

**NOTICE**

**Bayside Local Planning Panel - Other Applications**

will be held in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany  
on **Tuesday 14 May 2024 at 4:00pm**

to consider items outside the public meeting  
in accordance with the Operational Procedures

**Members of the public do not have the opportunity to speak on these items**

**ON-SITE INSPECTIONS**

On-site inspections are undertaken beforehand.

**AGENDA**

**1 ACKNOWLEDGEMENT OF COUNTRY**

Bayside Council acknowledges traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

**2 APOLOGIES**

**3 DISCLOSURES OF INTEREST**

**4 MINUTES OF PREVIOUS MEETINGS**

4.1 Minutes of the Bayside Local Planning Panel - Other Applications  
Meeting - 23 April 2024.....2

**5 REPORTS – PLANNING PROPOSALS**

Nil

**6 REPORTS – DEVELOPMENT APPLICATIONS**

6.1 DA-2023/45 - 1015-1019 Botany Road, Mascot - Development  
Application.....9

6.2 DA-2023/226 - 52 Monterey Street MONTEREY - Development  
Application.....100

Meredith Wallace  
**General Manager**

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## Bayside Local Planning Panel - Other Applications

14/05/2024

Item No	4.1
Subject	<b>Minutes of the Bayside Local Planning Panel - Other Applications Meeting - 23 April 2024</b>
Report by	Rinda Cashion, Applications Processing Officer
File	SF23/8109

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### Recommendation

That the Bayside Local Planning Panel noted that the Minutes of the Bayside Local Planning Panel - Other Applications meeting held on 23 April 2024 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### Present

Dr Gary Shiels, Chairperson  
Judith Clark, Independent Expert Member  
Anthony Tribe, Independent Expert Member  
Ana Corpuz, Community Representative

### Also present

Luis Melim, Manager Development Services  
Christopher Mackey, Coordinator Development Assessment  
Pascal Van de Walle, Coordinator Development Assessment  
Fiona Koutsikas, Development Assessment Planner  
Edward Courtenay, Development Assessment Planner  
Ivy Zhang, Development Assessment Planner  
Haven Barr, Development Assessment Planner

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Deliberations commenced at 4:24pm.

## 1 Acknowledgement of Country

Bayside Council acknowledges the traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

## 2 Apologies

There were no apologies received.

### 3 Disclosures of Interest

There were no declarations of interest – refer to the attached declarations.

### 4 Minutes of Previous Meetings

#### 4.1 Minutes of the Bayside Local Planning Panel - Other Applications Meeting - 9 April 2024

##### Decision

That the Bayside Local Planning Panel noted that the Minutes of the Bayside Local Planning Panel - Other Applications meeting held on 9 April 2024 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### 5 Reports – Planning Proposals

Nil

### 6 Reports – Development Applications

#### 6.1 DA-2024/15 - 72 Clareville Avenue, Sandringham - Development Application

An on-site inspection took place at the property earlier in the day.

The following person spoke at the meeting:

- Miss Gorana Dubroja, an applicant's representative, spoke for the officer's recommendation and responded to the Panel's questions.

##### Decision

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority is satisfied that the applicant's written request to contravene Section 4.3 'Height of Building' of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority is satisfied that the applicant's written request to contravene Section 4.4 'Floor Space Ratio' of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.

- 3 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2024/15 for alterations and additions to a dwelling house approved under Complying Development Certificate CD-2023/223 to provide a roof top terrace at 72 Clareville Avenue, Sandringham NSW 2219 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report and subject to the following additional condition of consent:

*“The trafficable area is to be limited to the space within the planter box and the roof external to that planter box is to be for maintenance purposes only”.*

Name	For	Against
Dr Gary Shiels	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judith Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tony Tribe	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ana Corpuz	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for Panel’s Determination:**

The Panel adopts the reasons outlined in the Council Officer’s Assessment Report.

**Panel’s Comments:**

The Panel agreed with the assessment contained in the Council officers report and the conditions of development consent. However, the Panel felt that an additional condition should be imposed restricting access to the roof to the area within the planter box contained in Drawing A09. The condition should further state that the area outside the planter box is for non-trafficable purposes and only to be accessed for maintenance.

**6.2 MDA-2024/11 - 139 Sandringham Street, Dolls Point - Section 4.55 Modification**

An on-site inspection took place at the property earlier in the day.

The following person spoke at the meeting:

Mr Chris Tsioulos, an applicant’s representative:

- spoke against the officer’s recommendation;
- provided the Panel with submissions from neighbouring properties in support of the proposal; and
- responded to the Panel’s questions.

## Decision

- 1 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.55(1A) of the *Environmental Planning and Assessment Act 1979* is satisfied that the proposed modification:
  - a) is **NOT** of minimal environmental impact;
  - b) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - c) has been notified; and
  - d) has been assessed having regard to the relevant matters in s4.15(1A) of the *Environmental Planning and Assessment Act 1979*.
  
- 2 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application MDA-2024/11 being for modification of DA-2017/419 to an approved two (2) storey dwelling to increase the height of the rooftop access enclosure at 139 Sandringham Street, DOLLS POINT NSW 2219 by way of REFUSAL for the following reasons:
  - a) The additional proposed variation to the height limit above what was approved under DA-2017/419 is considered unreasonable and unacceptable. The modified proposal is inconsistent with relevant objectives of the Bayside LEP 2021, including the general aims of the plan, the objectives of the height standard being breached, and with the objectives of the R2 zone Low Density Residential zone.
  - b) The proposal is inconsistent with relevant objectives of Bayside Development Control Plan 2022 and generally inconsistent with the relevant requirements of Bayside Development Control Plan 2022, particularly with regards to parts:
    - 3.1 – *Site Analysis and Locality*;
    - 3.4 – *Heritage*;
    - 5.2.1.1 – *Streetscape, Local Character and Quality of Design*, and
    - 5.2.1.1 – *Built Form Controls*.
  - c) The proposal is an inappropriate response to the streetscape and topography, and will result in adverse impacts on the amenity of nearby residents and the heritage value of Cook Park.
  - d) The scale and design of the proposal is not suitable for the location as the height and design of the modifications are incompatible with the existing and desired future character of the locality.
  - e) Pursuant to section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, and for the reasons detailed above, the proposal is not in the public interest.

Name	For	Against
Dr Gary Shiels	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judith Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tony Tribe	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ana Corpuz	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for Panel's Determination:**

The Panel adopts the reasons outlined in the Council Officer's Assessment Report.

**Panel's Comments:**

The Panel supported the recommendations contained in the Council Officer's report. The Panel noted the comments from Mr Tsioulos and his suggestion of an alternate design that would lower the height of the roof structure. However, the Panel was concerned at the lack of detail for that option and how it would present to the surrounding area, particularly the heritage park.

The Panel was also presented with eight written submissions in support of the proposal from surrounding residents, each with similar wording. Those submissions were accompanied by a diagram showing the location of the supporting residents.

Notwithstanding the above, the Panel supported the Council Officer's recommendation which is included above.

Closed deliberations concluded at 5:04pm.

Certified as true and correct.

Dr Gary Shiels  
**Chairperson**



**Declaration of Interest - Bayside Local Planning Panel Meeting 23/04/2024**

Item	Description	Declaration of Interest
<b>Other Applications (Non-Public Meeting)</b>		
6.1	DA-2024/15 - 72 Clareville Avenue, Sandringham	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual <sup>1</sup> <input type="checkbox"/> , potential <sup>2</sup> <input type="checkbox"/> or reasonably perceived <sup>3</sup> <input type="checkbox"/> conflict of interest as detailed in the attached document.
6.2	MDA-2024/11 - 139 Sandringham Street, Dolls Point	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual <sup>1</sup> <input type="checkbox"/> , potential <sup>2</sup> <input type="checkbox"/> or reasonably perceived <sup>3</sup> <input type="checkbox"/> conflict of interest as detailed in the attached document.
<b>Public Meeting</b>		
6.1	DA-2023/158 - 1 / 1356 - 1362 Botany Road, Botany	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual <sup>1</sup> <input type="checkbox"/> , potential <sup>2</sup> <input type="checkbox"/> or reasonably perceived <sup>3</sup> <input type="checkbox"/> conflict of interest as detailed in the attached document.
Dr Gary Shiels Name (please print)		<div style="background-color: grey; width: 200px; height: 30px; margin-bottom: 5px;"></div> <div style="text-align: right; color: red; font-weight: bold;">23 / 4 / 2024</div> Signature Date



**Declaration of Interest - Bayside Local Planning Panel Meeting 23/04/2024**

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Judy Clark Name (please print)		<div style="background-color: grey; width: 200px; height: 30px; margin-bottom: 5px;"></div> <div style="text-align: right;">22 / 04 / 24</div> Signature Date



**Declaration of Interest - Bayside Local Planning Panel Meeting 23/04/2024**

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ANTHONY TRIBE Name (please print)		[Redacted Signature] Signature
		22/04/2024 Date



**Declaration of Interest - Bayside Local Planning Panel Meeting 23/04/2024**

Item	Description	Declaration of Interest
<b>Other Applications (Non-Public Meeting)</b>		
6.1	DA-2024/15 - 72 Clareville Avenue, Sandringham	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual <sup>1</sup> <input type="checkbox"/> , potential <sup>2</sup> <input type="checkbox"/> or reasonably perceived <sup>3</sup> <input type="checkbox"/> conflict of interest as detailed in the attached document.
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Maria Ana Corpuz Name (please print)		[Redacted Signature] Signature
		22 / 04 /2024 Date



