memories of long term neighbours Mr. J. Shepherdson, Mr. R. Johnstone, Mr. M. Noone, and the writer, who has lived nearby since 1996. Unfortunately no historical photographs have been found.

3



Part of the Leichhardt Heritage Map with the subject site ringed in blue



Map in the DCP of the Trafalgar Street Distinctive Neighbourhood with the subject site ringed in blue

2 HISTORY

2.1 Aboriginal occupation and early land grants

The first occupants of the former Leichhardt LGA were the Gadigal and Wangal people, who spoke the Eora language. Following the establishment of the penal colony of New South Wales in 1788, land grants were made by successive governors. Most grants became large country estates. Where the land was thought to be suitable, farms were established. Over the decades, the estates were sometimes consolidated, then subdivided and resubdivided into residential suburbs, and in many cases redeveloped into today's medium and high density residential and urban landscapes.

2.2 George Johnston's grant, Annandale

George Johnston had fought in the American War of Independence and against the French in the East Indies. He arrived in the colony with the First Fleet as a lieutenant of marines, and was reputedly the first man ashore at Port Jackson. He joined the NSW Corps when the marines were relieved in 1790, holding several important positions, including that of lieutenant-governor of Norfolk Island, and was made a brevet major in 1800.

He was granted 100 acres, which he called Annandale Farm, in present day Petersham in 1793. In March 1804 he put down the revolt of Irish convicts at Castle Hill, and was rewarded with a further 290 acres on the north side of the Parramatta Road, stretching to the foreshore and bounded by Whites and Johnston Creeks. This became known as North Annandale.¹ The land here was more rocky and less fertile than the original Annandale Farm where he built Annandale House and lived with ex-convict Esther Abrahams, by whom he had seven children before they married in 1814.

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In 1808 Johnston, by then a lieutenant-colonel, took a leading part in the Rum Rebellion, arresting Governor Bligh and assuming the role of lieutenant-governor. In 1811 he returned to England to face a court-martial, was cashiered and allowed to return to the colony as a private citizen. He received additional grants and was a successful farmer and grazier.

He died in 1823 leaving Esther a life interest in the Annandale holdings with his son Robert, a naval officer, as his heir. When Esther sought to let the farm, Robert and his brother David had her declared incapable and assumed control. On her death in 1846 he came into ownership of the estate.

He attempted to subdivide it into four parts in 1856 but was unsuccessful. In 1845 the family had leased 100 acres at Johnston's Bay to the Sydney Salting Company which produced salt meat. The land was leased in 1860 to Cowan and Israel's Soap Works. These activities produced extremely unpleasant conditions in the area.

¹ The original Annandale Farm now approximates the suburb of Petersham. The entire area north of Parramatta Road is now known as Annandale, with Booth Street dividing what are locally called South and North Annandale.



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Early map of the Parish of Petersham with Johnston's grants, centre right NSW Land and Property Information (LPI)

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Detail from early parish map showing topography. Johnston's 290 acres, centre left, abutting his Annandale Farm, lower left LPI



The Annandale Estate when owned by Robert Johnston. Map by Beni and Goodall, 1843

6

2.3 Subdivision and development of Annandale

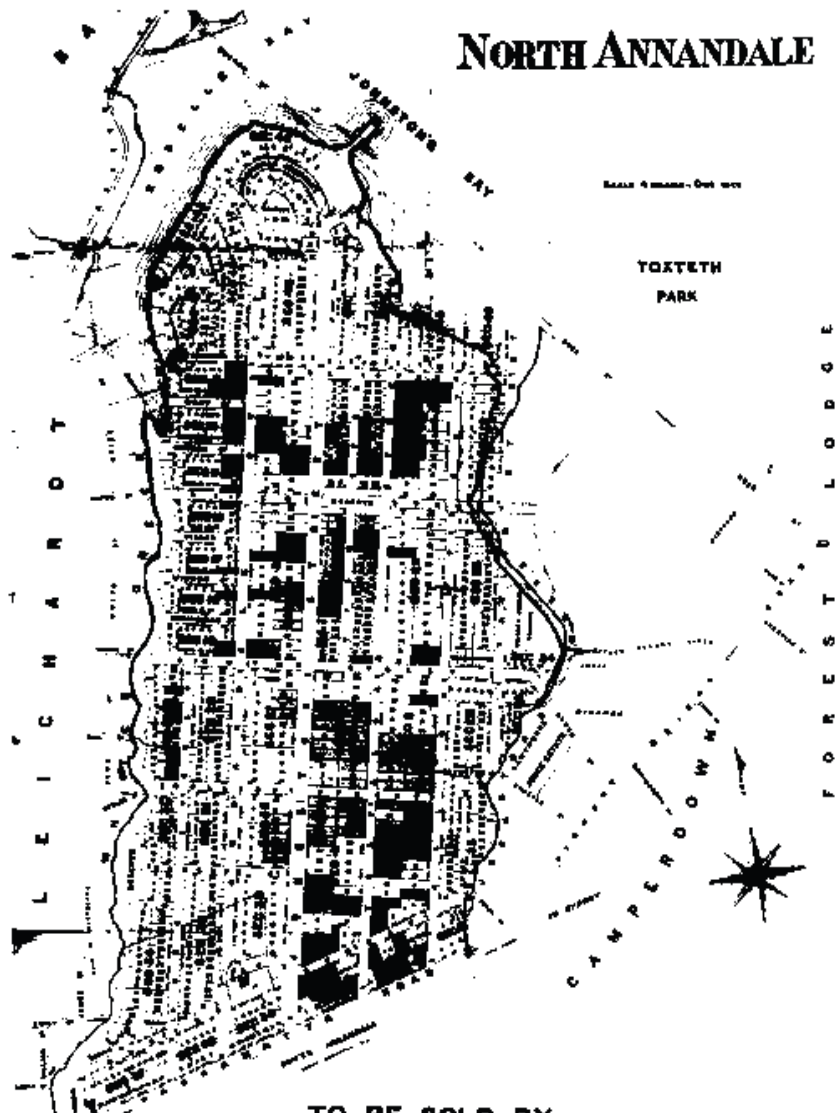
In 1877 Robert Johnston transferred two portions close to Parramatta Road, each of 30 acres, to his son George Horatio Johnston. Robert Johnston had seen the squalid conditions in which many people lived and developed the idea of a model township in North Annandale. He sold the remaining area to John Young for £125,000. Young also acquired Horatio's land. Robert Johnston financed the sale, which was the largest freehold land transaction the colony had seen, with a massive mortgage. Young, an energetic and capable entrepreneur, developer and builder, formed the Sydney Freehold Land Building and Investment Company, which he chaired until his death in 1907, to manage the development. A competition to design the layout was won by Ferdinand Reuss. William Pritchard was the auctioneer and estate agent.

Reuss's plan provided for wide streets, notably 100 feet for Johnston Street and 66 feet for other major streets, relatively large lots, and recreation areas. It might be noted that the rectilinear grid made few allowances for the irregular hilly nature of the peninsula. There is a retaining wall and a long flight of steps where Rose Street meets Johnston Street, and there was once a retaining wall where Rose and Trafalgar Streets cross.

The first subdivisions offered for sale were closer to Parramatta Road. A number of large estates were established, notably Young's Kentville, with a very large house, extensive grounds and sporting facilities. Lots nearer to the waterfront were held back in the expectation that prices would rise.

