

# **Attachment A**

<b>Independent Assessment Report</b>
--------------------------------------

**Development Application: 113 Commonwealth Street, Surry Hills****File No.:** D/2020/762**Summary**

<b>Date of Submission:</b>	11 August 2020
<b>Applicant:</b>	Helen Reynolds
<b>Architect/Designer:</b>	Margaret Desgrand
<b>Developer:</b>	N/A
<b>Owner:</b>	Helen Reynolds
<b>Cost of Works:</b>	\$277,541.00
<b>Zoning:</b>	B4 – Mixed Use, proposal permissible with consent
<b>Proposal Summary:</b>	<p>Alterations and additions to an existing two storey terrace property.</p> <p>A conflict of interest has been identified in relation to the application and therefore the application is referred to the Local Planning Panel for determination.</p>
<b>Summary Recommendation:</b>	The development application is recommended for approval, subject to conditions.
<b>Development Controls:</b>	<ul style="list-style-type: none"><li>(i) Sydney Local Environmental Plan 2012</li><li>(ii) Sydney Development Control Plan 2012</li></ul>
<b>Attachments:</b>	<ul style="list-style-type: none"><li>B. Recommended Conditions of Consent</li><li>C. Selected Drawings</li><li>D. Clause 4.6 Variation Request</li></ul>

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of Building' development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No. D/2020/762 subject to the conditions set out in Attachment B to the subject report:

## Reasons for Recommendation

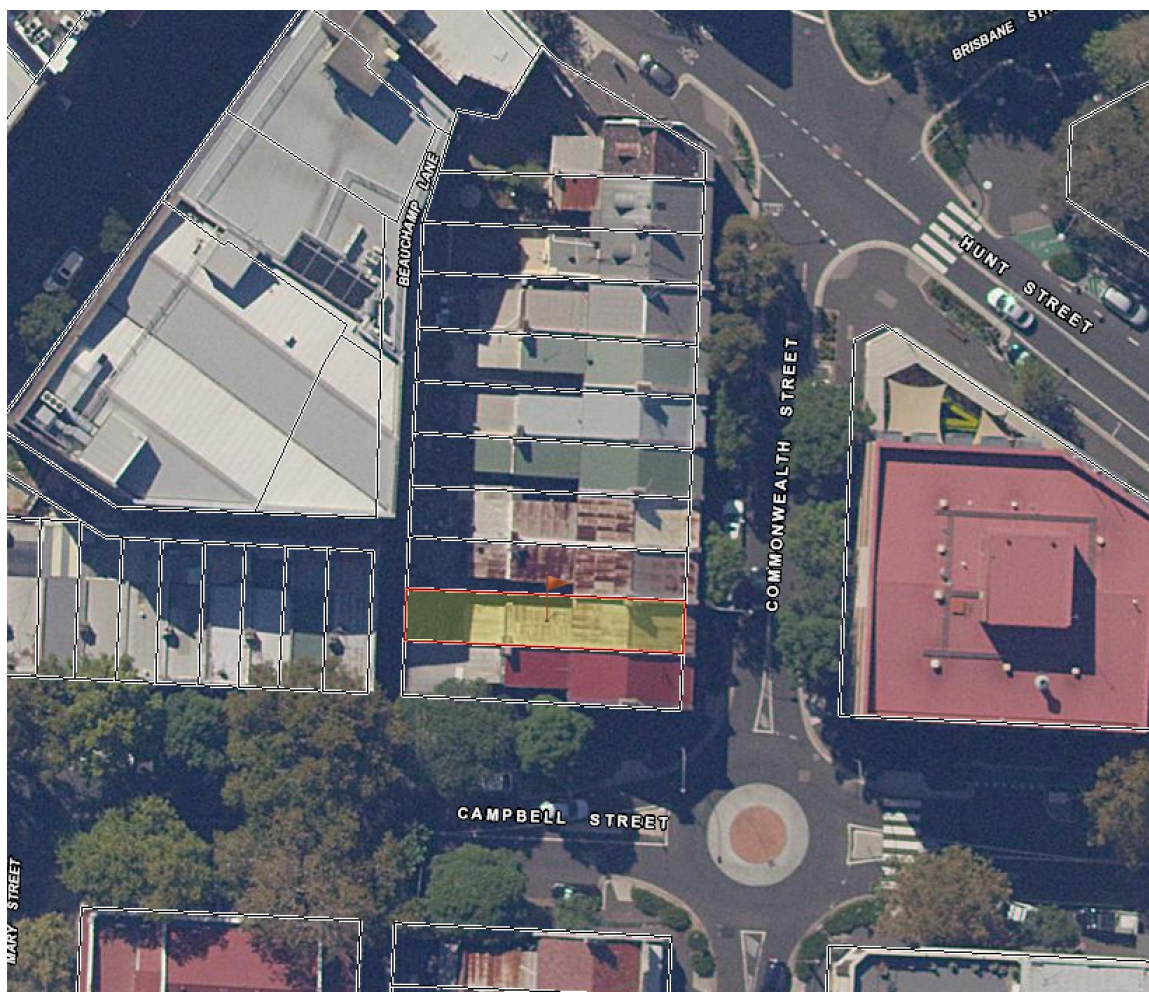
The application is recommended for approval for the following reasons:

