

STATEMENT OF HERITAGE IMPACT



No. 44A Mayfair Road, Mulgoa

November 2019

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1.0 Introduction

This report has been prepared on behalf of the property owner to assess the potential heritage impacts and to accompany the Development Application for the proposed new dwelling at No. 44A Mayfair Road, Mulgoa (the site).

2.0 Background & heritage listing status

It is currently proposed to construct a new, single storey dwelling on the existing lot of No. 44A Mayfair Road. No. 44A Mayfair Road is located on the southern side of Mayfair Road which is a sealed and partially kerbed no-through road extending west from Mulgoa Road. The roadway rises as it extends away from Mulgoa Road and terminates some distance to the west of the site.

No. 44A Mayfair Road is an irregularly shaped site that has long frontage along Mayfair Road. The site was part of an early land grant, Hobby's Farm, and was later amalgamated and re-subdivided from the historic *Fernhill Estate*, which is located to its south.

The site has been partially cleared with some level area located close to the roadway. The land falls to the south and is also bounded by a relatively dense tree line. A right of way extends along the narrow, western site boundary to access another lot located to the immediate south and that extends between the subject site and the much larger *Fernhill Estate*.

No. 44A Mayfair Road is not been listed on the State Heritage Register and is not classified by the National Trust of Australia (NSW). No. 44A Mayfair Road (Lot 12, DP 610186) has, however, been identified as being part of the *Fernhill* "curtilage" (Nos. 1147-1187 Mulgoa Road and Nos. 10-156 Mayfair Road, I873) which has been listed as a local item under Schedule 5 of the Penrith Local Environmental Plan (LEP) 2010. *Fernhill* is listed as State item under the LEP and as a historic landscape on the State Heritage Register (SHR 00054).

As such Penrith Council must take into consideration the potential impacts of any proposed works on the cultural significance, character and setting of *Fernhill*, its setting and landscape and site as part of its curtilage.

This assessment is based on an inspection of the site, review and analysis of the context. The report follows the standard format, in accordance with the guidelines provided by the Heritage NSW, Department of Premier and Cabinet and includes site specific information, description of the existing site and context. The historic outline is based on information on the NSW Heritage Database and Land Titles. The proposed works have been assessed with reference to the Penrith Local Environmental Plan (LEP) 2010, Development Control Plan 2014 and standard criteria. The purpose of the report is to outline how any potential heritage impacts may be reduced or are mitigated.

3.0 Historical overview

Prior to European occupation, the area was occupied by the Mulgowie people who became known as the "Mulgoa tribe". The European settlement of Mulgoa began in 1810 and the valley soon became a key area in the settlement of the colony.¹

The first land grant was made to Lieutenant William Cox, a colonial magistrate, in 1809. Cox promptly registered the property in the name of his infant son, Edward. Governor Macquarie confirmed the grant in the following year by which time it had been given the name "Fern Hills".²

¹ NSW Heritage Database No. 50454236.

In 1842 Edward Cox began construction of a sandstone house on the much larger estate. The house was planned on a large and sophisticated scale in the Greek Revival style, possibly by colonial architect Mortimer Lewis. The architect is not known. Architect, John Verge and another architect who was working in the area at the time, Francis Clark, may have also designed the building. Twenty stone masons from Ireland were brought out to Australia to complete the work which used locally quarried stone. It appears to have been designed as a two storey building, however, the recession of the 1840s may have prevented the construction of the upper storey. Edward and Jane occupied the house in 1843. Edward Cox and his family lived in the house until his death in 1868 at which time the property passed to his eldest son, Edward King Cox.



(NSW Land and Property Information, Parish Maps, Parish of Mulgoa Sheet 1).

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A stable, which remains to the west of the house was said to be built in 1839 and by the time of Edward (the senior's) death the estate had been described as being well situated on rising ground and surrounded by well kept lawns, shrubberies and a vineyard. Edward King Cox was a breeder of fine race horses and operated Fernhill Stud which was centred around The Cottage, located to the south east of the main house. Stables continue to operate here.

Following EK Cox's death in 1883 the estate was divided and in 1888 the house and surrounding land were sold. For some years, possibly due the recession of the 1890s *Fernhill* was vacant, however, by 1911 the property had been transferred to RB Baynes, Mayor of Mulgoa.