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7

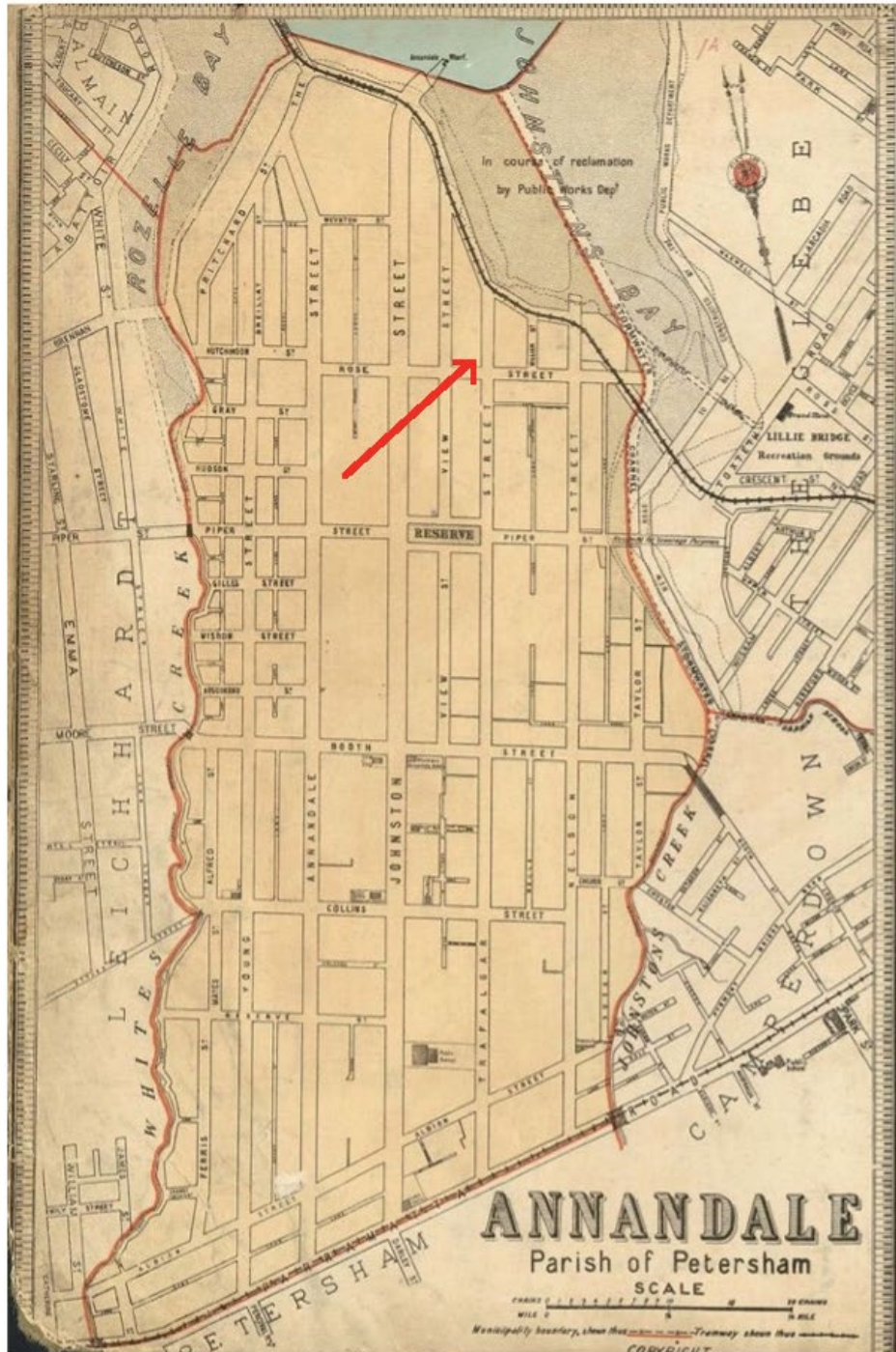
TO BE SOLD BY
W. PRITCHARD
 SATURDAY, DEC. 13, 1879, at 3 p.m.

*Plan of North Annandale for sale 31 December 1879 W Pritchard Auctioneer
 (State Library of NSW)*

SUBDIVISIONS FOR SALE DECEMBER 1879
 (This and previous map in Perry and Walsh, *The Early History of Annandale*)

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8

Map of Annandale, Higinbotham and Robinson, with the location of the subject site arrowed
Dictionary of Sydney

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The following paragraphs are quoted from the Leichhardt Heritage Review, 2004.

The majority of the building lots were generous, directed again to a middle class market: 66ft frontages with depths of about 90ft, ideal for freestanding houses. Most of the allotments sold up to 1881 were in Johnston and Annandale Streets. Allotments on the slopes above the creeks were largely ignored. Though extension of the tram track along Parramatta Road reached the junction of Annandale's main artery in 1883, the track was not built along Johnston Street. Land sales were sluggish and in 1882 the company was forced to revise its original policy on lot sizes. Though Johnston and Annandale Streets remained typical of the kind of middle class suburb the company originally envisaged, elsewhere a proliferation of small lots were created by resubdivisions.

As land sales reached their peak Annandale ratepayers began petitioning to secede from Leichhardt Council and incorporate the new Borough of Annandale which occurred in 1894. Between 1894 and 1930 Annandale Council was filled with self-employed local businessmen - timber merchants, builders and contractors, printers, grocers, butchers and a long serving carrier. They provided social leadership in their community. Many of the builders of the suburb's physical fabric possessed local addresses.

The Sydney Freehold Land and Building Investment Co Ltd, after thirty- eight years of having a controlling interest in Annandale, went into liquidation in 1916. The remaining unsold lots which were, in the main, located at the suburb's northern end, were bought by the Intercolonial Investment Land and Building Co Ltd. Annandale's last major land sales began in 1909 when Young's Kentville Estate was subdivided into ninety allotments. By 1893, of Annandale's 1,189 residences, 906 were constructed of brick and 250 of weatherboard. The whole process of building up the streets of Annandale stretched over a long time. At the 1901 census there were 1,729 houses increasing to 2,363 by 1911 and reaching 2,825 in 1921. Annandale had 3,265 residences at the 1947 census.

9

2.4 268 Trafalgar Street

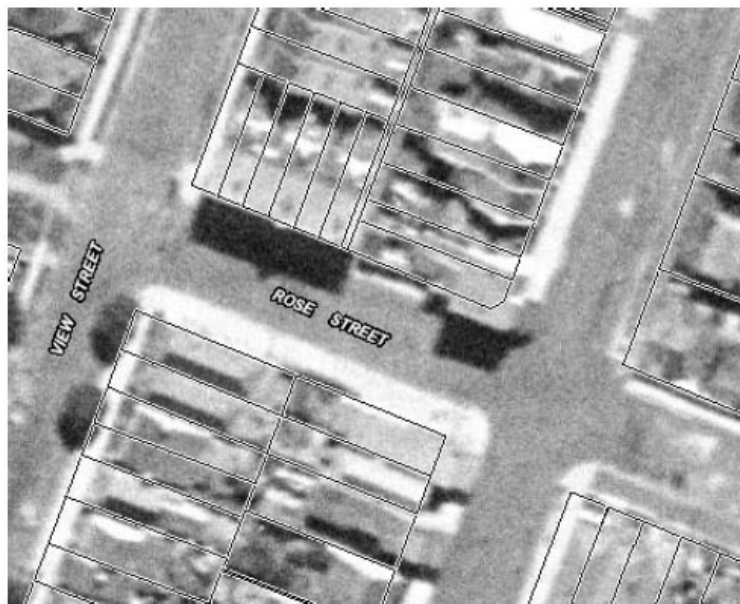
The lot on which the house stands is only approx. 4.6 m wide, and is one of many created during the depression of the 1890s, when the wider lots designed by Reuss for middle class housing were divided in two. The shop carries the date 1906 on the pediment and is first recorded in Sands' Sydney Directory in that year. The occupant was shown as G.L.R. Brown, butcher. There may be an anomaly in the 1906 entry, which shows the property without a street number and occupied by Robert Allwood, with no occupation, but G.L.R. Brown, builder, is shown at the attached No. 270. In 1908 and 1909, the occupant is Alfred Preston, butcher, with different names at No. 270. From 1910 until the Directory ceased publication in 1932-33, the occupant was Dennis Harrington, butcher. By then, J. Brown had a butcher's shop on the opposite corner, and in 1935 Mrs. E.M. McCutcheon had a grocery store in the subject property.