- (A) The proposal is consistent with the objectives of the B4 Mixed Use Zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'Height of Building' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney Local Environmental Plan 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the 'Height of Building' development standard.
- (C) The proposal complies with the floor space ratio development control.
- (D) The proposal satisfies the provisions of clause 6.21 of Sydney Local Environmental Plan 2012
- (E) The development accords with the objectives of relevant planning controls.
- (F) The proposal is considered to be in the public interest.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by the independent planning consultant on 14 September 2020.
2. The site is rectangular, with an area of approximately 115sqm. It has a primary street frontage to Commonwealth Street and a secondary street frontage at the rear to Beauchamp Lane. The site is located close to the intersection of Commonwealth Street and Campbell Street. A two storey mid-terrace house is contained within the site.
3. Surrounding land uses are a mix residential and commercial. The site is within a row of 11 residential terraces running from the southern intersection with Campbell Street to the northern intersection with Hunt Street. Opposite the site at No.11 Hunt Street is a multi-storey building known as Charles Chambers Court which is a residential aged care facility.
4. The site is not a heritage item and is not within a conservation area.
5. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial image of subject site and surrounding area (Source: SixMaps)



**Figure 2:** Site viewed from Commonwealth Street



**Figure 3:** Rear of the subject site looking north along Beauchamp Lane





**Figure 4:** Rear wing of the existing building



**Figure 5:** Existing covered laundry area within the rear garden



**Figure 6:** Existing rear external toilet

## Proposal

6. The application seeks consent for alterations and additions to the existing dwelling on the site, comprising:

**(a) Alterations**

- i) alterations to the original rear veranda and external laundry space to form an internal laundry with ancillary bathroom facilities and an enclosed rear veranda space;
- ii) incorporation of the original water closet into the new laundry and bathroom facilities as a shower recess and cupboard space;
- iii) enlargement of the existing kitchen to provide internal access to the new laundry and bathroom facilities, requiring demolition of sections of non-load bearing brick wall adjacent to the kitchen fireplace;
- iv) renovation of the ground floor kitchen and first floor bathroom with new (internal) fixtures and fittings;
- v) installation of stainless steel rainwater tank and connect overflow to main stormwater disposal drainage system;

- vi) construction of steel framed enclosure for waste disposal bins. Two options are included in this DA: Location 1 in the rear garden, Location 2 in the side garden; and
- vii) application of render and paint to southern boundary wall (with 113A Commonwealth St).

Note: all works are contained within the extant building envelope except for the 150mm projection of a folded hood to protect the infill glazing to the northern elevation of the rear lean-to veranda enclosure. No increase to the footprint of the building is proposed.

**(b) Conservation Works**

The site is not heritage listed, nor is it within heritage conservation area. However, the historic value of the building is recognised and the owner seeks to conserve original fabric where possible.