## Bayside Local Planning Panel - Other Applications

14/05/2024

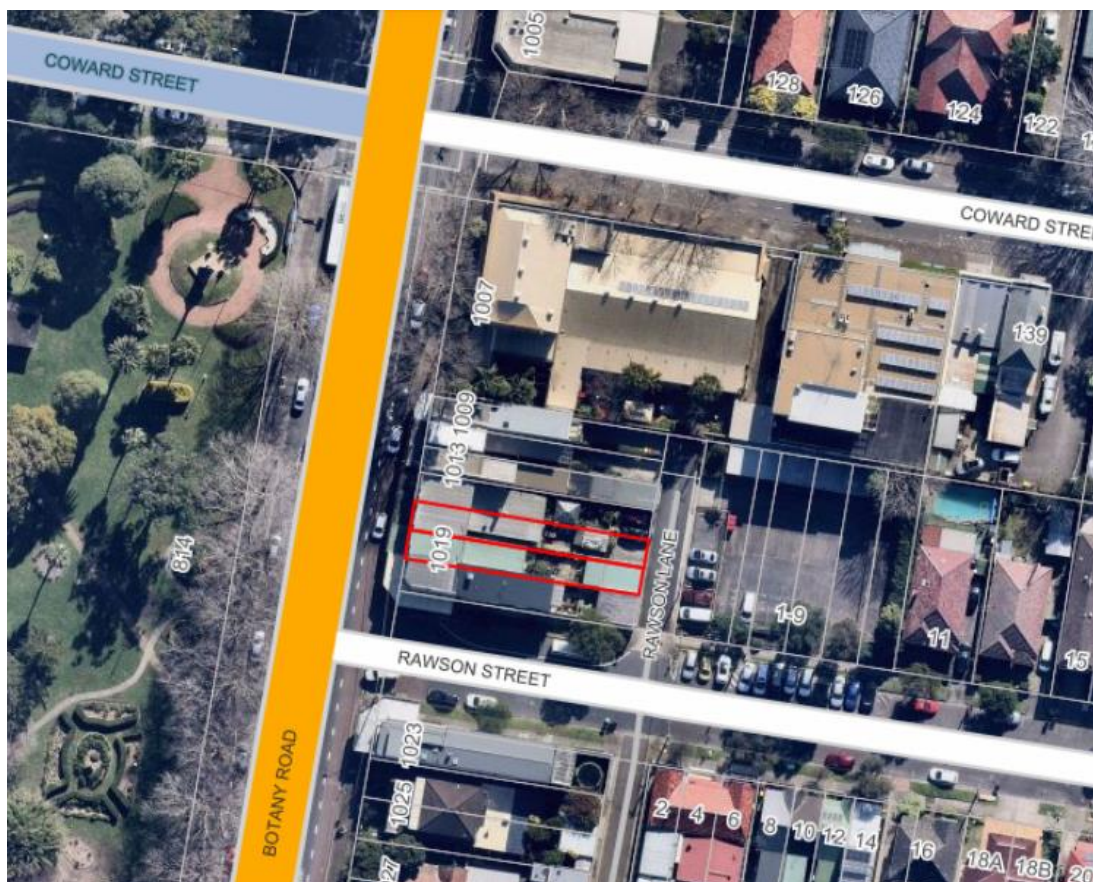
Item No	6.1
Application No	DA-2023/45
Property	<b>1015-1019 Botany Road, Mascot</b>
Application Type	Development Application
Proposal	Alterations and additions to the existing heritage listed buildings to create a mixed-use development containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below
Owner	Gralang Pty Ltd, Nireag Pty Ltd and Invest Corp (Australasia) Pty Ltd
Applicant	Mr A F Michallef
Ward	Ward 2
Lodgement Date	27/02/2023
No. of Submissions	2
Cost of Development	\$1,125,762
Reason Criteria	Sensitive development
Report by	Peter Barber, Director City Futures

### Officer Recommendation

- 1 That Development Application DA-2023/45 for alterations and additions to the existing heritage listed buildings to create a mixed-use development containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below at 1015 and 1019 Botany Road, MASCOT be REFUSED pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the reasons detailed below:
  - (a) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the matters outlined in Clause 5.10 – Heritage conservation of Bayside Local Environmental Plan 2021 – and would result in adverse impacts to the value of the existing heritage item.
  - (b) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy relevant requirements or objectives of the following parts of the *Botany Bay Development Control Plan 2013*:
    - (i) Part 3B (Heritage) - resulting in adverse impacts to the heritage item.
    - (ii) Part 5.2.2.6 (Rosebery Neighbourhood Centre) – due to the adverse heritage impacts.
    - (iii) Part 5.3.1.5 (Built Form and Streetscape) – due to adverse impacts on the heritage item.

- (c) The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of demolition and its adverse impacts on the existing heritage item.
  - (d) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 and for the reasons set out above and in the submissions received, the proposed development is not considered to be in the public interest.
2. That the submitters are to be notified of the Panel's decision.
-

## Location Plan



## Attachments

- 1 [Assessment Report](#)
- 2 [Demolition Plan](#)
- 3 [Materials and Finishes](#)
- 4 [Elevations](#)
- 5 [Sections](#)
- 6 [Heritage Impact Assessment](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2023/45
<b>Date of Receipt:</b>	27 February 2023
<b>Property:</b>	1015 and 1019 Botany Road, MASCOT Lot A DP 440204, Lot B DP 440204
<b>Owner:</b>	1015 and 1019 Botany Road, MASCOT NSW 2020
<b>Applicant:</b>	Mr A F Micallef
<b>Proposal:</b>	Alterations and additions to the existing heritage listed buildings to create a mixed-use developments containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below
<b>Recommendation:</b>	Refusal
<b>No. of submissions:</b>	2
<b>Author:</b>	Andrew Ison
<b>Date of Report:</b>	29 April 2024

### Key Issues

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Bayside Council received Development Application No. DA-2023/45 on 27 February 2023 seeking consent for alterations and additions to the existing heritage listed buildings to create a mixed-use developments containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below at 1015 and 1019 Botany Road, Mascot.

The key issues identified in the assessment of the development application relate to:

- Adverse impact on heritage value of existing items;
- Car parking on site; and
- Two submissions were received during the notification period.

Amended plans and further information were provided during the assessment process, however, based on the information provided, the proposal results in adverse impacts to the heritage value of the item and would lead to an unacceptable loss of fabric and spaces of significance. The proposal would be contrary to Clause 5.10 of the Bayside LEP 2021 and Part 3.4 of the Bayside DCP 2022. Therefore, the proposal cannot be supported.

There are a number of issues that are raised throughout this assessment which could be addressed as conditions of consent if approval was recommended and are not deemed to be sufficient enough to be a reason for refusal.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal.

## Recommendation

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1. THAT Development Application DA-2023/45 for alterations and additions to the existing heritage listed buildings to create a mixed-use developments containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below at 1015 and 1019 Botany Road, MASCOT be REFUSED pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the reasons below:
  - (a) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the matters outlined in Clause 5.10 – Heritage conservation of Bayside Local Environmental Plan 2021 – and would result in adverse impacts to the value of the existing heritage item.
  - (b) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy relevant requirements or objectives of the following parts of the *Botany Bay Development Control Plan 2013*:
    - (i) Part 3B (Heritage) - resulting in adverse impacts to the heritage item.
    - (ii) Part 5.2.2.6 (Rosebery Neighbourhood Centre) – due to the adverse heritage impacts.
    - (iii) Part 5.3.1.5 (Built Form and Streetscape) – due to adverse impacts on the heritage item.
  - (c) The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of demolition and its adverse impacts on the existing heritage item.
  - (d) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 and for the reasons set out above and in the submissions received, the proposed development is not considered to be in the public interest.
2. THAT the submitters be notified of the Panel's decision.

## Background

### History

The following applications have previously been considered by Council in relation to the subject site:

The history of the subject application is summarised as follows:

- 7 September 2022 – PDA advice was provided to the applicant, advising that the proposed work (that similar to the current application) would not supported by Council as presented
- 27 February 2023 – The DA was lodged with Council.
- 29 March – end of the notification period. Two (2) submissions were received.
- 14 March – site inspection was undertaken
- 14 July – Request for Information (RFI) letter sent to the applicant
- 10 October – second site inspection was undertaken
- 19 December – RFI response uploaded to the Planning Portal

### Proposal

The proposed development is summarised as follows:

#### Demolition

- Demolition of additions at the rear of each of the main heritage listed commercial building structures, including the rear walls of the main buildings;
- Demolition of internal walls; and
- Demolition of garages and outbuildings at the rear.

#### Construction

- Ground and first floor additions for all three lots, with the proposed rear generally in line with the neighbouring heritage listed building at 1021 Botany Road;
- Internal building works at ground level with new commercial entries from Botany Road, internal stairs to first floor, bathroom and store room;
- Works to front façade, incorporating new windows structures / entries / glazing at ground level of each tenancy, new entry doors for each of the three separate ground floor tenancies, and erection of a juliet style balcony on the first floor at 1019 Botany Road to complement the two similar structures at 1015 and 1017 Botany Road;
- Internal building works at first floor level with three separate dwellings (one on each lot, accessed internally from the ground floor), each with a living area, kitchen, two bedrooms, bathroom, ensuite and balconies;
- Construction of two storey structure at the rear, to be used as a garage at ground level and living area on the first floor with a media room and bathroom; and
- Construction of hardstand area between the proposed garage structure and commercial building to accommodate second car parking space, bin storage and rainwater tank.

#### Landscaping

- Landscaping at ground level for all three lots

The below figures are of the proposal:



Figure 1: Photo montage (supplied by the applicant)

### Site location and context

The subject site is legally identified as Lot A, B and C in DP 440204, Lot B DP 440204 and is known as 1015, 1017 and 1019 Botany Road, Mascot. The site is a rectangular shape with a combined front and rear boundary width of 13.23 metres.

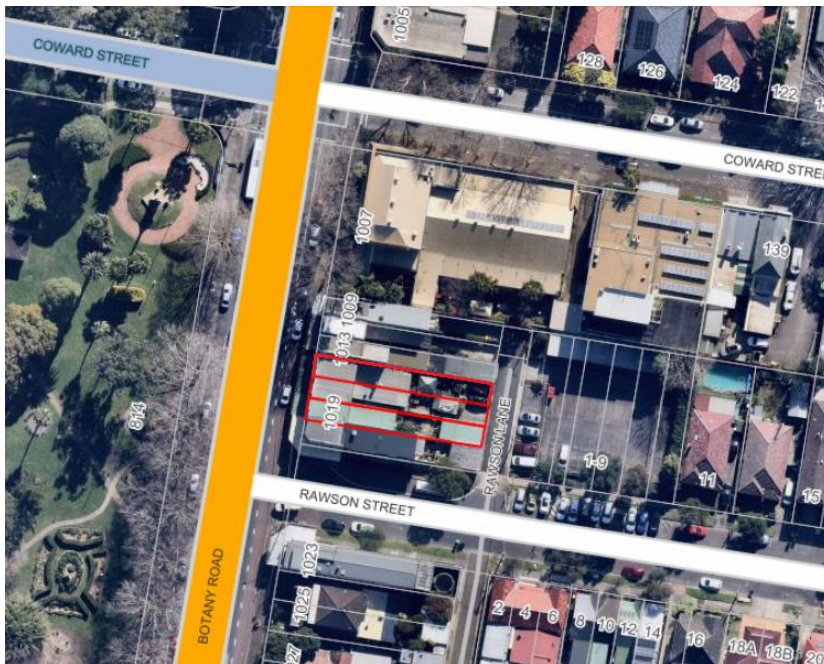


Figure 2: Aerial showing subject sites, marked in red (Source: Bayside IntraMaps)

The three subject sites are serviced by Rawson Lane which runs parallel to Botany Road. The side boundaries are 36.575 metres deep. The total site area is 483m<sup>2</sup> (161.8m<sup>2</sup> for 1015 Botany Road, 161.8m<sup>2</sup> for 1017 Botany Road and 159.4m<sup>2</sup> for 1019 Botany Road). The topography of the site is relatively flat, sloping from the rear to the front approximately 0.3 metres.