An old shed at the rear of 276 Trafalgar Street is said to have been used by a wholesale butcher. It is not known whether there was any connection with the subject shop.

By 1965, the shop was a corner grocery store owned and operated by Mr. B.K. and Mrs. W.E. Smith, who lived in the residence. Following an armed robbery, Mr. and Mrs. Smith closed the shop in 1992, converting the space for use as a living room. They continued living there for some years. The property has subsequently changed hands twice.

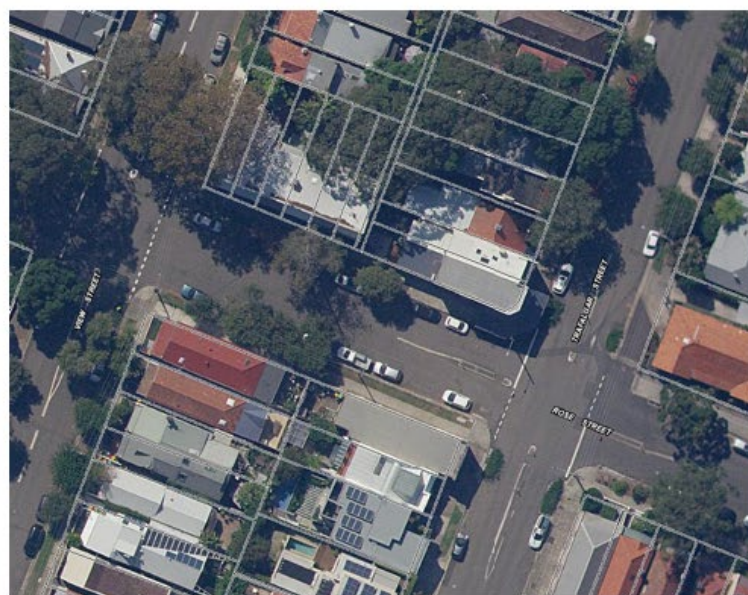
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Aerial photograph from 1943 with subject site outlined in red LPI

10



Recent aerial photograph with subject site outlined in red LPI

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3 PHYSICAL EVIDENCE



Aerial photograph of Nos. 268 (bottom) and 270 Trafalgar Street LPI

3.1 Description

The site is on the north-west corner of Trafalgar and Rose Streets. It is roughly rectangular, 25 x 4.6 m, the northern boundary being quite irregular, and slopes steeply to the north. On the western boundary is a narrow drainage reserve under which is a large diameter stormwater pipe. It is not a "dunny lane": there is no evidence of earth closets being built along the back boundaries of properties to the north. Several such properties are built across the full width of their allotments providing now access to their backyards stop it appears therefore that the subject and attached houses, and those to the north, were all connected to the sewer when they were built.

11

The principal form is of two storeys, and there was a full width single storey wing at the rear. The building comprises a former shop with bedrooms above, a "back room" behind the shop. There is no evidence of any outbuildings, except probably an external toilet, (discussed in 3.4 below) but some may have been present. Otherwise it would seem that the kitchen bathroom and laundry were accommodated in the single storey wing.

Ground floor level is just above the level of the footpath in Rose Street. The building is one of an asymmetrical semi-detached pair, the adjacent No. 270 being a two-storey terrace style house built about 1 m lower.

The subject No. 268 is built to the mid-point of the party wall on the north, and to the boundaries east and south, except for a splay on the south-east corner. A cantilevered veranda projects over the footpath on the east and over the spayed corner, returning on the south for the depth of the front room. Immediately under the balcony, a posted awning extends over the full width of the footpath.

The main, original, roof is a long skillion, sloping to the rear. It is concealed by a parapet. The veranda and awning both have straight roofs with vertical timber boarded spandrels. All roofs would have been covered originally with corrugated galvanised iron.

The original external walls are solid (not cavity) brick, coated with ashlar-ruled stucco. The known original openings were all spanned by shallow segmental arches.

The only mouldings are on the parapet, which has a semi-circular pediment carrying the date 1906 on the splayed corner, and also carries four decorative classical urns.

The veranda has a cast iron lace balustrade, frieze and brackets between stop-chamfered square section posts. It is accessed through two sets of French doors with single-pane glazing and fanlights above. These are the only openings with their original joinery. There was originally a window, details of which are not known, in the splayed corner.

Internally, the only remaining original fabric is the stair, the vertical-boarded partition between the stairwell and office, and some skirting boards, architraves and doors on the first floor. The skirting boards, architraves and doors on the ground floor, and the ceilings, cornices and finishes throughout have all been replaced.



The semi detached terrace style pair, from the north-east



The subject building, from the east

12



The Rose Street facade

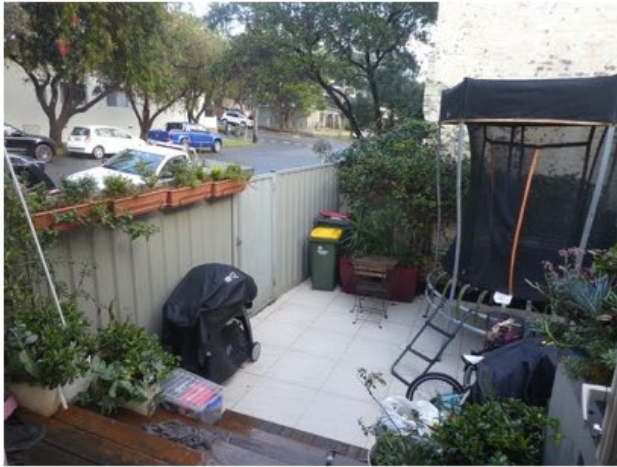


The building from the backyard, with rear of No. 270, left



Curved pediment on the splayed corner

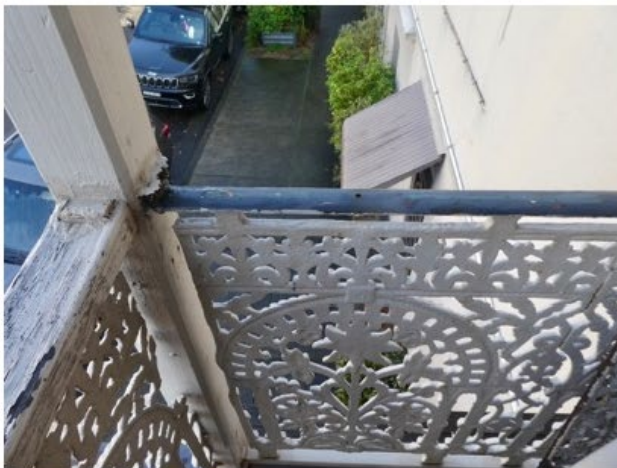
13



The backyard from the small rear veranda



Roof of the kitchen/ family room, from the rear first floor bed room



Balustrade handrail has completely rotted away in places

14



Vertical timber spandrels to veranda and awning with minor rot



Non-original door on Rose Street with fan light painted over, security grill, and awning installed in 1965

15



Window opening on splayed corner, first floor, bricked up and smooth rendered. Ashlar ruling is present in original stucco but does not show in photograph.