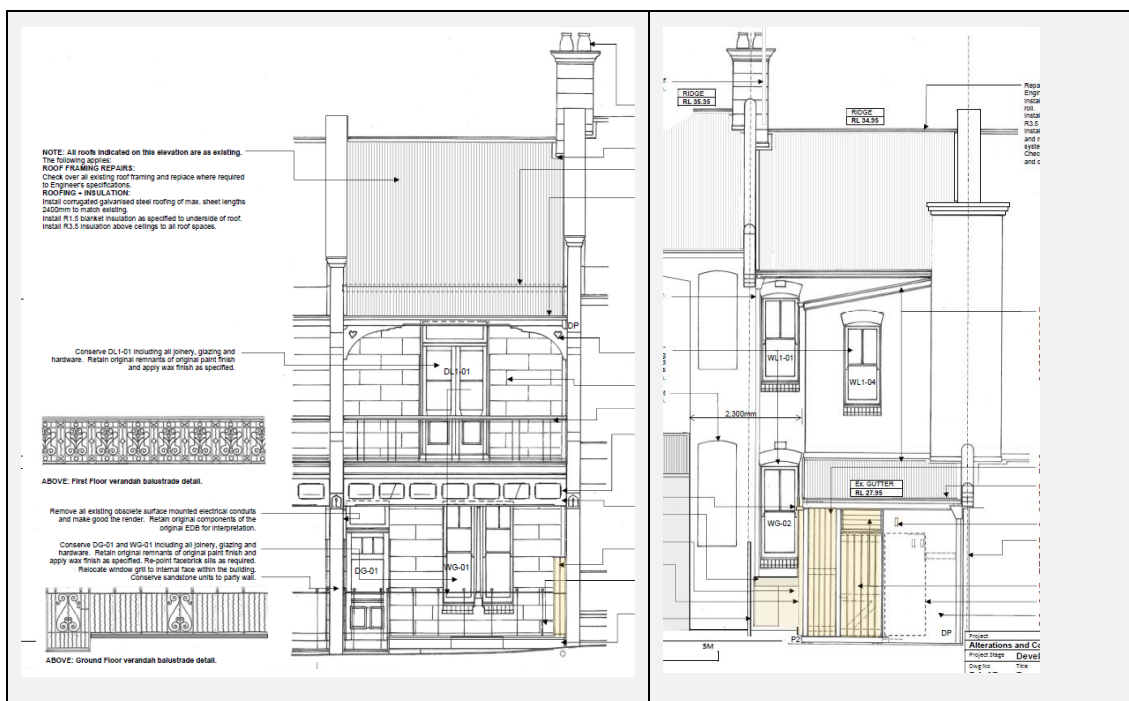
The proposed conservation works are summarised as follows:

- i) conserve all existing components of the ground and first-floor verandas and fit new timber handrail to the balustrade of the first-floor level veranda, profile to match the existing;
- ii) undertake structural repairs to the truss/beam supporting the first-floor front balcony to engineer's specifications;
- iii) conserve all original external paint finishes, and do not paint over. Clear wax finishes to be applied where specified;
- iv) conserve DG-01, WG-01, DL1-01 (as notated on drawings) including all joinery, glazing and hardware;
- v) remove all paint from face brickwork of the northern and western elevations;
- vi) repair roof frames, replace galvanised steel roofing to match existing, repair flashings, ridge capping and chimney trays;
- vii) install new gutters, rainwater heads and round pattern downpipes, and connect to main stormwater disposal system;
- viii) repair floorboards;
- ix) conserve internal joinery components including architraves, skirtings, door and window joinery and picture rails;
- x) conserve internal plasterwork including wall and ceiling plaster, cornices, ceiling roses and hallway arch detailing;
- xi) conserve original glazing and door and window hardware including latches, bolts and fanlight lifts; and
- xii) conserve extant fireplace components.