Ownership of *Fernhill* and 1000 acres were transferred again in c. 1931. The new owners ran it as a guest house.⁵ However, the subject site appears to have been part of the land that was subdivided and sold and in 1920 was part of 2202 acres transferred to the Perpetual Trustee Company Limited. The land comprised of parts of Thomas Hobby's, William Cox's and other grants located to the north of the original *Fernhill Estate*. The company sold all 2202 acres in 1922 and in 1923 the land was transferred to the sole ownership of Donald Hattersley, a grazier from Penrith.⁶

Hattersley retained portions of the land, however, a large portion was transferred again in 1929, 1935 and 1939. During this period parts were also resumed for the formation of roads. By 1948 the subject site was part of just over 953 acres (Lot 13) which was subdivided and sold from 1951. The subject site was part of Lot 6 of the subdivision which with other parcels of land was transferred to Harold Edward Osher Campbell in 1956. Lot 6 was subdivided into two lots and the subject site was formed in c. 1959 (**Figure 3.2**). Ownership of the subject site has been transferred since that time.⁷

In the 1950s Mr John Darling, a war veteran, banker and businessman bought the *Fernhill Estate* and gradually restored the house and garden from the 1960s. The house and 1000 acres were sold again in 1980 to property developer Warren Anderson. Anderson also undertook some works to the building and in the early 2000s also acquired adjoining properties to the north of *Fernhill*, uphill and visually prominent to its setting. However, this does not appear to include the subject site.

Anderson's fortunes, however, turned and in 2010 the estate was seized and options explored by the receivers and vendors, Angas Securities. From this time various uses and potential buyers were noted in the press.

Angas Securities also gained approval to subdivide the western portions and in 2016 a planning proposal relating to the subdivision of land along the eastern portion and Mulgoa Road frontage was also prepared.

In March 2018 the NSW Government entered into a contract to the purchase the central precinct of *Fernhill Estate* in recognition of the its cultural significance and to have quality green open space for Western Sydney to enjoy for future generations. The 385 hectares purchased included of the heritage listed homestead, another home and outbuildings, gardens, lakes, paddocks, equine facilities and 2km horse race track.⁸ These are also located to the south of the site (**Figure 3.3**).

⁵ NSW Heritage Database No. 50454236.

⁶ NSW Land and Property Information, Certificate of Titles, Volume 3114 Folio 131, Volume 3398 Folios 57 & 58 & Volume 3491 Folio 184.

⁷ NSW Land and Property Information, Certificate of Titles, Volume 4319 Folio 7, Volume 5776 Folio 103, Volume 5776 Folio 103, Volume 7166 Folio 46, Volume 9407 Folio 149 & Volume 14422 Folio 216, DP 211795, DP 23789 & DP 610186.

⁸ NSW Heritage Database No. 50454236.