View to north down Trafalgar Street from eastern veranda



View to south up Trafalgar Street from eastern veranda



Weathered handrail, roof of awning, south side of building



The backyard, with side of terrace at 27 Rose Street beyond

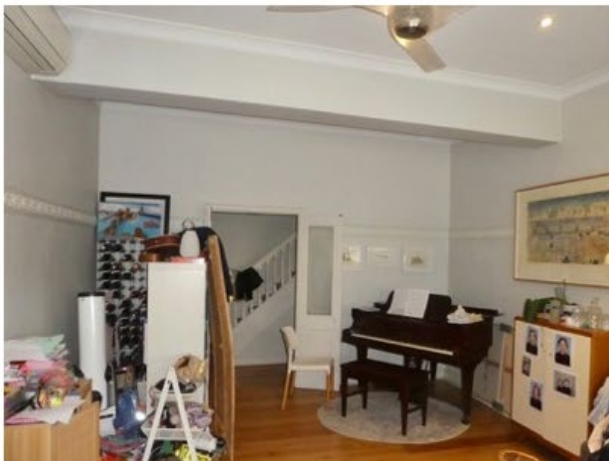


The original staircase

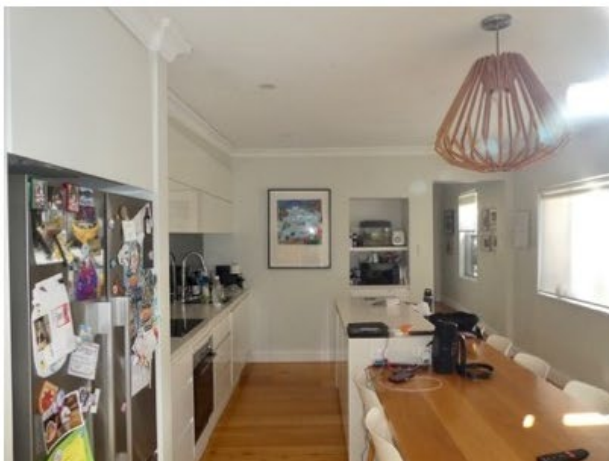
16



The former shop, with blind over original display window, centre, and splayed corner with blocked entry, right

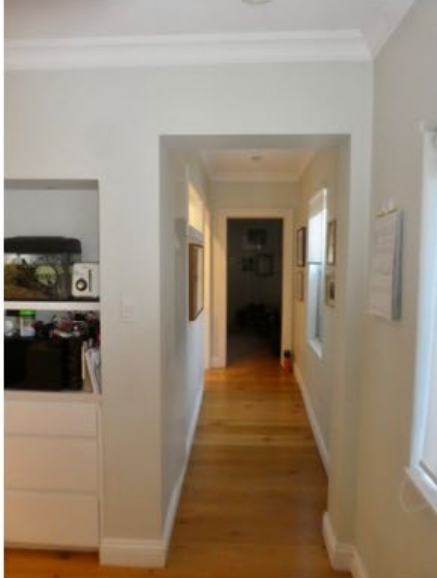


View from former shop to former "back room," with large beam replacing dividing wall, and staircase visible through reproduction doors in stud wall built 1992



Facing east in kitchen/family room

17

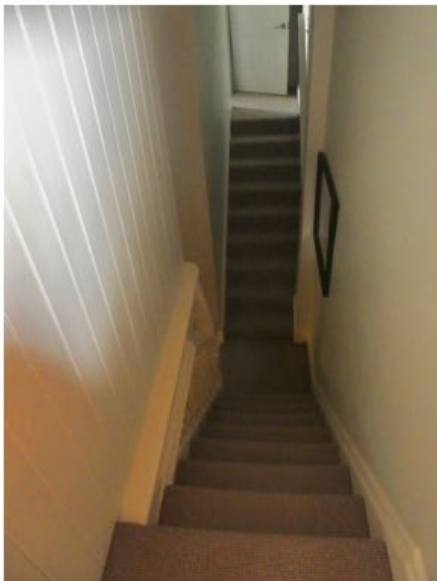


Passageway with ramped floor between entry foyer and kitchen /family room



Upper flight of original dog leg stair. Office is behind vertical boarded timber partition.

18



Facing west on original top landing towards second upper flight, installed in 2016



One of two sets of French doors to the veranda, the only original external joinery remaining

3.2 Condition

The building appears to be in generally good condition. There is evidence of some rising damp in the walls. The veranda handrail is badly weathered, and is lower than now required by the Building Code of Australia. Some of the veranda framing floorboards are severely weathered. The structural engineer has determined that the load-bearing capacity of the bearers and joists is not compliant with current standards. The posts supporting the awning extend into the concrete of the footpath and consequently the bottom portions have had to be replaced with new lengths which have been scarf-jointed. Nevertheless there has been some subsidence and the beams at the edge of the awning are well out of level.

3.3 Style

The definitive framework for identifying architectural styles in Australia is that of Apperly, Irving and Reynolds.² These authors provide a perceptive account of what a style is. They are mainly concerned with “high” or “contrived” architectural styles rather than “popular” styles, or the vernacular.

Using Apperly, Irving and Reynolds’ framework, the building would be classified as being in the Federation filigree style. It might be noted that the author's discussion of this style centres mainly on the use of cast iron lace, carried over from the Victorian period, and the transition to timber screening during the Federation period. They do note the continuation also of the use of classical rendered pediments through the Federation period. There is no other discussion about wall materials, but apart from its use on pediments, ashlar ruling most generally replaced with face brick in cavity construction during the Federation era. This can be seen at 33 Rose Street (with the only remaining face brick finish in the terrace row of six).

19

However the subject building, the attached No. 270, and the even later pair at 274-276 Trafalgar Street, all display ashlar ruled stucco and cast iron lace, and are indistinguishable from typical Victorian terraces of perhaps 20 years earlier.

3.4 Alterations

The building is immediately recognisable as a former corner shop, being built to the front and side boundaries with a splayed corner, a recognisably altered display window, and a very large awning over the footpath. However over the years it was substantially altered both before and after the shop was closed. The main alterations to the building envelope, openings and interior summarised below and illustrated in the figures on following pages. There are considerable gaps and some possible inconsistencies in the drawings on file. Consequently it has not been possible to conclusively establish the timing or order of all the alterations, and some details must remain conjectural.

² Apperly, Richard, Robert Irving and Peter Reynolds, *A Pictorial Guide to Identifying Australian Architecture*, Angus and Robertson, Sydney, 1994
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The first major alterations were made in 1965, when a bedroom was added above the single-storey rear wing. The party wall was extended in brick, and the rest of the structure was timber-framed, with fibro cladding to the walls. The main skillion roof was extended to the rear.

Soon afterwards a new single storey wing was added at the rear, containing a bathroom, laundry and toilet. This would have freed up space in the kitchen. However there are no drawings showing the layout, materials or structure of this addition, and it was demolished and replaced in 1970. The 1970 drawings simply show its extent on the site plan. However they do carry a note, "New toilet to be built before demolition [sic] of existing toilet." Otherwise the shop and residence could not have been occupied during building work.

The demolished toilet would almost certainly have been in the small offset area at the rear, on the northern boundary. It is not shown on the 1965 drawings, which show no structures west of the kitchen, but it seems likely to have been freestanding in that location before being built into the 1965 wing. It seems unlikely that there was a toilet as well as a laundry, bathroom and kitchen in the original single storey wing.