**(c) Landscaping works**

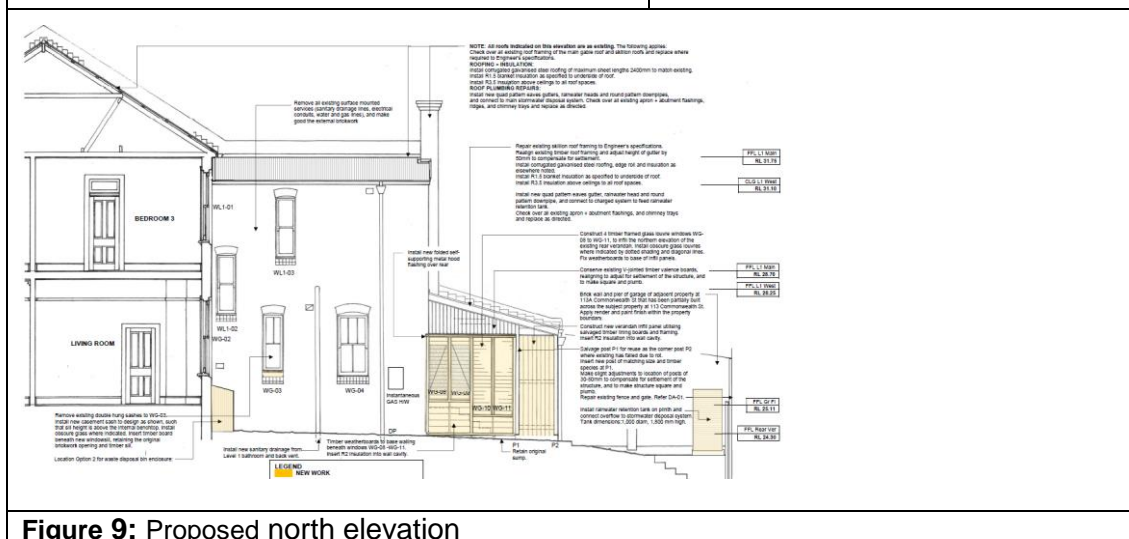
- i) Repair existing gate and fence along the length of the property boundary to Beauchamp Lane as required;
- ii) Excavate behind existing brick retaining wall along property boundary to Beauchamp Lane, undertake structural repairs to engineer's details and install subsoil drainage system and new gravel backfill. Re-point brickwork;
- iii) Install new pavers, gravel paving and planting to rear garden; and
- iv) Retain and repair existing stone steps and side retaining walls.