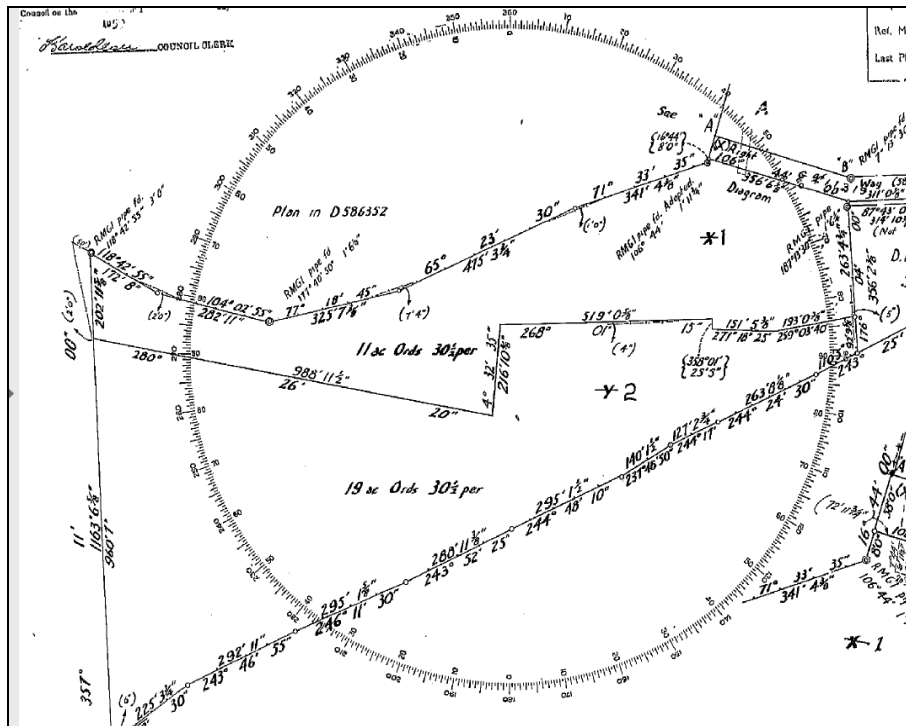


Figure 3.2 c. 1959 subdivision that created the site, Lot 1 (now Lot 12 DP 610186). Another lot is located to the south.

(NSW Land and Property Information, DP 211795)

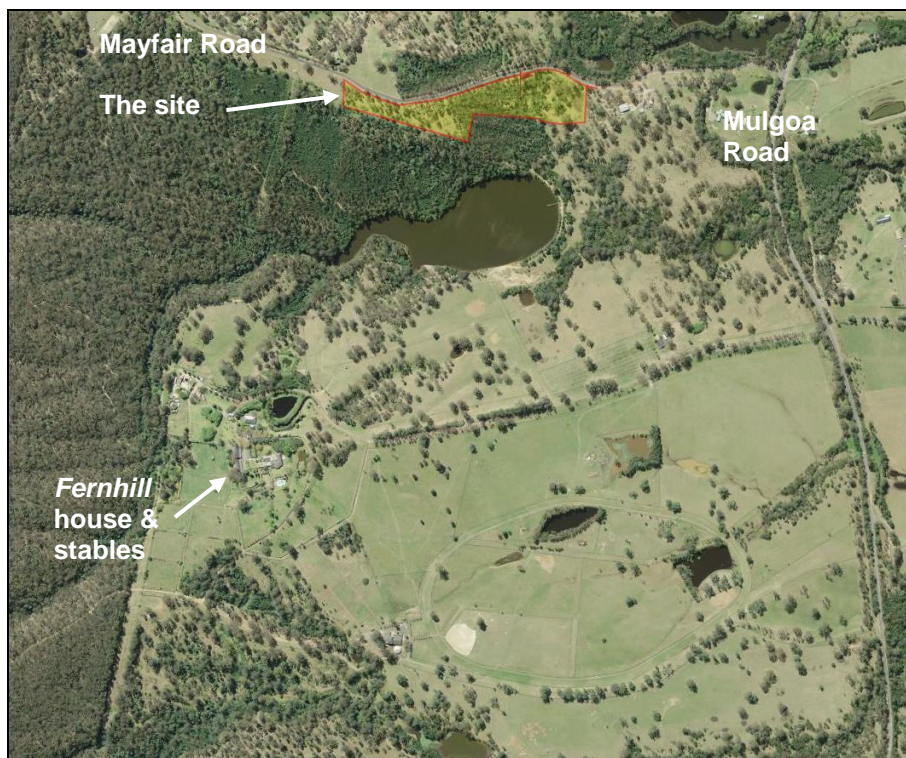


Figure 3.3 Recent aerial showing the site in relation to Fernhill.

(SIX Maps)

4.0 The site & context

The subject site is located on the southern side of Mayfair Road which is a sealed dual carriageway with some concrete kerbing. The roadway curves and rises as it extends west of Mulgoa Road and terminates some distance to the west of the site.

A number of substantial, single storey, modern and contemporary dwellings have been constructed on the lots to the west and north of the site, however, the area remains heavily treed and semi-rural in character.

To the immediate west of the site, No. 44 Mayfair Road is a single storey face brick contemporary dwelling with rendered and stone details and hipped roof clad in corrugated steel. The building is low lying and has open verandahs at the front and rear of the building. The building is setback from the street frontage. A concrete driveway and lawn are located between. A single storey flat roofed contemporary dwelling is also located further west on the southern side of the street.