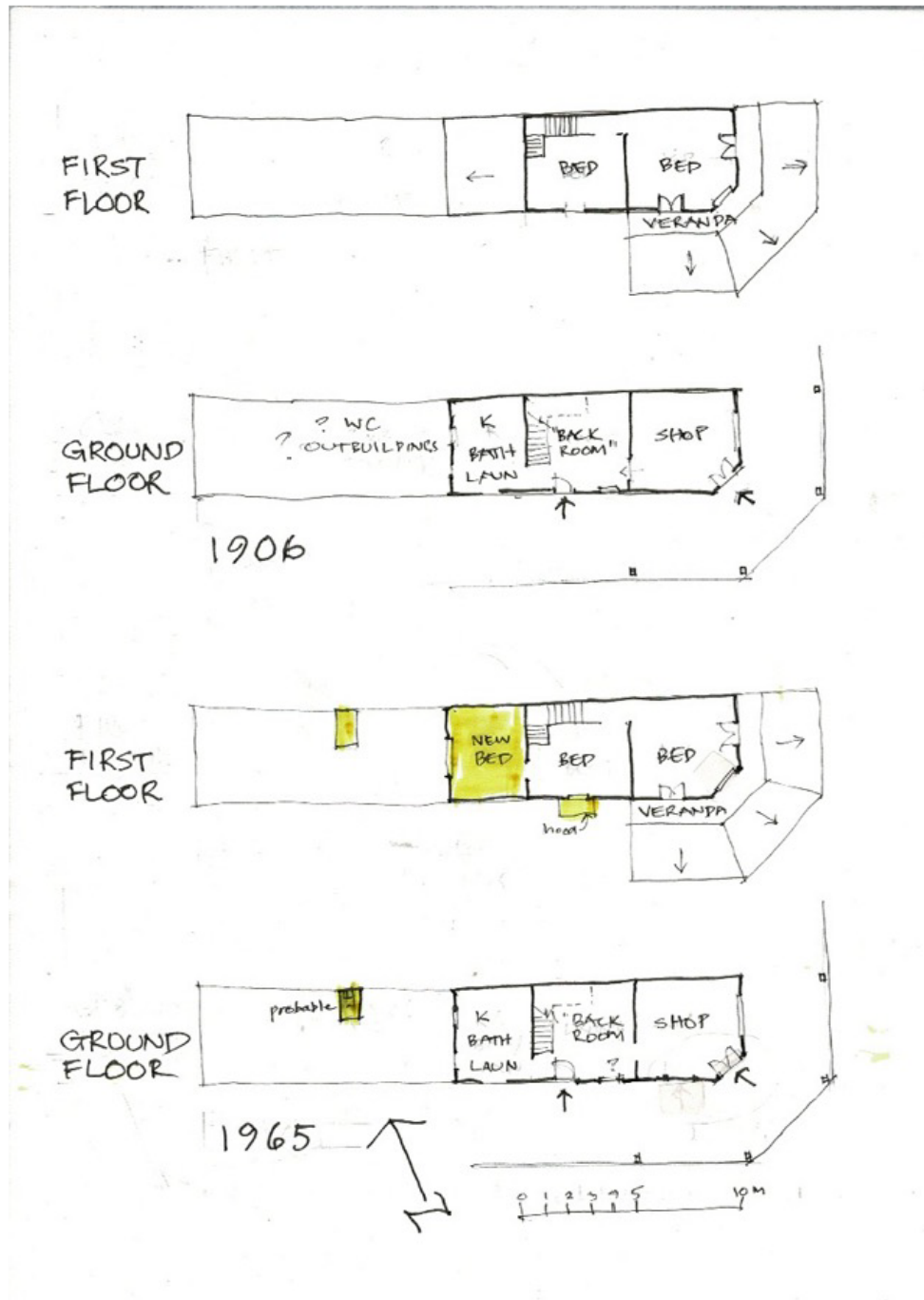
The 1970 replacement laundry and bathroom had a suspended concrete floor, cavity brick walls, a low-pitched steel pan roof, an aluminium framed window on to the street, and a small dog leg concrete stair to the back garden. The external toilet was at the much lower level of the back garden.

In 1992, Mr. and Mrs. Smith closed the shop and the space was enlarged as a living room. The wall between the shop and the "back room" was demolished and no nibs were left, but its location is apparent from the substantial beam inserted to support the first floor wall above. A timber stud wall with reproduction French doors was built to separate the enlarged space from the side entry and stair well. The ceiling and cornices are modern plasterboard. A non-original, decorative plaster band, probably produced as a ceiling moulding was fixed to the walls at picture rail height. The large display window facing Trafalgar Street was modified to provide privacy. A wide external architrave may conceal an arch over the opening.

20

Close examination of the ashlar ruling shows that at an unknown time well before 1992, the shop entry had been moved from the splayed corner to a new opening in the wall on Rose Street. The infilled areas are rendered but there is no ashlar ruling. This entry was blocked off again, a recess and a wide external architrave showing its location. An arched opening which had served the "back room" was also filled in. Logically this opening was the window serving the room, but the smooth render below as well as above sill level, with ashlar ruled stucco at the sides and above, suggests that it was a doorway, or perhaps a full height window. A window in the splayed corner on the first floor was also blocked off, as evidenced by a blind arch. The timing of these changes is unknown.

The present owners undertook remodelling of the previously altered and added areas in 2016. The envelope was extended slightly further to the west. A bathroom was installed in the former kitchen, and an open plan kitchen/family space opening on to a small deck was created. A second upper flight was added to the staircase, providing separate access to the rear bedroom.