7. Plans of the proposed development are provided below.



**Figure 7: Proposed front elevation**

**Figure 8: Proposed rear elevation**



**Figure 9: Proposed north elevation**



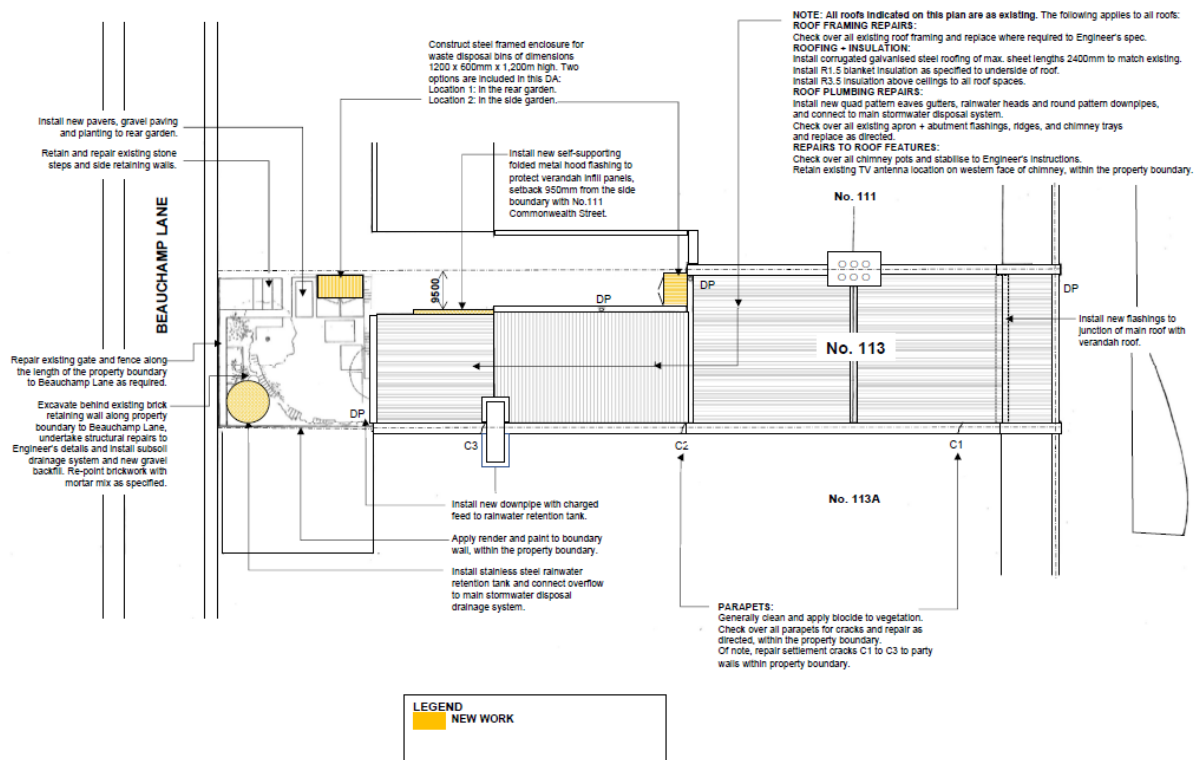


Figure 10: Proposed site plan

## Economic/Social/Environmental Impacts

8. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

(a) Environmental Planning Instruments and DCPs.

### State Environmental Planning Policy No 55—Remediation of Land

9. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
10. The site has been in use as a dwelling for over 100 years and no excavation is proposed. As such no concerns relating to contamination are raised.

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

11. A BASIX Certificate has been submitted with the development application.
12. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

### Sydney Local Environmental Plan 2012

13. The site is located within the B4 Mixed Use zone. The proposed development is alterations and additions to a dwelling house and is permissible.

14. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of 9m is permitted.</p> <p>Works to a height of 10.28m are proposed.</p> <p>No change to the building height is proposed. Whilst replacement galvanised roof steel and roof beams will be installed these are within the existing building envelope and amount to repair and maintenance works that would not technically require development consent. The applicant has submitted a precautionary Clause 4.6 variation request discussed below under Issues.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 1.5:1 is permitted.</p> <p>A FSR of 1.02:1 is proposed.</p>
5.10 Heritage conservation	Yes	<p>The subject site is not a heritage item and is not within a heritage conservation area.</p> <p>However, it is located in close proximity to a heritage item to the rear at 102 Campbell Street and the Fosterville Heritage Conservation Area.</p> <p>The development proposes only minor works within the existing building envelope. Historic fabric is proposed to be restored which will preserve and enhance the character and significance of the nearby heritage items and heritage conservation area.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	The proposed development satisfies the requirements of this provision. The scale, form, materials and design of the proposed alterations and additions are appropriate to the building type and location, ensuring no detrimental impact to the character and appearance of the public domain or streetscape.

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil. No significant excavation is proposed, the site is not within 500m of any other class of Acid Sulphate Soil and the watertable is unlikely to be lowered by 1m. As such, no further information is required.

### Sydney Development Control Plan 2012

15. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

#### 2. Locality Statements – Surry Hills (City Edge)

The subject site is located in the Surry Hills City Edge locality. The proposed alterations and additions to the dwelling house are considered to be in keeping with the unique character of the area and design principles in that it retains the historic built form and restores important period features, new additions are complementary to the architecture of the building and wider area.