The subject site contains a two storey heritage listed commercial building and detached garage at the rear of the dwelling. The site is located on the eastern side of Botany Road between Coward Street and Rawson Street. To the north and south are similarly scaled commercial developments, to the east is a Council owned car park and to the west is Mascot Memorial Park.



Figure 3: Subject site, as viewed from Botany Road



Figure 4: Subject site, as viewed from Rawson Lane



## Statutory Considerations

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### ***Environmental Planning and Assessment Act, 1979***

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

#### **S4.15 (1) Matters for Consideration General**

#### **S4.15 (1)(a)(i) Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

#### **State Environmental Planning Policy (Sustainable Buildings) 2022**

The applicant has submitted a BASIX Certificate for the proposed development, being certificate number 1365063S.

Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been imposed on the consent to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### **Division 5 / Subdivision 2 – Subsection 2.48 – Development likely to affect an electricity transmission or distribution network**

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with subsection 2.48(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Ausgrid for comment. No objections were raised to the proposed development subject to the imposition of standard conditions of consent which have been imposed on the draft Notice of Determination.

The proposal satisfies Subsection 2.48 of the SEPP.

##### **Division 17 / Subdivision 2 – Subsection 2.118 – Development with frontage to classified road**

The proposed development is located on land with a frontage to a classified road (i.e. Botany Road). In this regard, Subsection 2.118 - Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site via driveways from Rawson Lane, with no vehicular access directly off Botany Road.

The application was referred to TfNSW. On 29 March, it provided written advice, stating that it raises no objections as the proposed development is not expected to have a significant impact on the classified road network.

The proposal satisfies Subsection 2.118 of the SEPP.

**Division 17 / Subdivision 2 – Subsection 2.119 - Impact of road noise or vibration on non-road development**

The proposed development is for a residential development that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, subsection 2.119 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

For residential use the consent authority must not grant consent unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- a. *in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am,*
- a. *anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.*

The proposal was accompanied by an Acoustic Report, prepared by Renzo Tonin and dated on 21 December 2022, which considered the potential impact of road noise on the proposed development. The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction.

The proposal satisfies subsection 2.119 of the SEPP.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the proposal.

The proposed development does not impact upon any significant trees on the property, adjacent lots or in the Public Domain.

The proposal is satisfactory in relation to SEPP (Biodiversity and Conservation) 2021.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

In accordance with the requirements of the SEPP, a Targeted Phase One Soil Contamination Assessment prepared by Pacific Environmental Australia Pty Ltd and dated 5 October 2023 has been submitted.

The site has historically been used as mixed retail/commercial/residential. There are no previous site usages or nearby sources that would be classified as potentially contaminating. There are no EPA notified contaminating sources within 250m of the site. The site has no history of underground storage tanks (USTs) from WorkSafe records.

Soil and groundwater samples from three test bores were analysed. Samples were taken to a maximum depth of 1.6m below ground level. No fill material or asbestos was found in the samples.

The proposed development satisfies the requirements & objectives of the SEPP.

### **Bayside Local Environmental Plan 2021**

The provisions of the Bayside Local Environmental Plan have been considered in the assessment of the development application as per the table below.

<b>Relevant Sections</b>	<b>Compliance with Objectives</b>	<b>Compliance with Standard / Provision</b>
2.3 Zone – E1 Local Centre	Yes – see discussion	Yes – see discussion
2.7 Demolition requires consent	Yes – however extent of demolition not supported on heritage grounds – see cl.5.10 below.	Yes – however extent of demolition not supported on heritage grounds – see cl.5.10 below.
4.3 Height of buildings	Yes – see discussion	Yes – see discussion
4.4 Floor space ratio Residential zones	Yes – see discussion	Yes – see discussion
5.10 Heritage conservation	No – see discussion	No – see discussion
6.1 Acid Sulfate Soil – Class 4	Yes – see discussion	Yes – see discussion
6.2 Earthworks	Yes – see discussion	Yes – see discussion
6.3 Stormwater and water sensitive urban design	Yes – see discussion	Yes – see discussion
6.7 Airspace operations	Yes – see discussion	Yes – see discussion
6.8 Development in areas subject to aircraft noise	Yes – see discussion	Yes – see discussion
6.9 Active street frontages	Yes – see discussion	Yes – see discussion
6.11 Essential services	Yes – see discussion	Yes – see discussion

### **Section 2.3 – Zone E1 Local Centre**

The subject site is zoned E1 Local Centre under the provisions of Bayside Local Environmental Plan 2021 (BLEP 2021). The proposal is defined as a commercial premises and dwelling house which constitutes a permissible development only with development consent. The **objectives of the** zone are:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the

- ground floor of buildings.
- To ensure development within the zone does not detract from the economic viability of commercial centres.
- To ensure the scale of development is compatible with the existing streetscape and does not adversely impact on residential amenity.
- To ensure built form and land uses are commensurate with the level of accessibility, to and from the centre, by public transport, walking and cycling.
- To create lively town centres with pedestrian focused public domain activated by adjacent building uses and landscape elements.
- To accommodate population growth in the Rockdale town centre through high density residential uses that complement retail, commercial and cultural premises in the town centre.

The proposed development satisfies the relevant objectives of the zone.

**Section 2.7 – Demolition**

The proposal seeks consent for demolition of the following:

- Demolition of extensions at the back of the main commercial building structure, including the rear wall of the main building;
- Demolition of internal walls; and
- Demolition of garages and outbuildings at the rear

It is deemed that this Section is satisfied as the applicant has sought for demolition as part of this application. However, it is to be noted that the extent of demolition is not supported on heritage grounds. Refer to assessment of Clause 5.10 below.

**Section 4.3 – Height of Buildings**

A maximum height standard of 14 metres applies to the subject site.

With relation to the commercial building, the existing maximum height of 8.96 metres will be retained, with the scope of the proposed works not exceeding this height.

With relation to the proposed garage / studio structures at the rear, the maximum height is 6.06 metres.

This complies with the provisions and objectives of this section.

**Section 4.4 – Floor Space Ratio**

A maximum Floor Space Ratio (FSR) standard of 2:1 applies to the subject site.

As this proposed development applies to three separate sites, the gross floor area (GFA) and FSR are broken down further in the table below:

Site	Maximum Permitted GFA	Proposed GFA (FSR)	Complies
1015 Botany Road	323.6m <sup>2</sup>	197.7m <sup>2</sup> (1.22:1)	Yes
1017 Botany Road	323.6m <sup>2</sup>	197.7m <sup>2</sup> (1.22:1)	Yes
1019 Botany Road	318.8m <sup>2</sup>	195.2m <sup>2</sup> (1.22:1)	Yes

### **Section 5.10 – Heritage Conservation**

The subject sites are located within a larger Heritage Item at 1009-1021 Botany Road [Item 270 – Commercial building group] which is an item of local significance.



Figure 5: Cadastral layer with LEP Heritage overlay, indicating coverage of Item 270 (Source: Bayside IntraMaps)

The Statement of Significance from the State Heritage Inventory is fully re-produced below:

*The group of early 20th century shops from 1009 to 1021 Botany Road are of local heritage significance to the Bayside area as one of the earliest surviving groups of shops along Botany Road (c. 1903-1904 completion), and which, although altered, have retained very good historic and aesthetic integrity as a group. The aesthetically distinctive and substantially intact Victorian Free Classical style parapet that extends across all buildings in the group is a notable element in the context of the local area.*

*This parapet detailing is also aesthetically significant because it is substantially intact to all properties in the group and provides very good evidence of the ways in which this exuberant style was interpreted at the modest scale of the small group of suburban shops. The facades above awning level have been altered in various ways, but sufficient fabric and photographic evidence exists to allow reconstruction if desired in the future. The recently added balconies to the southern (Rawson Street) elevation reference the form of the original Botany Road facades.*

*As is the case with all shops in the area, the shopfronts have been removed and a variety of replacements fitted. Most are typical modulate 20th century designs, but several have been bricked and wall tiles applied and are unsympathetic elements in the group. These shopfronts could also be removed and a more appropriate form inserted as part of future works. As a group they provide evidence of the evolution of retail presentation and patterns of interaction with customers over the last 100 years.*

*Despite these changes to the facade, the overall form of the building is substantially intact or altered in the traditional pattern of this type of shop. The heritage values of the group, and particularly the aesthetic qualities of the parapet when viewed against the skyline, satisfy the Criteria for local heritage significance.*

*The group is also locally significant for its contribution to the development of the area and the evidence that it provides of the form and pattern of development in the area in the early years of the development of this part of Mascot following the formation and construction of the nearby North Botany Town Hall in 1889.*

The proposed development includes the following:

- Demolition of extensions at the back of the main commercial building structure, including the rear wall of the main building;
- Demolition of internal walls

The façade of the building (i.e. facing Botany Road) will be primarily retained, however, there are some proposed modifications, most notably:

- A new entry erected at 1017 Botany Road;
- New windows structures, entrances and glazing at 1015, 1017 and 1019 Botany Road; and
- Erection of a new juliet style balcony on the first floor at 1019 Botany Road to complement the two similar structures at 1015 and 1017 Botany Road.