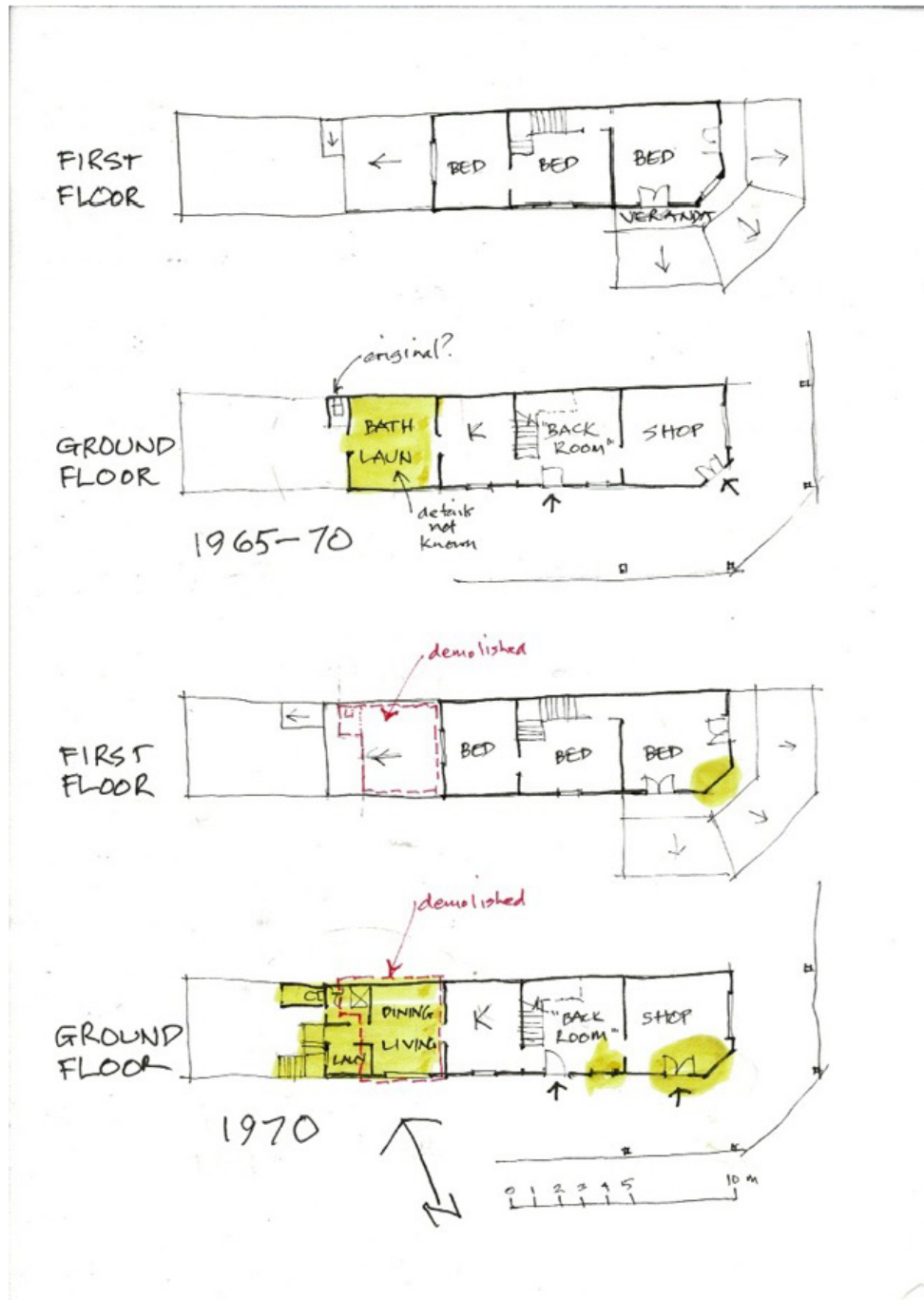
21

PLANS SHOWING BUILDING IN 1906 AND 2005. ALTERATIONS SHADED YELLOW

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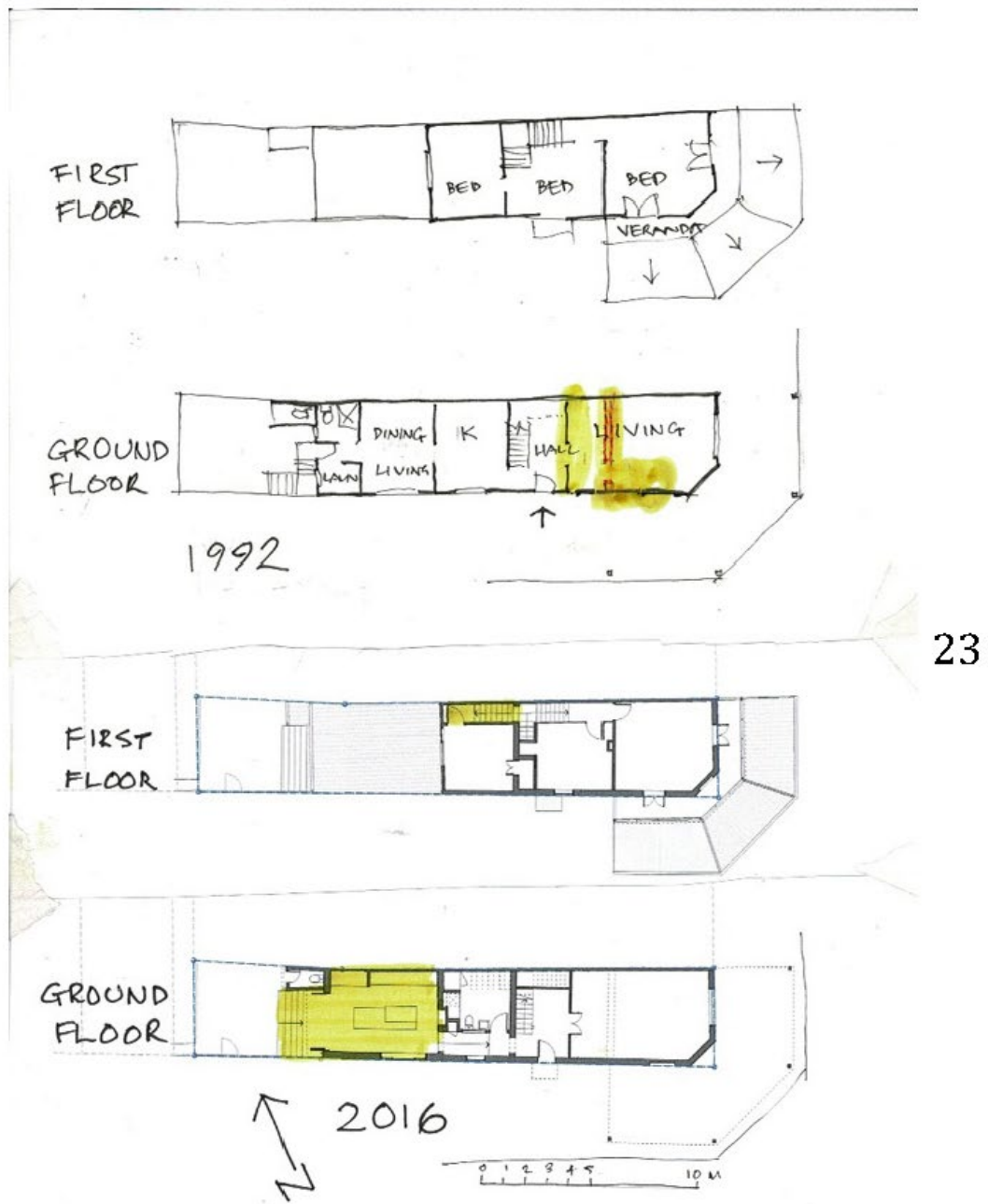
22

PLANS SHOWING BUILDING IN 1965-70 AND 1970.
ALTERATIONS SHADED YELLOW

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PLANS SHOWING BUILDING IN 1992 AND 2016. ALTERATIONS SHADED YELLOW

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3.5 Streetscape

Annandale was master planned, but was developed over decades. The 1890s depression saw the majority of the planned wide lots divided into two. This is evidenced by the variety of Victorian and Federation styles; of terrace, semi-detached and freestanding forms of one and two storeys; and of stuccoed brick, face brick and weatherboard walls. Roofs are a mix of skillion, hipped, and transverse or street-facing gables, and the materials are corrugated steel, slate or tiles.

There are groups of similar types, such as Victorian terrace forms or single-fronted brick Federation cottages. Elsewhere, there is a random mix of forms, with examples of contemporary infill, large contemporary extensions, and eccentric renovations. The pattern is punctuated by former corner shops and occasional factories. All can be found in Trafalgar Street, where the heterogeneous mix is nevertheless coherent.



View to east across Trafalgar Street from veranda with 1895 weatherboard house, left, and mid 20th century semis, right



Victorian and Federation houses on south side of Rose Street, from southern veranda



Facing South in Trafalgar Street from footpath outside No. 268



Western side of Trafalgar Street. From right: modified shop on corner of Rose Street; unrecognisably modified Victorian terrace, two late 20th century houses



Federation terraces at 27-37 Rose Street, with original stuccoed parapet. Only No. 33 retains its original tuck pointed face brick walls.

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Facing west in Rose Street, with the first floor of the subject property screened by a street tree, centre



The listed retaining wall and Winkworth steps at the western end of Rose Street



Recently constructed contemporary treatment to side and rear of Federation terrace at 27 Rose Street

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Semi detached pair at 274 and 276 Trafalgar Street, built c. 1910, virtually indistinguishable from typical Victorian terraces



Narrow freestanding single storey Federation cottages on western side of Trafalgar Street



Recent subordinate and complementary contemporary style extension to 20 Rose Street

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Recent major contemporary extensions, 10 Rose Street



Former shop and residence at 55 Trafalgar Street, originally almost identical to the subject property, with barrel vaulted, standing seam metal-clad extensions: contemporary, uncharacteristic, yet recessive.



Rear extensions to single storey cottages, View Street

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4 HERITAGE CONCEPTS

4.1 Values

Heritage may be defined as *valuable things from the past*. Heritage can be seen broadly as including many aspects of culture – such as art, music, dance, language, literature, philosophy, religion, political institutions – as well as aspects of the physical environment, with which this report is concerned. The physical environment in turn comprises the *natural landscape* – untouched by man – and the *cultural landscape* – any place that has been modified by human activity.

Buildings are the most obvious examples of places in the cultural landscape, but streetscapes, engineering structures, movable items and rural landscapes are other examples. (In practice, the cultural and natural landscapes are not always easily distinguished, at least until a place has been studied in some depth.)

If our environmental heritage comprises *valuable* places or items that remain from the past, it follows that they should be conserved, so that present and future generations may understand and enjoy them. But we all have different *values*. If we did not, there would be no need for heritage controls.