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	<p>The existing building is not a heritage item and is not within a heritage conservation area. Nonetheless, it is an historic Federation era traditional terrace property. The building is in generally good condition, albeit with some minor alterations made throughout the years, all of which are reversible and none of which significantly affect the historic fabric or the character of the building.</p> <p>Given the age and condition of the building a Heritage Impact Statement has been submitted which considers that the proposed works retain and enhance the significance of the subject site.</p> <p>The development has been reviewed by Council's Heritage Officer who supports the development subject to standard conditions. Council's Heritage Officer has also referred the site to Council's Strategic Team to upgrade the heritage status of the building.</p> <p>See further discussion under the heading Issues below.</p>
3.10 Significant Architectural Building Types	Yes	<p>The building is a Federation era terrace greater than 50 years old.</p> <p>As previously noted, the proposal is in line with the character of the terrace.</p> <p>The proposal is consistent with the requirements of Clause 3.10.</p>

4. Development Types	Compliance	Comment
4.1 Single dwellings, terraces and dual occupancies		
4.1.1 Building height	Yes	<p>A maximum of 2 storeys is permitted.</p> <p>The proposed development does not increase the height of the building.</p>



4. Development Types  4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
4.1.2 Building setbacks	Yes	The building setback map is not applicable in this Surry Hills. Nonetheless, the building footprint is not proposed to be changed, rather existing structures are converted into habitable internal space.
4.1.3 Residential amenity	Yes	<p>The development is contained within the existing building envelope and does not propose any additional height or windows which will overlook adjoining properties.</p> <p>As such, there will be no additional overshadowing or overlooking caused by the proposed development.</p>
4.1.4 Alterations and additions	Yes	<p>The proposal includes alterations and additions to restore and repair historic building fabric and traditional period features. It also includes conversion of the existing rear laundry and external toilet to internal habitable floor space. There are minor alterations to the rear garden to enable waste storage and rainwater tank. Two options have been provided in regard to the waste storage begin a cabinet in the rear yard and another along the rear side setback return. There is no preference in this regard and the applicant may install one, or both of the proposed waste storage options given the lack of amenity or design impacts.</p> <p>The alterations and additions will not result in an increase in the total height of the existing dwelling or an increase in its footprint. The garden rainwater tank and waste storage are considered to be minor ancillary elements. The proposal is considered to be of an appropriate scale and appearance with no adverse impact on the scale and character of the existing building or streetscape.</p>

<b>4. Development Types</b>  <b>4.1 Single dwellings, terraces and dual occupancies</b>	<b>Compliance</b>	<b>Comment</b>
4.1.5 Roof alterations and additions	Yes	<p>Only repair and maintenance works involving replacement of galvanised sheeting and internal timber beams are proposed to the roof.</p> <p>There is no increase in height and the proposed works are not taking place on a heritage item or within a heritage conservation area. Nonetheless, they are considered to be sensitive and appropriate to the age of the building. Council's Heritage Officer has reviewed the proposal and raises no concerns subject to standard conditions of consent.</p> <p>The proposed roof design is in keeping with the character of the existing dwelling and streetscape and is considered to be acceptable.</p>
4.1.8 Balconies, verandahs and decks	Yes	<p>The existing ground level front and first floor verandahs have had insensitive replacement balustrades installed. It is proposed to install traditional style ornate balustrades which are in-keeping with the architectural style of the building and wider terrace.</p> <p>This is considered to be an improvement on the existing situation and enhances the historic character of the building.</p>

## Issues

### Clause 4.6 request to vary a development standard

16. The site is subject to a maximum height control of 9m. The existing development has a maximum height of 10.280m to the roof ridge. The proposed development seeks to replace existing building fabric with like for like materials above the 9m height control, no increased building height beyond the existing maximum roof ridge height is sought.

17. Nonetheless, as the works take place above the 9m height limit a written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard;
  - (c) The proposed development will be consistent with the objectives of the zone; and
  - (d) The proposed development will be consistent with the objectives of the standard.
18. A copy of the applicant's written request is provided at Attachment D.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

19. The applicant seeks to justify the contravention of the height of building development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) the objectives of the development standard are met notwithstanding the non-compliance; and
    - (ii) the objectives of the zone are met notwithstanding the non-compliance.
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
    - (i) the development maintains the existing building and its sympathetic relationship to nearby heritage items and the conservation area;
    - (ii) the works are contained within the existing building envelope and will not create any additional amenity impacts; and,
    - (iii) is to maintain the building.
  - (c) The proposed development will be consistent with the objectives of the zone:
    - (i) The development does not propose to change the existing use or built form.
  - (d) The proposed development will be consistent with the objectives of the standard:
    - (i) The clause 4.6 variation request demonstrates this throughout. The development maintains the existing historic built form and is therefore not antipathetic to the objectives of the standard.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

20. Development consent must not be granted unless the consent authority is satisfied that:

- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

21. The written request states that the development is consistent with the objectives of the height development standard as the area of non-compliance is located below the existing ridge and is appropriate to the condition of the site and its context. In accordance with the justifications set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case.