A Heritage Impact Statement, prepared by Local Approvals, dated January 2023 was lodged with the application. Its recommendation is fully re-produced below:

*The proposal is deemed to be in keeping with considerations pertaining to Heritage items within the Bayside LEP and Botany Bay DCP. The proposal will achieve the objectives of the brief without adverse impact on the heritage qualities of the items in its vicinity.*

*The proposed infill development will significantly improve the amenity of the property for the proprietors and will positively improve the building's contribution to the street. With a focus on improving the streetscape and complimenting the neighbouring buildings, the proposal avoids disrupting the generally homogenous rhythm and character of the Botany Road, rather enhance the character by removing the unsympathetic blank façade,*

*Based on the report and summary above, Local Approvals is satisfied with the proposal and are confident it will not generate a negative impact on the heritage significance of the subject building or adjacent heritage items. As such, it is the recommendation the findings of this report, that Council favourably consider the proposed development.*

**Assessment:**

The application was referred to Council's Heritage consultant, who advised that the proposal would result in adverse impacts to the heritage value of the item and 'lead to an unacceptable loss of fabric and spaces of significance'. Specifically, the following comments were provided in their referral response:

- *The modifications involve extensive demolition including the rear wings, interiors, floors, interior walls and the rear wall and fenestration of the principle building form. The development will therefore have a major impact upon the integrity of the heritage item;*
- *The proposal involving an extension of the existing buildings on the subject site is not accurate as the existing buildings are to be demolished apart from the façade and party walls of the principal building form;*
- *The Heritage Impact Statement (HIS) assumes that the retention of the parapet and party walls at the front is sufficient to retain the buildings heritage significance;*
- *The HIS refers to the development as additions without assessing the impact of demolition;*
- *No evidence has been providing regarding the significance of interiors or internal walls, floors and ceilings;*
- *There has been no analysis of the impact upon the heritage significance of the building;*

and

- *Following the above, the proposed works to the heritage item are not satisfactory*

It is noted that a similar scheme has been lawfully approved at 1021 Botany Road (DA-2011/50). However, it did not include any demolition of the existing commercial building. That particular application was supported as it preserved the heritage item and hence was acceptable from a heritage viewpoint.

Based on the above assessment, the proposed development in its current state does not satisfy Section 5.10 of the Bayside LEP.

#### **Section 6.1 – Acid Sulfate Soils**

Acid Sulfate Soils (ASS) – Class 4 affect the property.

A preliminary ASS assessment was undertaken. This did not find any soils that are affected by ASS or detect sulphurous odours. Soil horizons in the three test holes all exhibited a pH in excess of the pH expected for ASS classification. It is concluded that the site soils/sand are not impacted by ASS conditions. Based on the elevations and section plans provided, the proposed works do not include any excavation of materials or disturbance of the existing hardstand ground cover. Therefore, it is unlikely that ASS or potential acid sulfate soils (PASS) will be encountered during the proposed works. An ASS management plan will not be required.

The proposal is consistent with the objectives and requirements of Section 6.1.

#### **Section 6.2 – Earthworks**

The impacts of the proposed earthworks have been considered in the assessment of this proposal. Appropriate conditions would have been imposed if approval was recommended.

#### **Section 6.3 – Stormwater and WSUD**

The development proposes three separate 2000L rainwater tanks which is to be located adjacent to the rear of the main building. Stormwater plans were submitted with the application and were prepared by D.T. Civil and dated 7 December 2023. The application was reviewed by Council's Development Engineer who had no objections to the proposal. Appropriate conditions would have been imposed if approval was recommended.

#### **6.8 – Development in Areas subject to Aircraft Noise**

The subject site is located within the 20 to 25 ANEF Contour, thus subject to adverse aircraft noise. Given the aforementioned, appropriate noise attenuation measures are required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared by Renzo Tonin dated 21 December 2022 which recommended as follows;

*In general, where a specific ANR [Aircraft Noise Reduction] is required, buildings require external windows and doors to be kept closed, as when opened for ventilation purposes the aircraft noise reduction of the building envelope will be significantly reduced. Where it is necessary to close windows and doors to comply with this Standard, building ventilation should be designed in accordance with the Building Code of Australia on the assumption that windows and doors are not operable. Mechanical ventilation or air conditioning systems complying with AS 1668.2 should be installed.*

Appropriate conditions relating to the compliance with the relevant Australian Standard for internal noise levels would have been imposed if approval was recommended.

#### **6.9 – Active Street Frontages**

The subject site is required to provide an active street frontage at ground floor level, along the Botany Road frontage of the property. As designed, the proposal incorporates separate entries and glazing to each of the three ground floor tenancies.

The provision of future business premises, retail premises and medical centres at ground floor level will facilitate the activation of the development to the adjoining public domain via uses that attract pedestrian traffic, as required by the objectives of this section. The proposal is satisfactory in this regard.

#### **6.11 – Essential Services**

Services are generally available on site. Appropriate conditions would have been imposed if approval was recommended.

### **S4.15(1)(a)(ii) Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

There are no draft Environmental Planning Instruments that relate to this proposal.

### **S4.15 (1)(a)(iii) Provisions of any Development Control Plan**

The Bayside DCP 2022 commenced on 10 April 2022 however the proposal was lodged prior to this date and in accordance with the savings provisions, consideration is given to the Botany Bay DCP 2013.

However, where applicable consideration will also be made to the Bayside DCP 2022. In summary:

- The car parking controls remain the same in the Bayside DCP as was prescribed in the Botany Bay DCP;
- The subject sites have been removed from the Rosebery Neighbourhood Centre precinct controls in the Bayside DCP (i.e. the southern boundary is Coward Street which is the north of the subject site);
- The heritage controls remain largely the same in the Bayside DCP as was prescribed in the Botany Bay DCP; and
- The general controls as relevant under Part 5 of the Botany Bay DCP remain the same in the Botany Bay DCP.

Based on the above, an assessment under the Bayside DCP controls would not give rise to any different conclusions.

The following Development Control Plan is relevant to this application:



**Botany Bay Development Control Plan 2013****Part 3A – Parking and Access**

The following car parking rates are prescribed under this Part of the DCP:

- 1 space per 40m<sup>2</sup> for commercial
- 2 spaces per 2 or more bedroom dwelling

Based on a total commercial floor area of 268m<sup>2</sup>, a total of 7 commercial spaces is required.

Each proposed dwelling has 2 bedrooms on the first floor, plus a media room atop each garage which is considered to be classified as a third bedroom, which therefore requires 2 car parking spaces. A total of 6 car spaces are required for level 1.

A total of 13 car parking spaces is required for the entire proposed development.

As the existing site development is served by only 4 off-street parking spaces, the development site has an existing shortfall of 9 parking spaces.

As the existing development has an existing shortfall of 4 spaces, this can be credited and therefore the proposed development only requires 9 spaces. A total of 6 spaces is provided (2 for each of the lots, with one located within the garage and in the hardstand area located between the garage structure and main building in a tandem formation), and results in a total shortfall of 3 spaces.

Further to the above, the DCP provides some discretion to allow a reduction in the car parking provision in certain circumstances, such as:

- Existing site and building constraints that makes the provision of car parking impractical;
- It is located adjacent to high-frequency public transport services; and
- Development contributes to heritage conservation of the building and setting (which could be included as a reasons were the application supported on heritage grounds).

Based on the above, the proposed number of car parking spaces on site is supported.

The proposed tandem parking dimensions are compliant.

The proposal satisfies the parking requirements of the DCP.

**Part 3B – Heritage**

Refer to the LEP assessment earlier in this report.

Part 3.4 of the Bayside DCP prescribes development controls on heritage.

The proposed development is not consistent with the relevant objectives of this Part, namely:

- To maintain the heritage significance and integrity of heritage items and group heritage items;
- Ensure new work is sympathetic and provides for the long term conservation of the heritage item;
- Ensuring that important elements and features of a heritage item are not obscured or destroyed by alterations and additions; and

- Retain original features, proportion of walls and openings that contribute to the aesthetic quality and/or significance of a heritage item.

#### Part 3C – Access and Mobility

The proposal has been designed so that the development is accessible from the public domain and internally. The development ramping from the footpath from both Botany Road and the rear, and disabled bathrooms for the ground level bathrooms.

The applicant has provided an access report prepared by Access Solutions and dated 25 January 2023 which has included the following recommendations:

*This is an existing building with three separate lots that includes a Class 6 shop on the ground floor with a Class 4 dwelling above. The Class 4 part includes a media room at the rear of each unit. Access for people with a disability is not required to a Class 4 unit.*

*The 'new part' and 'affected part' requirement of the Disability (Access to Premises – Buildings) Standard (2010) does not come into affect in this situation because all parts of the existing building are undergoing change.*

*Access for people with disability is required to the ground floor of the premises from the entrance doorway. The entrances at the front and rear to each shop has a 4mm lip which is easily overcome with a 1:8 gradient ramp.*

Appropriate conditions relating to the imposition of the recommendations from this report would have been imposed if approval was recommended.

#### Part 3G – Stormwater Management

Refer to the LEP assessment earlier in this report.

#### Part 3H – Sustainable Design

Refer to the SEPP assessment earlier in this report.

#### Part 3J – Aircraft Noise and OLS

Refer to the LEP assessment earlier in this report.

#### Part 3K – Contamination

Refer to the SEPP assessment earlier in this report.

#### Part 3N – Waste Minimisation and Management

A Waste Minimisation and Management Plan was submitted with the application listing methods for minimising and managing construction and ongoing waste on site. Bins to service both buildings will be stored in dedicated area at the rear of the main commercial building.

The proposed waste arrangement and report was reviewed by Councils' waste officer who had no objections to the proposal.

Appropriate conditions would have been imposed if approval was recommended.

## **Part 5 – Business Centres**

### ***Part 5.2.2.6 – Rosebery Neighbourhood Centre***

**Figure 21 - Rosebery Neighbourhood Centre**



With relation to the retention and enhancement of the front façade, it is considered on balance to respond sympathetically to an established streetscape, however, the demolition of the structure behind the front façade is not considered on balance to retain its strong architectural features and identity. The proposal will result in adverse heritage impacts and cannot be supported.

The proposed development will improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space and provide for passive surveillance of the surrounding streets.

The entries to all three tenancies are readily available from Botany Road.

### ***Part 5.3 – General Controls***

#### **5.3.1.1 Floor Space Ratio**

Refer to the LEP assessment earlier in this report.

#### **5.3.1.2 Height**

Refer to the LEP assessment earlier in this report.

#### **5.3.1.3 Street Setbacks**

The existing street wall to Botany Road is being retained.

#### 5.3.1.5 Built Form and Streetscape

The existing façade is being retained to Botany Road, with changes occurring at ground level to include additional glazing and modified access to better activate the building to the public domain.

Given that the proposed development does not satisfy the heritage controls, it cannot be supported in its current form.