The subject site is an irregularly shaped lot with long frontage along Mayfair Road. The site is free of any buildings and structures and has been partially cleared, however, retains a number of trees. A gate and access is located at the western end of the site which also has an access easement for the lot to the immediate south of the site. The site occupies an elevated area and land falls to the south from the southern site boundary. A dense tree line extends parallel to the southern site boundary and down the slope and screens views to the neighbouring property, which is located below the level of the site and further south toward *Fernhill*.



Figure 4.1 View looking along Mayfair Road near the subject site.



Figure 4.2 To the immediate north of the site, No. 44 Mayfair Road is a single storey face brick dwelling with hipped roof clad in steel



Figure 4.3 The building is setback from the street frontage with lawn and concrete driveway extending to the front of the house.



Figure 4.4 Further west is another single storey contemporary dwelling with flat roof.



Figure 4.5 Dwelling located to the west of the site.



Figure 4.6 View looking east along Mayfair Road.



Figure 4.7 Access to the site.



Figure 4.8 An access easement extends along the western end of the site and shared boundary with No. 44 (mid shot).



Figure 4.9 The approximate location of the proposed dwelling.



Figure 4.10 Looking toward *Fernhill* which is located to the south of the site. A relatively dense tree line extends along the southern site boundary (note the fence).



Figure 4.11 View looking east across the site.

5.0 Summary analysis and assessment

No. 44A Mayfair Road, Mulgoa, is part of an early grant (1810) to Thomas Hobby who appears to have established a farm of the land. By the 1840s it had been amalgamated into the *Fernhill Estate*, however, appears to have been sold and was in separate ownership by 1900 from which time it was consolidated with other parcels of land and re-subdivided. The subject site was created in c. 1959, however, the site is currently vacant. Two single storey dwellings have recently been constructed on the residential lots created to the west of the site and southern side of Mayfair Road. The land to the north west of the site, on the northern side of Mayfair Road also features several substantial dwellings.

The site is located to the north of the *Fernhill Estate* which retains a historic stone house which was constructed in 1842 and early stables. The Statement of Significance⁹ of the site is as follows:

The importance of Fernhill as a group of related sites (along with St. Thomas' Church, Mulgoa, and the Cottage, Mulgoa) is twofold: the landscape is exceptionally significant in its own right irrespective of the buildings, and is as important as the architectural, historic and visual relationships of the buildings themselves. This group of three sites retain their original visual relationship to each other and demonstrating the ambitions and changes in wealth and status of an important early colonial family (the Coxes) from 1810-1880s. The landscape between the Cottage, the Church and Fernhill has remained virtually unaltered since the 1850s. This landscape is a unique piece of evidence of a very rare attitude in the mid-nineteenth century towards the natural environment. Fernhill's landscape extends generally from Mulgoa Creek in the east to beyond the ridge of bush behind Fernhill house in the west, from Littlefields Creek in the south to Mayfields Road in the north. Fernhill setting is an extensive area of modified landscape providing a picturesque approach to the historic Homestead. The landscape is significant for the high degree of creative design achievement, attributed to the original owner, Edward Cox. It is historically significant for the following reasons: - the landscape is a rare Australian example of the English landscape school's design technique which modified existing landscapes to create a romanticised natural appearance; - the landscape demonstrates a cultural phase in Australia when landscape design was influenced by the teaching of Thomas Shepherd who advocated the adaptation of the English design technique. The landscape contains a richness of cultural features such as: - long vistas to the Homestead; - vistas to St. Thomas' (the family) Church spire from the Homestead; - use of water as a foreground for vistas and views; - ornamental bridges to articulate enframed views; and clumps of trees carefully created by thinning of native bushland (RNE) Fernhill is possibly the only intact early colonial garden laid out on the principles of the English Landscape Garden (a landscape "Park" in the picturesque manner) but relying entirely on indigenous plant material and the process of elimination (thinning and tree removal) rather than planting. (National Trust (NSW) 1981) While unfortunately somewhat altered in character and detail, Fernhill's remnant trees of the 19th century garden (Bunyas, stone pines, Chinese elms) around the house and the remnant garden layout are a carefully contrived culmination of the more important landscape drive. Fernhill was probably one of the last buildings completed in the Colonial period of New South Wales architecture. It was the home of Edward Cox, son of William Cox, and as such is intimately linked with much of the early rural development of the colony. Fernhill property retains most of its rural landscape character, including a visual relationship with the Cox family's earlier house Mulgoa Cottage and church, St Thomas' Church of England. (Report to Heritage Council 1978) Fernhill was constructed of stone quarried on the site and was probably one of the last buildings to be completed in the noble colonial period. It was at this time that the Greek and Romantic Revival period commenced in which the buildings were constructed of imported materials. (RNE listing).