4.2 The Burra Charter

Although values are individual and subjective, there is a rigorous method or framework for considering them: the *Burra Charter*.³ This has been developed by Australia ICOMOS (International Council on Monuments and Sites, linked to UNESCO). The key concept is an item's *significance*. What does this item *signify*, what *sign* does it make, what *signal* does it send to us about our past - about why our culture and physical environment are as they are? The *Burra Charter* gives five bases of significance. An item may be significant in one or more of these ways.⁴

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Historical significance arises when an item is important in the course of an area's history or has strong associations with a historical figure or event.

An item can have aesthetic significance if it has visual appeal or demonstrates a particular architectural style.

Scientific value is present if the item yields, or has the potential to yield, technical information useful in research, for example about history, anthropology, construction techniques, or the natural world.

Social significance means that people hold a place in particular esteem: it is a focus of community sentiment: there would be a sense of loss if it were no longer there.

Spiritual significance was introduced as a distinct category in the 1999 revision of the Burra Charter. It relates to places that have meaning at a spiritual level.

³ Australia ICOMOS, *The Burra Charter (Australia ICOMOS charter for places of cultural significance)*, 2013

⁴ Author's wording. The *Burra Charter* itself does not define these terms, but they are explored in Australia ICOMOS, *Practice Note: Understanding and assessing cultural significance*, Nov. 2013

4.3 Nature, degree and level of significance

The above terms define the *nature* of an item’s significance. Another dimension is the *degree* of significance. On this dimension, an item may be significant because it is rare or representative, or sometimes both. Rarity means signifying a rare, endangered or unusual aspect of history or the environment. Representativeness means being a fine example of an important class of items.

A third dimension is the *level* of significance. It should be noted that the level is not a hierarchy of importance, but is concerned with the geographical spread of the people to whom an item is significant, e.g. local, state.

Expert studies over the years have relied on this three-dimensional matrix, or variations of it. It is particularly appropriate for complex items and heterogeneous sets of items. The significance of conservation areas should also be assessed on against such criteria.

4.4 Assessing heritage in NSW

The *Heritage Act 1977* defines *heritage significance* as the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of an item. In 1999 the NSW Heritage Council used its powers under the Act to gazette the following seven *criteria*: They are clearly derived from the Burra Charter. An item that satisfies at least one of the criteria is *significant*. It is then assessed to determine whether it is significant at local or at the State *level*.

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Historical significance Criterion (a)	An item is important in the course, or pattern, of NSW’s or the area’s cultural or natural history
Historical association Criterion (b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW’s or the area’s cultural or natural history.
Aesthetic / creative / technical significance Criterion (c)	An item is important in demonstrating aesthetic characteristics &/or a high degree of creative or technical achievement in NSW or the area
Social, cultural, spiritual significance Criterion (d)	An item has strong or special association with a particular community or cultural group in NSW or the area for social, cultural or spiritual reasons.
Research potential Criterion (e)	An item has potential to yield information that will contribute to an understanding of NSW’s or the area’s cultural or natural history.
Rarity Criterion (f)	An item possesses uncommon, rare or endangered aspects of NSW’s or the area’s cultural or natural history.
Representativeness Criterion (g)	An item is important in demonstrating the principal characteristics of a class of NSW’s or the area’s cultural or natural places or cultural or natural environments.

This framework is explored in detail in *Assessing Heritage significance*⁵, in which rigorous, though necessarily subjective, guidelines for using the criteria are set down.

⁵ Environment and Heritage Group, Department of Planning and Environment, *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW criteria*, 2023 Statement of Heritage Impact, Alterations/Additions, 268 Trafalgar St Annandale © 2023 Graham Hall

4.5 Gradings of significance

A potential heritage item is either significant (against at least one criterion) or it is not. It cannot have “high” or “low” significance. However specific *components of a place or object such as built fabric, landscape features, settings or views may make a different relative contribution to its heritage value. Loss of integrity or condition may diminish the item’s significance. In some cases it may be useful to grade the relative contribution of the components. The following table⁶ is provided as a guide.*

Grading	Justification	Status
EXCEPTIONAL	Rare or outstanding element directly contributing to an item’s significance.	Fulfils criteria for local or State listing.
HIGH	High degree of original fabric. Demonstrates a key element of the item’s significance. Alterations do not detract from significance.	Fulfils criteria for local or State listing.
MODERATE	Altered or modified elements. Elements with little heritage value, but which contribute to the overall significance of the item.	Fulfils criteria for local or State listing.
LITTLE	Alterations detract from significance. Difficult to interpret.	Does not fulfil criteria for local or State listing.
INTRUSIVE	Damaging to the item’s heritage significance	Does not fulfil criteria for local or State listing.

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4.6 Conservation areas

A heritage conservation area is more than a collection of individual heritage items. It is an area in which the historical origins and relationships between the various elements create a sense of place that is worth keeping. A heritage area is identified by analysing its heritage significance and the special characteristics which make up that significance. These may include the subdivision pattern, the consistency of building materials or the common age of its building stock. The least important characteristic is the “look” of the place, although the commonly held community view is that this is the determining factor.⁷

Heritage significance is embodied in the actual fabric or physical remains of an item or place, its relationship with its setting, and the photographs public records and associated documents which help to tell the story. Historic significance underlies most of the other values...An area might reveal the cultural, political or economic development of a precinct, suburb..... or the nation.⁸

Individual buildings may be defined and/or mapped as being contributory to the area’s significance, neutral or intrusive depending on their construction date and the extent to which they remain recognisable (or some similar framework.) The process is analogous to the grading of components of an individually listed item.

⁶ *Assessing heritage significance: Guidelines for assessing places and objects against the Heritage Council of NSW criteria, p. 19.*

⁷ Heritage Office and Department of Urban Affairs and Planning, *Conservation Areas*, 1996, p.3

⁸ *Ibid* pp. 7, 8.

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5 HERITAGE ASSESSMENTS

5.1 Heritage significance of the item

The following Statement of Significance is taken from the State Heritage Inventory:

The building is of local historic and aesthetic significance as a representative example of a Federation period corner shop and residence constructed in c.1906. Whilst the shop no longer operates the building retains a sense of the former shop openings and awning and other original details and corner splay that addresses and makes a positive contribution to the Trafalgar and Rose Street streetscapes.

5.2 Contribution of components to the significance of the item

The relative contributions of major components have been assessed as follows in terms of the gradings described in 4.5 above.

Grading	Justification	Component
EXCEPTIONAL	Rare or outstanding element directly contributing to an item's significance.	Principal two-storey parapeted form with splayed corner, decorative urns, cantilevered balcony with cast iron lace, posted awning, French doors to first floor.
HIGH	High degree of original fabric. Demonstrates a key element of the item's significance. Alterations do not detract from significance.	Remaining original openings. Staircase. Vertically boarded internal partitions.
MODERATE	Altered or modified elements. Elements with little heritage value, but which contribute to the overall significance of the item.	Original single storey rear wing. Blocked openings on splayed corner, both levels. Altered shopfront window. Aluminium windows in original openings.
LITTLE	Alterations detract from significance. Difficult to interpret.	Rear extensions, ground and first floor
INTRUSIVE	Damaging to the item's heritage significance	Colorbond fence

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5.3 Heritage significance of the Conservation Area

The following Statement of Significance is taken from the Leichhardt Heritage Review:⁹