#### 5.3.2.2 Building Design

A Building Code of Australia (BCA) report outlining the compliance of the building design with the BCA has been lodged with the application.

The first floor balconies / private open space areas have been appropriately screened to address any privacy impacts on adjoining residential properties.

A schedule of external finishes and materials has been lodged.

Given that the proposed development does not satisfy the heritage controls, it cannot be supported in its current form.

#### 5.3.2.4 Awnings and Verandahs

Existing awning to be made good and relocated to be in line with existing awning at 1021 Botany Road.

Given that the proposed development does not satisfy the heritage controls, it cannot be supported in its current form.

#### 5.3.2.5 Public Domain Interface at Ground Level

The proposed development demonstrates a clearly definable entry and addresses the street.

The interface at ground level promotes a high level of pedestrian amenity to the public domain and is consistent with the Active Street Frontage requirements in the Bayside LEP.

#### 5.3.2.6 Active Street Frontages

Refer to the LEP assessment earlier in this report. Relevant conditions could be imposed to ensure activation is maintained in accordance with the DCP.

#### 5.3.2.7 Heritage

Refer to the LEP assessment earlier in this report.

#### 5.3.2.9 Landscaped Area

The proposed development indicates landscaping within the areas between the main commercial building and the proposed garage structure. Each lot contains one tree and screening shrubs.

This has been reviewed by Council's Landscape Architect and was considered appropriate for the site. Appropriate conditions would have been imposed if approval was recommended.

#### 5.3.2.10 Private Open Space and Communal Open Space

No specific minimum requirements are prescribed for private open space for this type of development.

The ground floor area between the main commercial building and the garage is primarily for car parking, bin storage and services with some of the area landscaped. The private open space is located on the first floor at the rear in the form of balconies. It is noted that these balconies are located off the main bedroom and not the living area. The living area is located along the Botany Road frontage. There are no specific requirements relating to which type of room a private open space area is to be directly accessible from, however, it is deemed that the proposed private open space is compliant with the relevant objectives of this Part of the DCP, that being it provides opportunities for passive recreation and enables residents to have a pleasant outlook.

#### 5.3.2.11 Materials and Finishes

A Schedule of Finishes and a detailed Colour Scheme has been lodged.

Given that the Botany Road façade is being retained as part of the proposed development, it utilises colours and materials which are consistent with the existing heritage character or the Heritage Item.

#### 5.3.3.3 Solar Access and Shadow

Solar diagrams have been provided demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.

It demonstrates that the neighbouring site to the south at 1021 Botany Road can achieve a minimum of two hours of natural light to at least 50% of the ground level private open space area for a minimum of two hours in mid-winter as required by the DCP.

#### 5.3.3.6 Stormwater Management and Flooding

Refer to the LEP assessment earlier in this report.

#### Part 8 – Mascot Character Precinct

This section of the DCP provides rationale for determining the appropriateness and descriptive strategic direction for development in Mascot.

The site is located within the E1 Local Centre zone between Coward Street and Rawson Street.

The proposal retains the existing building which has a consistent street frontage setback similar to that of the adjoining heritage listed sites. The two storey height of the development is consistent with the established height of adjoining heritage items existing on the street.

The building is compliant regarding FSR, setbacks, site coverage, private open space and is considered to have acceptable height, landscaping, and reasonable solar access to neighbouring sites.

As such the proposal is suitable for the site and is consistent with the existing and desired future character of the Mascot Precinct.

**S4.15(1)(a)(iiia) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

There is no planning agreement applicable to the proposal.

**S4.15(1)(a)(iv) Provisions of the Regulations**

Sections 61-62 of the Regulations outline the matters to be considered in the assessment of a development application. Section 61 requires the consent authority to consider the provisions of *AS 2601:2001 - Demolition of Structures* when demolition of a building is involved. If approval was recommended, a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

**S4.15(1)(b) Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

- Construction impacts

No details have been provided, such as a structural adequacy certificate, to show that there will be no adverse impacts to the adjoining heritage tenancies resulting from demolition and/or construction works. This is important for adjoining sites with walls abutting the boundary or where they share a part wall with the subject site (ie. No.1021).

**S4.15(1)(c) Suitability of the Site**

The subject sites contain a heritage item, in which aside from the retention from the façade, has demolition proposed. As detailed earlier in this report, based on the information provided, the proposed development is not suitable for the site as it results in adverse impacts on the heritage value of the item.

**S4.15(1)(d) Public Submissions**

The development has been notified in accordance with Part 2 of the Botany Bay DCP 2013 - Notification and Advertising between 15 March and 29 March 2023 and two submissions have been received.

A number of issues raised in these submissions had already been addressed in this report and are listed below:

- Heritage impacts, including demolition
- Overshadowing to neighbouring properties
- Height
- Privacy

The remaining issues raised in the submissions are addressed further below:

***Non-compliance with access and egress requirements in the BCA***

Comment: If approval was recommended, a condition would have been imposed with relation to the approved development demonstrating compliance with the BCA. If it is deemed that access and egress requirements are not compliant, an alternative solution may be required to be implemented.

***Dilapidation report***

Comment: If approval was recommended, a dilapidation report would be required as there are proposed works adjoining a party wall. Furthermore, there would need to be submission of a certification from a structural engineer confirming that the proposal will not result in adverse structural impacts to adjoining properties.

***Traffic impacts***

Comment: The additional traffic generated by the proposed development is relatively minor (around 4 vehicle trips per hour at peak) which will not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect. In the circumstances, it can be concluded that the proposed development has no unacceptable traffic implications.

***Will set a precedent for the area***

Comment: If the proposed development is able to demonstrate compliance with the heritage controls, it would not set a negative precedent for the area as it will better activate the ground level as well as provide residential accommodation.

**S4.15(1)(e) Public interest**

On the basis of the current proposal, the site is not suitable for the development and therefore does not satisfy Part 4.15(1)(c) of the Environmental Planning & Assessment Act 1979.

**S7.11 Development Contributions**

A total contribution of \$11,257.62 has been calculated at the date of this consent to Council under section 7.12 of the Environmental Planning and Assessment Act 1979 in accordance with the City of Botany Bay S94A Development Contributions Plan 2016. If approval was recommended, a condition would have been imposed relating to its payment prior to the issue of a Construction Certificate.

**Conclusion and Reasons for Decision**

The proposed development at 1015, 1017 and 1019 Botany Road, Mascot has been assessed with regard to the s4.15 of the Environmental Planning and Assessment Act 1979 including relevant State Environmental Planning Policies, Bayside LEP 2021 and Botany Bay DCP 2013.

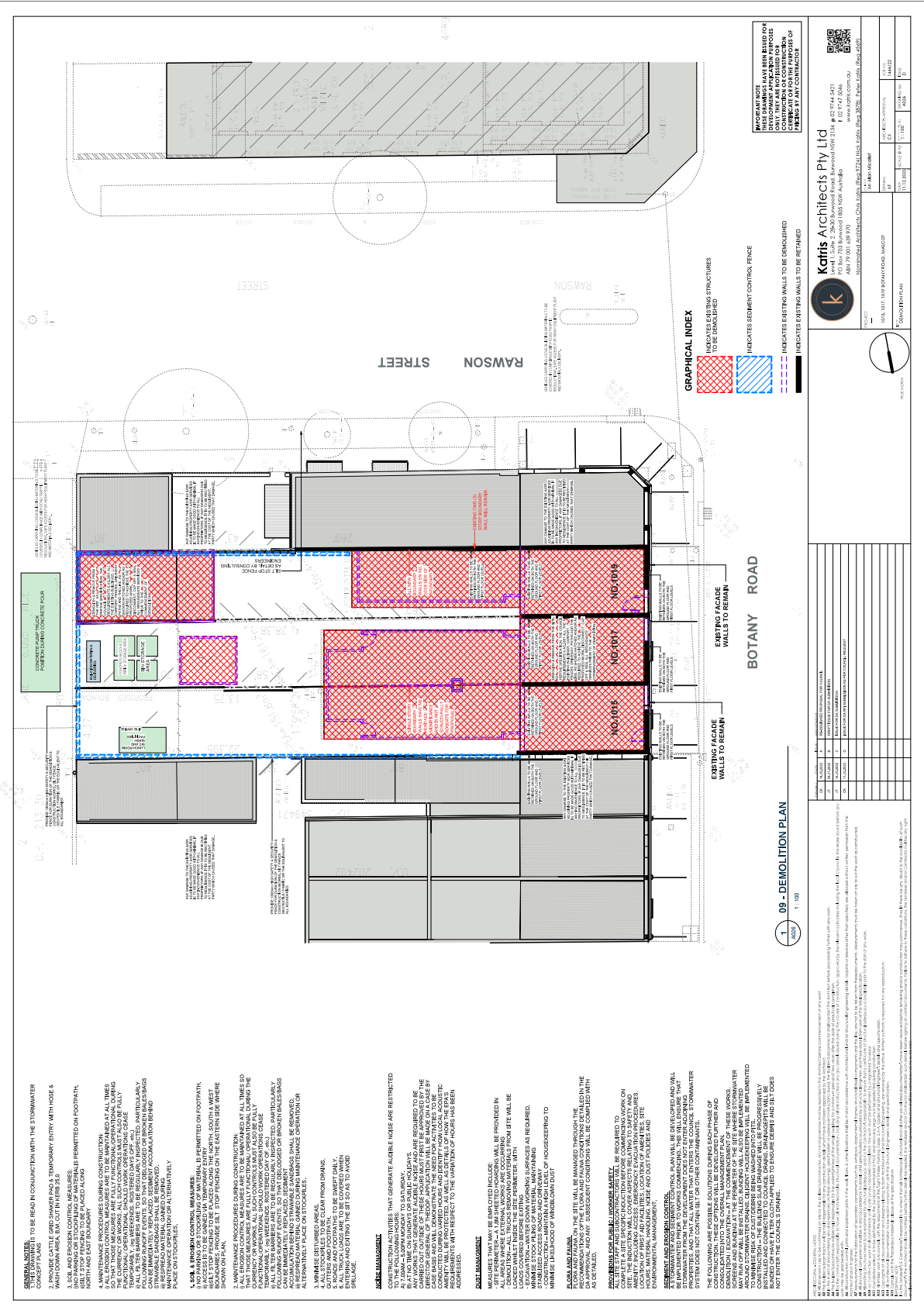
The proposed development, being Alterations and additions to the existing heritage listed buildings to create a mixed-use developments containing three (3) commercial tenancies each with apartments above, demolition of outbuildings and construction of detached outbuildings with media rooms and garages below, is a permissible land use within the zone

with development consent. In response to the public notification, two (2) submissions were received. The matters raised in these submissions have been discussed in this report.