⁹ NSW Heritage Database No. 2260128.

*Believed to be possibly the finest extant Greek Revival temple house in New South Wales. (Fox * Associates 1987: MV-4) The fact that the house was not completed (it is single storey, and was apparently to be two storeys) makes it physical evidence of the depression of the 1840s. Perhaps most significant is its siting. In the truly picturesque sense, it is sited like a Greek temple, on an acropolis of a site, to command the country for miles around. It is also significant as the home of a prominent settler, Edward Cox. (Stapleton for Dept. Of Planning 1983). Also See 2260873.*

The statement refers to the primary associations and relationships and curtilage extending to the east and west and also to the north. The main house and stables is located on an elevated position, some distance from the subject site. Open green pasture, treed and remnant bushland areas and a lake are located between. *Fernhill* also has a second dwelling, equestrian facilities and track which are also located some distance to the south of the site.

The subject site extends along the southern side of Mayfair Road and is neighboured by a similarly long and narrow, irregularly shaped site which neighbours the historic estate. Both the subject and neighbouring site are vegetated. A dense tree line currently extends along the southern site boundary and covers the neighbouring site to the south. The land falls away and falls toward the much larger historic estate. However, the historic house and associated elements are not visible from the subject site or from along Mayfair Road, largely due to the land form and trees. *Fernhill* house and surrounding landscape are visible and can, however, be appreciated from the east, along Mulgoa Road and as noted in the Statement of Significance on approach along the access driveways.

No. 44A Mayfair Road is of some historic and aesthetic significance as part of an early land grant and for its early association with the historic *Fernhill Estate*. The site developed separately, however, is part of the wider, visual curtilage of the estate which is a highly significant modified landscape. Despite some clearing and levelling, the subject site retains a vegetated and green setting.

The site is free of any buildings and has not been identified as an area of archaeological sensitivity. The archaeological potential of the site is considered to be low and disturbed by the clearing and levelling and addition of fencing. There appears to be no significant trees or elements on the site of the proposed new house.

6.0 Description of the proposal

It is currently proposed to construct a single storey dwelling in the north western section of the site of No. 44A Mayfair Road.

The new dwelling is proposed to comprise of five bedrooms with amenities, living and entertainment areas, open plan kitchen, dining and family area opening out to a covered alfresco. An open verandah is proposed at the front of the house, facing the street. The new dwelling has been setback from the street frontage with a new driveway also proposed to extend to three attached garages.

The house is contemporary in architectural design and character and incorporates concrete slab floors, rendered hebel and brick walls and details, aluminium framed windows and doors and timber framed hipped roof clad in steel, Colorbond roofing. The building form has been articulated and a neutral colour scheme with whites and greys is proposed.

A setback and easement along the western boundary has been retained. A concrete water tank is also proposed to the south east of the house and a treed and green setting is also proposed to be retained around the dwelling.

7.0 Heritage Impact Assessment

The relevant clauses of Penrith Council planning documents and guideline document on the preparation of Statement of Heritage Impact reports have been considered below.

7.1 Penrith LEP 2010 & DCP 2014

In accordance clause **5.10 Heritage conservation** of the PLEP 2010:

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The significance of site relates to its associational and aesthetic values as part of a modified green landscape and wider curtilage of *Fernhill*.

The proposed new dwelling is considered acceptable from a heritage point of view as it will have no adverse impact on the primary setting and curtilage of *Fernhill* or significant features and elements.

The site is located some distance to the north of the main house, stables and associated garden area with wide green landscape, lake and trees located between. Whilst part of the curtilage and wider visual catchment of the historic estate, the proposed dwelling is sited close to the Mayfair Road frontage and northern boundary of the identified curtilage. The proposed dwelling is low lying, single storey scale and occupies a relatively small portion of the subject site which will also retain green cover. The site and new dwelling will continue to be screened by the existing trees extending along the southern site boundary.