- *One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (i.e. prior to World War II). This area is important as a well planned nineteenth-century suburb, and for illustrating development particularly from 1880s–1890s, aimed initially at the middle class market. The surviving development from this period forms the major element of its identity along with an area of 1910s–1930s development at its northern end.*
- *Demonstrates the vision of John Young, architect, engineer and property entrepreneur.*
- *Demonstrates, arguably, the best and most extensive example of the planning and architectural skills of Ferdinand Reuss, a designer of a number of Sydney's Victorian suburbs, including South Leichhardt (Excelsior Estate) and Birchgrove.*
- *Clearly illustrates all the layers of its suburban development from 1878, through the 1880s boom and resubdivision, the 1900 slump and the appearance of industry, and the last subdivision around Kentville/Pritchard Streets to the 1930s, with the early 1880s best illustrated along Johnston and Annandale Streets.*
- *Demonstrates a close relationship between landform and the physical and social fabric of the suburb.*
- *In its now rare weatherboard buildings it can continue to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around Rozelle Bay and their effect on the building of the suburbs of Leichhardt.*
- *Displays a fine collection of large detached Victorian Italianate boom- period villas with most decorative details still intact, set in gardens.*
- *Displays fine collection of densely developed Victorian commercial buildings.*
- *Through the absence/presence of back lanes, changes in the subdivision pattern, and the range of existing buildings it illustrates the evolution of the grand plan for Annandale, in response to the market, from a suburb of middle class villas to one of terraces and semis for tradesmen and workers.*

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5.4 Contribution of the house to the significance of the conservation area

In some LGAs there is a formal listing of identified contributory, neutral and intrusive items in conservation areas, and/or a series of definitions to be applied, as outlined in 4.6 above. Contributory items may be defined as dating from a key period of development with any alterations being minor or reversible. Neutral items may be recognisable but irreversibly altered buildings from the key period, or complementary infill. Intrusive items are unsympathetic infill.

There is no such system in the Leichhardt DCP, but on the basis of the above definitions and statement of significance, and its individual listing, the building is considered contributory.

⁹ Godden Mackay Logan, Heritage Consultants, *Leichhardt Heritage Review: Stage 2* Report prepared for Leichhardt Municipal Council, January 2004

5.5 The proposal

The proposal is fully described in the drawings. Its purpose is to provide for the reasonable needs of a modern family in what is now a small residence on a small site, to retain and conserve all remaining original fabric, and to reinstate lost original features to the greatest extent possible.

The major aspects of the proposal are

- reinstating the original and early openings at ground and first floor level,
- combining the former shop and back room spaces,
- the addition of a new space above the present single storey part of the building, and
- conservation of the parapet, veranda, awning and brickwork generally.

The dimensions of the openings which have been bricked up have been ascertained by close inspection, except that there may be an arch behind the wide external architrave over the shop front window on the east. The openings will be reinstated. The later entry to the shop from Rose Street, now bricked up again, will also be reopened as a window to provide light and air through the main living space. As the reinstated French doors on the splayed corner will become the front door to the residence, the non-original door will be removed from the doorway on Rose Street. This will be fitted with a full height window, as will the adjacent bricked up arched opening. The details of the original joinery to the altered openings are not known. The new joinery will be painted timber but will, appropriately, be understood on close inspection as not being original.

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The c. 1992 timber-framed and plasterboard-clad wall with reproduction French doors will be removed and the floor level adjusted as shown. The ceiling is modern plasterboard and will have to be removed and replaced to ensure the structural adequacy of the bearers supporting the cantilevered balcony. Nibs will be constructed to better express the removal of the wall between the shop and back room spaces. The non-original decorative plaster band on the walls at picture rail height will be removed.

The rear additions will not increase the footprint of the building. The first floor rear bedroom space, added in 1965, will be subsumed into the new volume, with its floor level lowered to allow a lower roof line: well below the parapet of the original two-storey form. The south wall is proposed to be finished with timber weatherboards, set between exposed studs. Where there are windows, they will be screened with operable louvres having the same traditional weatherboard section. It is recognised that pre-DA advice did not favour this approach but further consideration is now sought, for the reasons discussed in 5.6.

The western end of the extension is proposed to have a “box awning.” Again, the pre-DA advice was that the treatment here should be traditional, but further consideration is now sought, for the reasons discussed in 5.6.

The proposed conservation work, mainly to the external timber of the veranda and awning, is based on concurring engineering and heritage advice. It is proposed to raise the height of the balustrade by fixing a small diameter metal tube between the posts above the handrail.

The Colorbond fence on the Rose Street boundary is proposed to be replaced with a timber fence.

5.6 Impact on the significance of the item

Every care will be taken in documentation and construction to ensure that there is no physical damage to the significant fabric of the item, to the attached house, to other properties in the conservation area or to the public domain.

There will be no impact on views towards the original part of the item, either from the street or from within the site. There will be no impact on significant views from the item, which would be the views from the balcony.

None of the fabric to be demolished is original. The major demolition is of extensions at the rear, some of which replace earlier extensions dating from 1965. This part of the building is graded as making little contribution through the significance of the item, i.e. does not fulfil the criteria for listing. The pre-DA advice recommended "no demolition of original walls," and in the discussion at that time it was mentioned that the external toilet should be retained if original. As shown, it dates from 1965.

The changes to the original two storey building only involve the removal of altered fabric, graded as making only a moderate contribution. Externally, this comprises the unblocking of openings; internally, the removal of altered walls and finishes.

While in most cases the original details are not sufficiently well known for the new work to be considered reconstruction as defined by the Burra Charter, such work, mostly joinery, can be regarded as sensitive interpretation.

The adaptive reuse of a former shop space is frequently problematic because large display windows on the street boundary are not conducive choose a privacy required for domestic use. The proposed use of fluted glass is an effective, minimalist response.

The proposed colour scheme uses traditional colours, subdued but basically warm for the masonry, appropriate to the Federation (not Victorian) period from which the building dates.

The replacement of the intrusive Colorbond fence with a timber fence will have a positive impact.

Consequently the proposed major demolition will have no impact on the significance of the item, while the alterations to the original part of the building will have a substantial positive impact.

The other major issue is the impact of the new extension. This will mainly be viewed from Rose Street. The ground floor will remain as it is, with the existing 3m wide fibro-clad, skillion-roofed first floor extension replaced by a timber-clad one, also with a skillion roof, extending to the western end of the ground floor.

The additional massing will not be excessive, or overwhelming. The change in material will break down the height, which is, like the existing extension, far lower than the parapet and the adjacent terraces in Rose Street.

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It is acknowledged that the pre-DA advice was to specify weatherboards for this cladding, to use traditional steeply raked awnings in lieu of louvres, and to adopt a more traditional approach to the rear elevation.

The ICOMOS Practice Note *Burra Charter Article 22 – New Work*, states:

The 1999 version of Article 22.2 of the Burra Charter (*'New work should be readily identifiable as such'*) has sometimes been used to support new design which does not respect the cultural significance of the place. Consequently, in the 2013 *Burra Charter* Article 22.2 has been revised to read: *New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.*

The Note goes on to discuss how different design approaches can be valid, as long as the context is respected.

It is submitted that in this case, the proposal does indeed respect the significance of the item. The proposed wall treatment, using natural timber, with the studs and louvres subtly adding to the visual texture, is an appropriate variation on the traditional weatherboard extension. The rear elevation with its "box awning" (which will only be seen obliquely) expresses the contemporary idea of a spatial flow and easy movement between the interior and exterior, which was not such a feature of the Federation period.

This approach has been taken, with varying degrees of success, throughout the Inner West. A good recent example on a nearby corner is 27 Rose Street.

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The proposed extension is a highly accomplished, subordinate and complementary replacement for the existing undistinguished fibro addition. It will considerably enhance the item's heritage significance.

There are no aspects of the proposal which will diminish the item's significance.

5.7 Impact on the Conservation Area, Annandale Distinctive Neighbourhood and the streetscape

For the reasons given in 5.6, the proposal will enhance the contribution which the item makes to the heritage significance of the Conservation Area; the visual appeal of the streetscape; and the character of the Annandale Distinctive Neighbourhood.

6 CONCLUSION

The proposal will have a positive impact on the heritage significance of the item and Annandale Conservation Area, and will enhance the streetscape.

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State Library of NSW 832553



John Young Photo: Wikipedia, unattributed