On balance, the proposed development in its current form is not appropriate for the heritage listed site and it is recommended that DA-2023/45 be refused. The reasons for the decision are:

- The proposed development will result in adverse impacts to the value of the existing heritage item contrary to Section 5.10 of the Bayside LEP 2021 and contrary to Part 3B 'Heritage' and the Rosebery Neighbourhood Centre parts of the Botany DCP 2013;
- Based on the above, and for the reasons detailed in the public submissions, the proposed development is not considered to be in the public interest.





**Katris Architects Pty Ltd**  
 170 Rock 720 Burnwood Road, Burnwood NSW 2178  
 ABN 79 001 639 970  
 www.katris.com.au  
 Telephone: 02 9851 5055  
 Fax: 02 9851 5056

PROJECT NO: 24001  
 SHEET NO: 109  
 DATE: 14/05/2024

PROJECT: 109 - DEMOLITION PLAN  
 SITE: 109 - DEMOLITION PLAN  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

**GRAPHICAL INDEX**

- INCHES EXISTING WALLS TO BE DEMOLISHED
- INCHES EXISTING WALLS TO BE RETAINED
- INCHES EXISTING WALLS TO BE DEMOLISHED
- INCHES EXISTING WALLS TO BE RETAINED

**09 - DEMOLITION PLAN**

1:100

The following conditions apply to this plan:  
 1. This plan is submitted for the purpose of obtaining approval for the proposed demolition works.  
 2. The applicant is responsible for obtaining all necessary permits and approvals from the relevant authorities.  
 3. The applicant is responsible for ensuring that the demolition works are carried out in accordance with the relevant legislation and standards.  
 4. The applicant is responsible for ensuring that the demolition works are carried out in a safe and sound manner.  
 5. The applicant is responsible for ensuring that the demolition works are carried out in a timely manner.  
 6. The applicant is responsible for ensuring that the demolition works are carried out in a cost-effective manner.  
 7. The applicant is responsible for ensuring that the demolition works are carried out in a manner that minimizes the impact on the surrounding community.  
 8. The applicant is responsible for ensuring that the demolition works are carried out in a manner that minimizes the impact on the environment.  
 9. The applicant is responsible for ensuring that the demolition works are carried out in a manner that minimizes the impact on the local infrastructure.  
 10. The applicant is responsible for ensuring that the demolition works are carried out in a manner that minimizes the impact on the local residents.

**PROPOSED WESTERN VIEW (ALONG BOTANY ROAD)**

**MATERIALS & FINISHES LEGEND:**

- M01** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M02** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: WHITE PAINT  
 FINISH: WHITE PAINT  
 TYPE: PAINT
- M03** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M04** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: RED BRICK  
 FINISH: RED BRICK  
 TYPE: BRICK
- M05** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: RED BRICK  
 FINISH: RED BRICK  
 TYPE: BRICK
- M06** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M07** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M08** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M09** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE
- M10** **EXTERIOR WALLS FINISH**  
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- M11** **EXTERIOR WALLS FINISH**  
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- M12** **EXTERIOR WALLS FINISH**  
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 TYPE: CONCRETE
- M13** **EXTERIOR WALLS FINISH**  
 EXTERIOR WALLS FINISH  
 MATERIAL: LIGHT GREY CONCRETE  
 FINISH: LIGHT GREY CONCRETE  
 TYPE: CONCRETE

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**Katris Architects Pty Ltd**  
 170 No. 720 Business Road, Adelaide  
 SA 5001  
 Tel: (08) 8348 8888  
 Email: info@katris.com.au  
 Website: www.katris.com.au



1 Proposed Eastern View (Internal)

**MATERIALS & FINISHES LEGEND:**

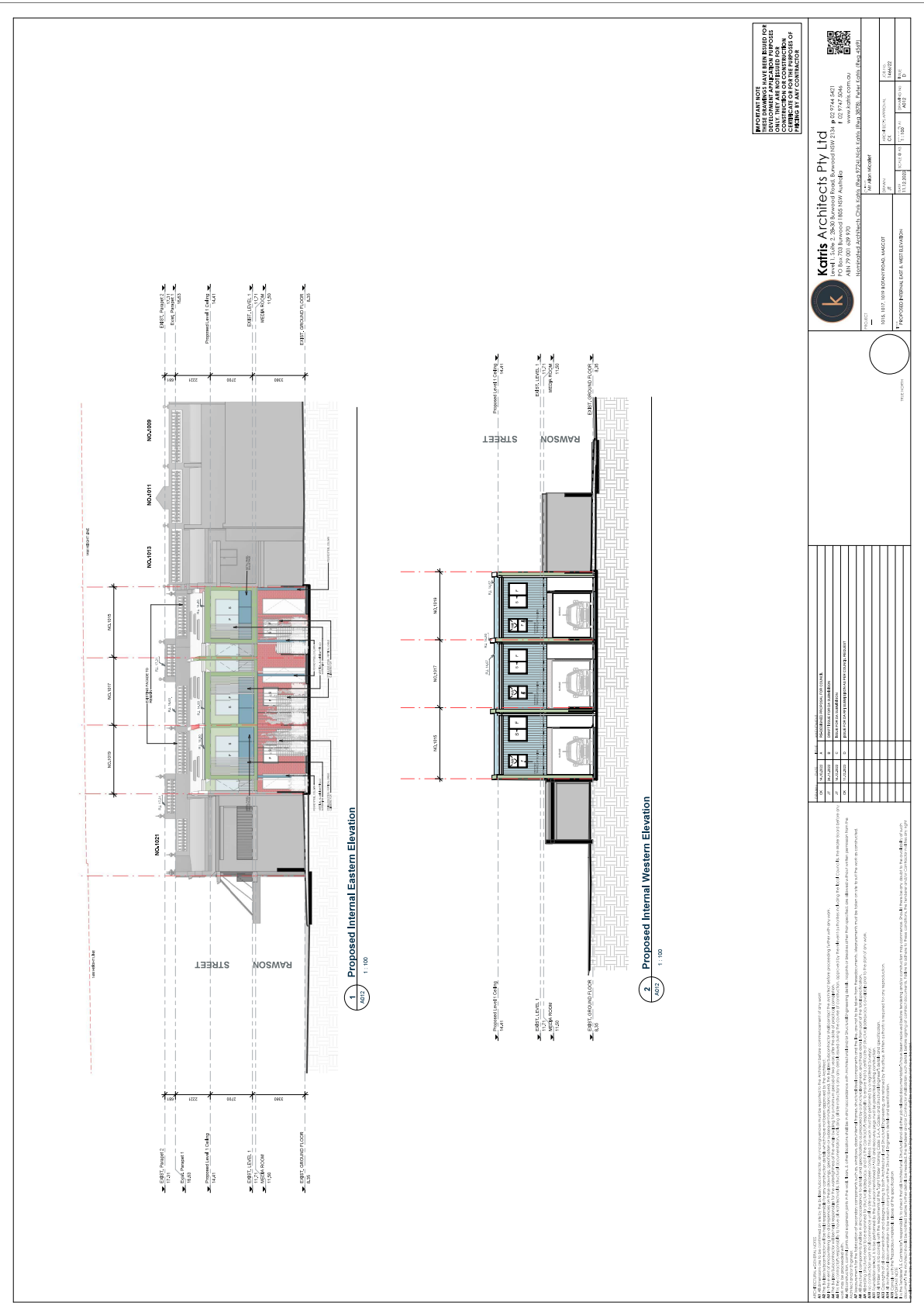
<b>M01</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M02</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M03</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M04</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M05</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M06</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M07</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M08</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M09</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M10</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M11</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M12</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS	<b>M13</b> LOCATIONS: WALLS, FLOORS, ROOF MATERIALS: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED FINISHES: POLYURETHANE FOAM INSULATION, GYPSUM BOARD, 12.5mm ACROBRONZE AND PAINTED DETAILS: SEE DRAWING FOR DETAILS
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 PROJECT NO: KA/2024/001  
 DRAWING NO: KA/2024/001-01  
 DATE: 14/05/2024  
 SCALE: 1:100  
 SHEET NO: 1 OF 2  
 TOTAL SHEETS: 2

**Katris Architects Pty Ltd**  
 10/115 Bayside Road, Bayside VIC 3170  
 Phone: +61 (0)3 9594 6471  
 Email: info@katris.com.au  
 Website: www.katris.com.au

**APPROVED FOR:**  
 NAME: [Signature]  
 POSITION: ARCHITECT  
 COMPANY: KATRIS ARCHITECTS PTY LTD  
 ADDRESS: 10/115 BAYSIDE ROAD, BAYSIDE VIC 3170  
 PHONE: +61 (0)3 9594 6471  
 EMAIL: INFO@KATRIS.COM.AU  
 WEBSITE: WWW.KATRIS.COM.AU





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**Katris Architects Pty Ltd**  
 170 Macquarie Street, Suite 1000, Sydney, NSW 2000  
 Phone: (02) 9747 5244  
 Email: info@katris.com.au  
 www.katris.com.au