The main views to *Fernhill* are currently from the east along Mulgoa Road and on approach along the access driveways. Whilst the new dwelling may potentially be visible from the historic site, it is some distance from the built items. A large curtilage, open landscape and these primary views and vistas will be retained and not affected by the proposed new dwelling. The subject site has long been separately owned and new dwelling will have no adverse impact on the interpretation or future uses of *Fernhill Estate*.

Any potential visual impacts are also reduced by the grey metal roof which is recessive and will also blend with the existing tree cover when looking to the north from *Fernhill*.

In relation to section **C7.1.2 Heritage Items & C7.1.5 Development in the Vicinity of a Heritage Item or Conservation Area** of the PDCP 2014.

The heritage significance of the site relates to its historic, landscape and visual association with *Fernhill*. The proposed new dwelling will have no impact on the historic associations or primary landscape character, setting or primary views to and from the estate.

The primary views to the house and site from the east, along Mulgoa Road and on approach along the access driveways which will not be affected by the proposed new dwelling. The historic house and main garden area are located some distance from the subject site and with the wider landscape will be retained and able to be appreciated.

The proposed new house is low scale and will be located some distance to the north, close to the Mayfair Road boundary of the curtilage and will be screened by the existing trees and vegetation located on the northern edges of the estate and neighbouring site.

7.2 Heritage NSW criteria

The relevant questions have been considered in detail below.

How is the new impact of the new development on the heritage significance of the item to be minimised?

The proposed new dwelling is restricted to an existing, subdivided lot that has long been under separate ownership. Any potential heritage impacts of the proposed new dwelling are minimised in the following ways:

- by the retention of the existing subdivision pattern and site parameters;
- by the retention of the existing street access and access easement to the neighbouring lot to the south;
- by the restriction of the house to one section of the site and retention, where possible of trees and vegetation;
- by the low scale of the proposed house;
- by the contemporary architectural character of the building and use of appropriate and complementary building materials and colours including the grey, non reflective roof which is recessive and will blend with the existing tree and vegetation cover and screening; and
- by the retention and improvement of the surrounding site, garden areas and landscaping around the building.

How does the new development affect views to, and from the item and along the streetscape? Will the public and users of the site, still be able to view and appreciate its significance?

The proposed new dwelling is confined to the existing site which is currently largely screened by the existing tree and vegetation cover on the site and neighbouring lot to the south.

There are no views to *Fernhill* from this section of Mayfair Road due to the trees and landfall and the proposed new dwelling will continue to be screened by the existing tree line.

The proposed new dwelling is located to the north of *Fernhill* and will have no impact on the primary views which are currently from the east along Mulgoa Road and on the estate, on approach to the historic house. The new house will have no adverse impact on these views or its overall rural landscape character. The general public, current and future users of the site will be able to view and appreciate the significance of *Fernhill*.

Is the development sited on any known, or potentially significant archaeological deposits?

The development is not sited on any known deposits and archaeological potential of the site is considered to be low and disturbed. The area is recognised as a modified landscape and site appears to have undergone various subdivisions and partial clearing and fencing of the site and neighbouring lots.

8.0 Conclusion and recommendations

In summary, the proposed new dwelling at No. 44A Mayfair Road, Mulgoa, is considered acceptable from a heritage point of view.

The subject site forms part of the curtilage and visual catchment of the historic *Fernhill Estate*, however, is not part of the estate land and is separated and some distance from the historic house and its primary elements and landscape setting which will be retained and continue to be a prominent feature of the area.

Fernhill is not currently visible from the site or this section of Mayfair Road. The proposed new dwelling is located close to the Mayfair Road frontage and occupies a relatively small portion of the subject site. The existing site and neighbouring trees and vegetation will be retained and continue to separate and screen views to and from the new house.

The site is located to the north of *Fernhill*, and will have no impact on the primary views from the east, along Mulgoa Road and on approach to the estate which will remain highly visible and able to be appreciated.

Any potential adverse impacts are also reduced by the low, single scale of the new house, use of a neutral colour scheme and grey recessive roof colour.

On this basis, Council should have no hesitation in approving the proposed works on heritage grounds.