Does the written request adequately address those issues at clause 4.6(3)(b)?

22. The written request has demonstrated that the non-compliance will result in an outcome that is acceptable in terms of bulk and scale, will not change the height of the existing historic built form and is a like-for-like replacement of materials for the maintenance of the building. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

23. The proposed development is consistent with the objectives of the zone and the control. It does not alter the established height of the historic built form and is for the purposes of maintenance to support the ongoing use of the site as a dwelling. The existing residential use is compatible with other uses in the surrounding context and is the purpose the building was designed for.

24. It is therefore considered to be in the public interest.

**Conclusion**

25. For the reasons provided above the requested variation to the height of buildings development standard is supported. The applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012. The proposed development would be in the public interest because it is consistent with the objectives of the height standard and the B4 Mixed Use zone.

**Heritage**

26. The site is not a heritage item and is not within heritage conservation area. Nonetheless, it is a well-preserved federation era terrace property.



27. Given the age and condition of the property a Heritage Impact Statement has been submitted. The report considers that:-

*“The terrace row is rare for its high level of integrity, and ability to demonstrate aspects of the Federation Free style, a style rarely applied to the terrace form in the inner city area, for the quality of its architectural design, and for its use of high quality materials and construction techniques, including the innovative use of a timber truss system in supporting the front verandah. The internal planning is significant for the progressive focus on functionality, utility and health in lieu of decoration, and is comparative to the progressive work of the NSW Government Architect and Sydney Harbour Trust in the post resumption redevelopment of the Rocks and Millers Point.*

*No. 113 Commonwealth Street is particularly rare for its high level of integrity. Its ability to demonstrate the nature of finishes typical of the period and style, both internally and externally, is also rare at a local level.”*

28. The report also states:-

*“The proposed works, retain and enhance the heritage significance of the subject site, that is not identified by any statutory planning control, by conserving all original external and internal extant fabric, by retaining the original exterior form, and by retaining the overall logic of its original internal spatial configuration, with only minor changes to the spatial configuration of the utility areas of the rear lean-to.*

*The proposal will have no impact upon the setting and views of the heritage items and the heritage conservation area within the vicinity of the site. The proposal is therefore consistent with the objectives of Sydney Local Environmental Plan 2012 Clause 5.10(1), and with the objectives of Sydney Development Control Plan 2012 Clause 3.9.5”.*

### **Other Impacts of the Development**

29. The proposed development is capable of complying with the BCA.
30. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

### **Suitability of the site for the Development**

31. The proposal is of a nature in keeping with the overall function of the site. The site is within a residential setting including similar uses to that proposed.

### **Internal Referrals**

32. The application was referred to Council's Heritage Officer and Urban Design Team and Public Domain Team who advised that the proposal is acceptable subject to the recommended conditions.

## External Referrals

### Notification, Advertising and Delegation (No Submissions Received)

33. In accordance with the Community Participation Plan 2019, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 17 August 2020 and 1 September 2020, a total of 40 properties were notified and no submissions were received.

## Public Interest

34. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

## S61 Contribution

35. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013. A condition of consent is included to ensure that a contribution of 1% of the total cost of the development is payable to Council prior to the issue of a construction certificate.

## Conclusion

36. Having regard to all of the above matters, it is considered that the proposal for alterations and additions to the existing terrace generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012, is acceptable and is recommended for approval subject to conditions as shown in the attached Decision Notice.
37. The undersigned declare, to the best of their knowledge that they have no interest, pecuniary or otherwise, in this development application or persons associated with it and have provided an impartial assessment.

**FERGUS FREENEY, PLANNING INGENUITY (EXTERNAL CONSULTANT PLANNER)**