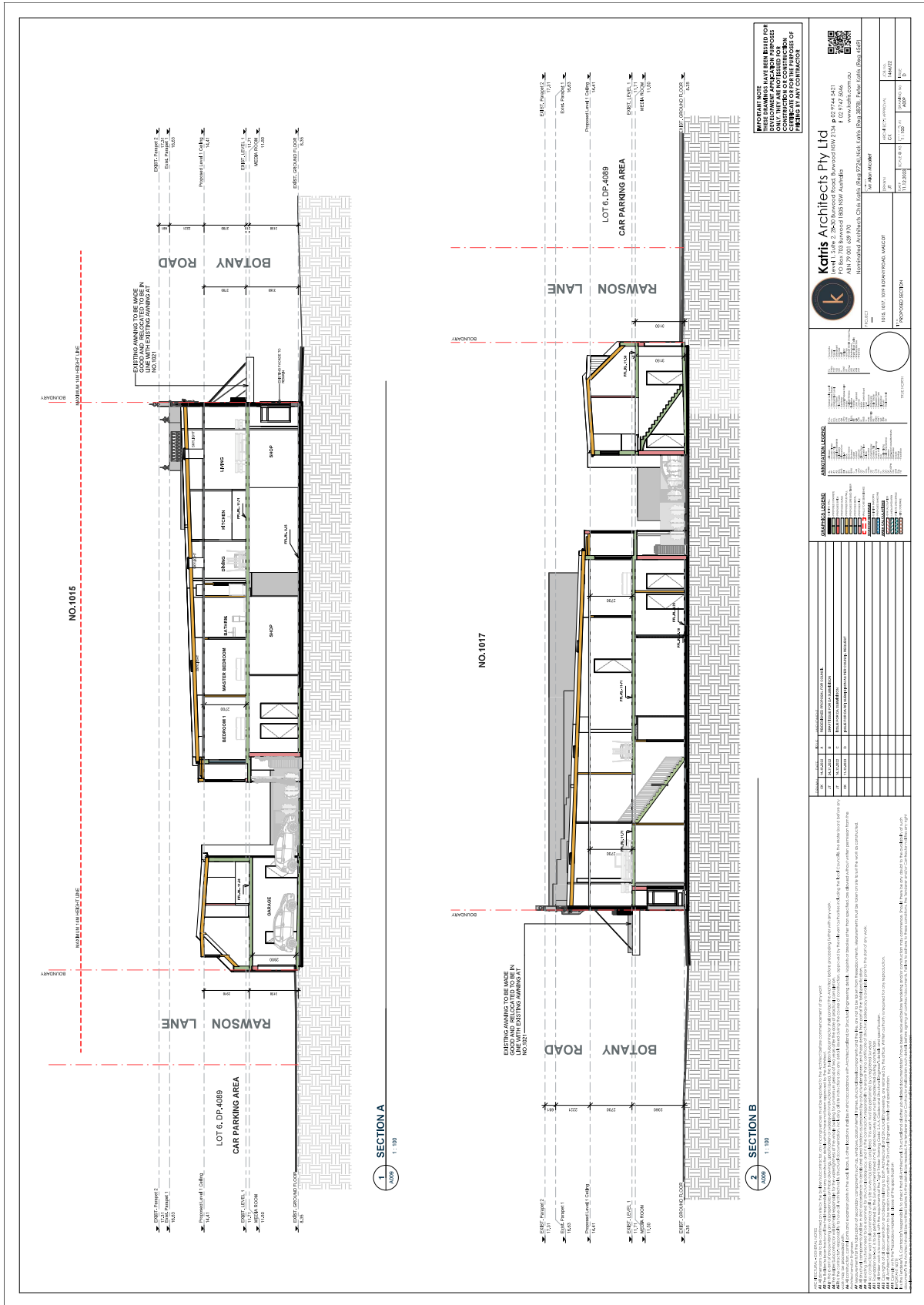
NO.	DATE	DESCRIPTION
1	14/05/2024	PROPOSED INTERNAL EAST & WEST ELEVATION

PROJECT NO: 1018-2024  
 PROJECT NAME: PROPOSED INTERNAL EAST & WEST ELEVATION  
 CLIENT: [REDACTED]

NO.	DATE	DESCRIPTION
1	14/05/2024	PROPOSED INTERNAL EAST & WEST ELEVATION

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**1 SECTION C**  
1:100

**2 SECTION D**  
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**Karris Architects Pty Ltd**  
 170 Macquarie Street, Suite 2001, Sydney, NSW 2000, Australia  
 ABN 79 001 699 993  
 www.karris.com.au

**PROJECT INFORMATION:**  
 PROJECT NO: 24/00000000000000000000  
 CLIENT: [Redacted]  
 PROJECT NAME: [Redacted]  
 PROJECT ADDRESS: [Redacted]  
 PROJECT DATE: 14/05/2024



## Heritage Impact Statement

Proposed: **Alterations and Additions to existing shop top housing building**  
Address: **Nos. 1015, 1017 and 1019 Botany Road, Mascot 2020**  
**Lot A, B and C, DP 440204**  
**Parish of Botany County of Cumberland**  
Council: **Bayside Council**  
Date: **January 2023**

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

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**ABN:** 40 615 470 356  
**Phone:** 02 9098 5445  
**Email:** info@LocalApprovals.com.au  
**Web:** LocalApprovals.com.au  
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**Version:** DA  
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*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

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*Proposed Alterations and Additions to existing shop top housing development*

1015, 1017, 1019 Botany Road, Mascot 2020

**1.0 INTRODUCTION**

This Statement of Heritage Impact has been prepared on behalf of the Client for submission as part of a Development Application for alteration and additions to existing shop top housing development buildings at 1015, 1017 and 1019 Botany Road, Mascot.

The site is a listed heritage item of local significance as per the Bayside Local Environmental Plan (LEP) 2021.

**1.1 The Site**

The subject site is located on Lot A, B and C DP 440204 at 1015, 1017, and 1019 Botany Road, Mascot 2020 in Parish of Botany and County of Cumberland and falls within the jurisdiction of the Bayside Council local government area. The subject site is located east of Botany Road and north of Rawson Street. The approximate area of allotments is 483m<sup>2</sup>. Figure 1 & 2 below shows the subject site’s general context to Mascot and surrounds.

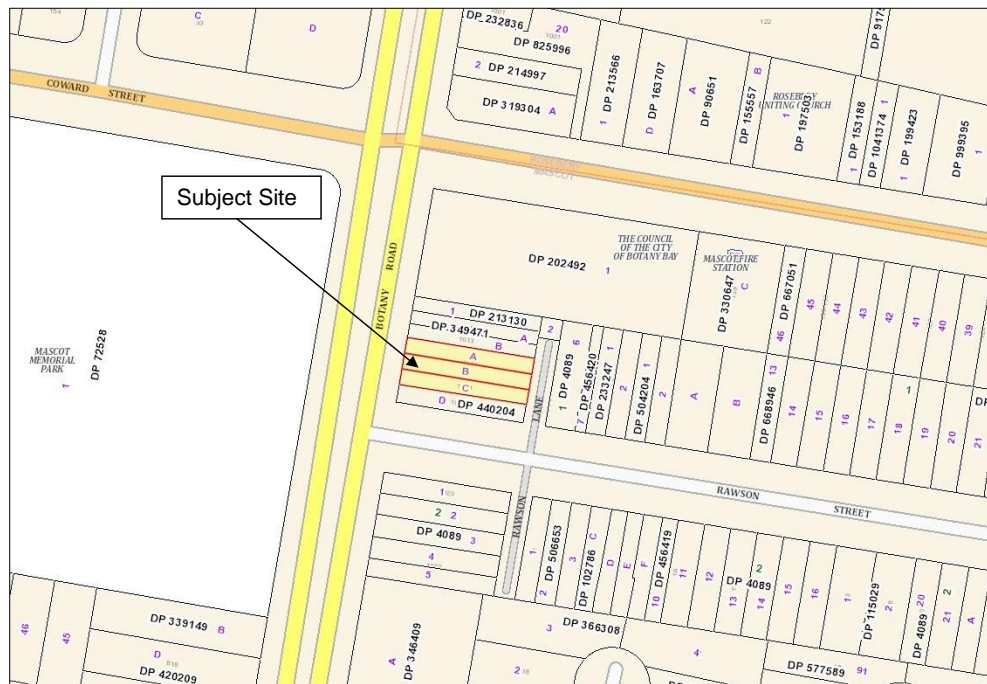


Figure 1: Map illustrating the location of 1015, 1017, and 1019 Botany Road, Mascot  
 (Source: NSW Department of Lands SIX Maps, <https://maps.six.nsw.gov.au/>, accessed April 2022)

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*



Figure 2: Aerial View of the subject site at 1015, 1017, and 1019 Botany Road, Mascot  
(Source: NSW Department of Lands SIX Maps, <https://maps.six.nsw.gov.au/>, accessed April 2022)

*Proposed Alterations and Additions to existing shop top housing development*

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**1.2 Heritage Status**

The subject site is legally identified as Lot A, B and C in DP 440204 and is listed as a heritage item under Schedule 5 of the *Bayside Local Environmental Plan (BLEP) 2021*. It is identified as a locally significant heritage item within a group of early 20<sup>th</sup> century shops collectively named “Commercial Building Group”, formerly known as Pascoe Buildings with addresses listed as 1009-1021 Botany Road, Mascot and referred to as Item No. I270.

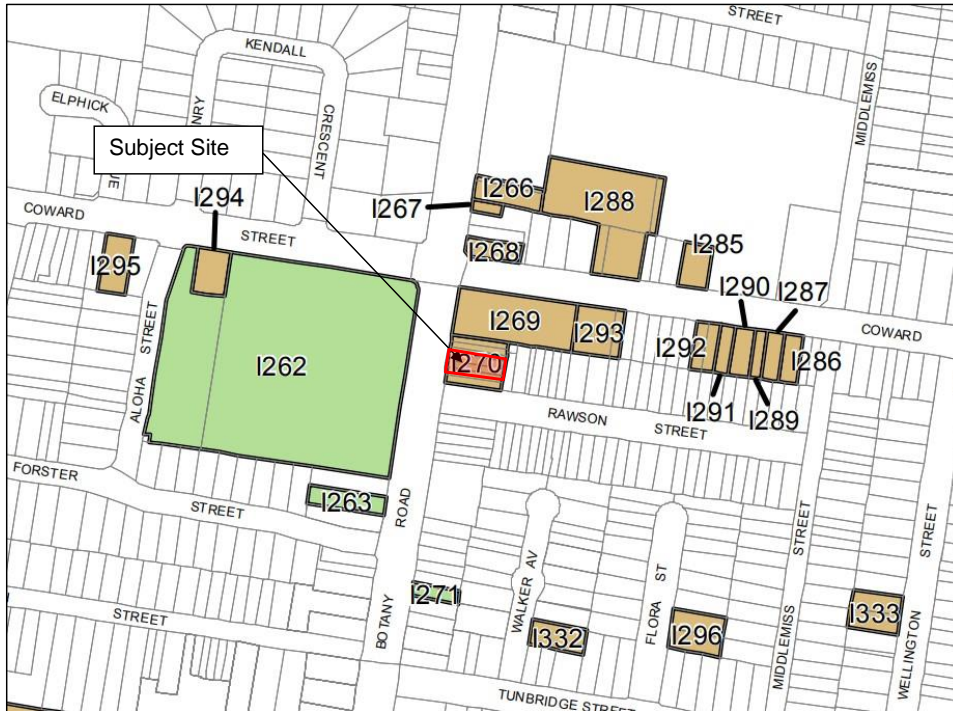


Figure 3: Extract from Bayside LEP Heritage Map Sheet HER\_008. The subject site is indicated by red rectangle and adjacent and opposite to several heritage items shaded in Brown and green.  
(Source: Bayside Local Environmental Plan 2021 LEP Maps)

The subject site is in the vicinity of the buildings listed in Table 1 below, which have also been listed as heritage items under Schedule 5 of the Bayside LEP 2021.

Item	Item name	Address	Lot and DP/SP	Significance
I262	Memorial Park	814 Botany Road and 149A Coward Street	Lot 1, DP 72528; Lot 2, DP 611027	Local
I266	House group	999 Botany Road	Part Lot 1, DP 918245	Local

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I267	Electricity Substation No 147	1001 Botany Road	Lot 1, DP 232836	Local
I268	Former National Bank of Australasia	1005 Botany Road, corner of Botany Road and Coward Street	Lot A, DP 319304	Local
I269	Coronation Hall	1007 Botany Road (corner of Coward and Botany Roads)	Lot 1, DP 202492	Local
I288	Uniting Church and rectory	118–122 Coward Street	Lot B, DP 155557; Lot 1, DP 197503; Lot 2, DP 917174; Lot 1, DP 917524	Local
I293	Fire station	139 Coward Street	Lot C, DP 330647; Lot 46, DP 667051	Local
I294	Botany Family Day Care	149 Coward Street	Lot 1, DP 1136361	Local

**Table 1:** List of heritage items within proximity to subject site pursuant to Schedule 5 of the BLEP 2021.

### 1.3 Purpose

Clause 5.10(4) and 5.10(5) of the Bayside LEP 2021 require Council to assess the potential heritage impact of proposed additions and alterations to items that are heritage listed or within a heritage conservation area or, at Council discretion, in the vicinity off a heritage item. This report has been prepared on behalf of the developer of the subject site, to enable Council to ascertain whether or not the proposal (as described in section 5 below) will have a negative, neutral or positive impact upon the significance of the abovementioned heritage item. This assessment is carried out in Section 6 below.

This Heritage Impact Statement has been prepared to assess the proposed alterations and additions to an existing shop top housing development as indicated in the submitted plans prepared by Katris Architects Pty Ltd.

### 1.4 Methodology

The methodology used in the Heritage Impact Statement (HIS) is consistent with *Statements of Heritage Impact and Assessing Heritage Significance* published by the Branch of the NSW Office of Environmental and Heritage and has been prepared in accordance with the principles contained in the most recent edition of the Burra Charter: *The Australia ICOMOS Charter for Places of Cultural Significance*.

### 1.5 Limitations

- This HIS is based upon an assessment of the heritage issues only and does not allege to have reviewed or in any way endorsed decisions or proposals of a planning or compliance nature. It is assumed that compliance with non-heritage aspects of Councils planning



*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

instruments, the BCA and any issues related to services, contamination, structural integrity, legal matters or any other non-heritage matter is assessed by others.

- This HIS relies on secondary sources. Primary research has not been included in this report, other than the assessment of the physical evidence on site during a site visit on 20<sup>th</sup> July 2023. Refer to Appendix 2 of this report.
- It is beyond the scope of this report to address indigenous associations with the subject site.
- It is beyond the scope of this report to locate or assess potential or known archaeological sub-surface deposits on the subject site or elsewhere as no earthworks is proposed and the proposed works are limited to the internal fit out only.
- It is beyond the scope of this report to assess items of moveable heritage
- Local Approvals has only assessed aspects of the subject building that were visually apparent and not blocked or closed or to which access was barred, obstructed or unsafe on the day of site visit.

## 2.0 HISTORICAL CONTEXT

### 2.1 Initial Phases of development – Botany Bay and Mascot

The first recorded grants of land to Europeans in the Botany Bay area was on 16 September 1809 to three ex-convicts; Edward Redmond (135 acres), Andrew Byrne (30 acres) and Mary Lewin (30 acres) (situated in the vicinity of today's Sydney Kingsford Smith Airport). Tom White Melville Winder (1789-1853) was surveyed 700 acres in 1822, 417 acres of which were in the Botany District. The recipient of the largest and best-known grant in the Botany District was Simeon Lord (1770-1841). Lord was granted 600 acres in 1823 which encompassed the whole of the lower portion of the Lachlan watershed, and later made further purchases that brought his total land holding to over 735 acres. The other major land holder in the area was the Crown which held 4,195 acres of land in a reserve known as the 'Church and School Estate'. (Source - "NSW State Heritage Inventory, Heritage Item "Commercial Building Group" at <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210033>, accessed 29 April 2022.

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

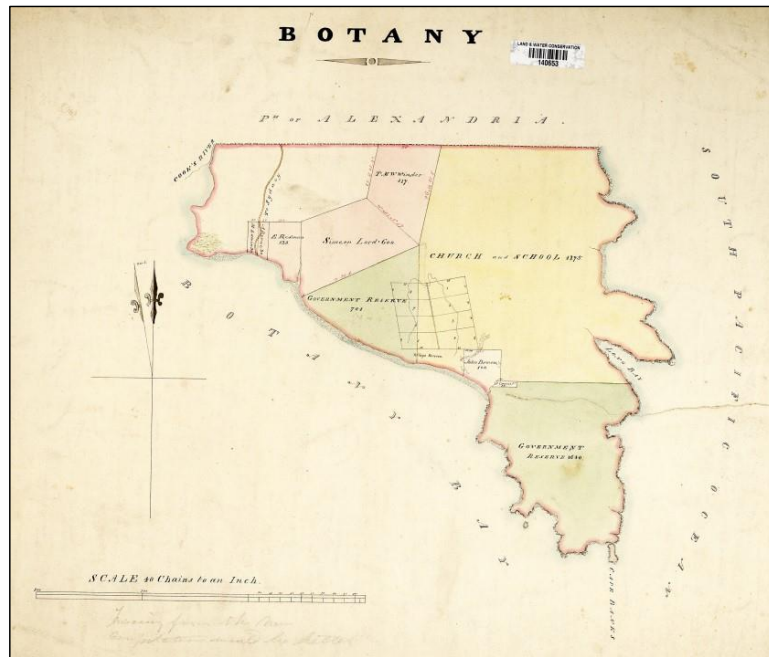


Figure 4: Map from 1823 showing the Early Grant subdivision of Botany Bay.  
(Source: NSW LRS HLRV/Parish of Botany, Map No. 191)

**2.1 Development of No. 1009-1021 Botany Road, Mascot**

The property is located within John Terry Hughes & John Hosking's 51-acre Crown Grant (by purchase) in c.1839. The parcel was subdivided into market garden lots before being sold off in parts. R.J. Want purchased a large portion of the 51 acres and added it to his aggregated holding, which included much of the land east of Mudbank Road (Botany Road) between Gardeners Road and King Street.

An 1869 plan of the aggregated holdings of R.J. Want shows the land at the south-eastern corner of the intersection of Coward Street and the 'New line' of Botany Road as subdivided into (approximately) 1 acre lots, with 7 lots in the ownership of an 'A.W.'.

This part of Botany Road has been a mixed retail/ commercial/ residential precinct since its formalisation as the Botany Parish Road in 1864. No. 1009-1013 were first listed in NSW Certificate of Title Vol. 1464 Folio 110 in 1903 and were transferred to Francis Golding and given the usual lag between construction and listing of up to 18 months, suggests construction

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

between 1902 and 1904. The southern four buildings within the group (1015-1021) were listed in the same certificate the following year (1904) with the 1904 set into the parapet revealing the date of completion and 'Pascoe's Building' the name of the owner Ellen Pascoe wife of Frederick Pascoe. Frederick Pascoe was an ironmonger who appears to have built the group as an investment. In 1908 the lease was transferred to various occupants from Australian Mutual Fire Insurance Society to Botany Florist and to a Medical Practitioner in 1953.

The 1943 aerial photograph in this area was badly spliced and suggests only four properties in the space rather than the seven that had been built by this time. All seven shops were consistently occupied from 1904/1905 (i.e. 1903 onward). The first occupants were William Golding, a hairdresser, and Francis Golding, a fishmonger, listed at 1009-1013 in 1903. By the following year, in 1904, Frederick Pascoe, an ironmonger, had constructed the group of four shops to the south and another tenant had joined the Goldings at No.1013, forming a run of seven tenancies from Nos.1009 – 1021 which included the Goldings' hairdresser and fishmonger businesses as well as two drapers, a fruiterer, a small goods business and a grocer. The shops continued to be occupied by a collection of local businesses and services from 1906 to at least 1933. In addition to the Goldings, and Pascoe's ironmongery business, tenants included several confectioners, drapers, fruiterers, grocers and small-good stores, as well as a ham and beef shop, a refreshment room, a sign writer, a laundry, a bootmaker, a haberdashery, a florist and a hardware store.

Lot A and B (No. 1015-1017) was owned by Bruce Sturgess Courtenay, of Mascot Medical Practitioner from 1953 to 1988. While Lot C (No. 1019) was transferred to Commonwealth Bank of Australia in 1963 and to Bank of New South Wales from 1970 to 1972.

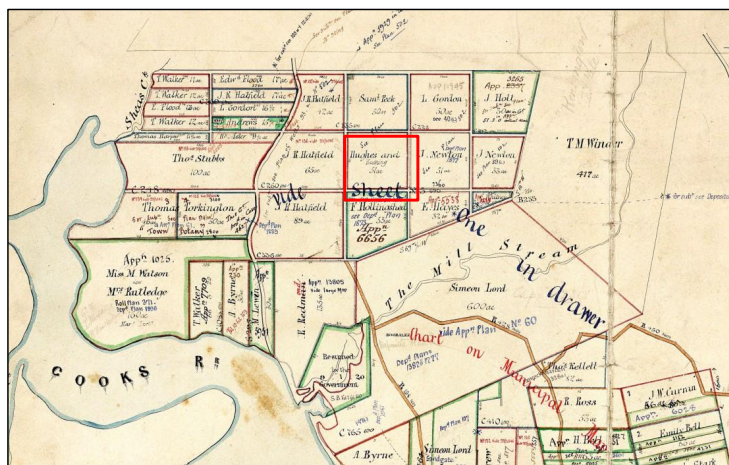


Figure 5: Extract from Historical Parish Map - Botany 1839 showing the 51-acre Crown Grant land owned by Hughes and Hosking in red box

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

(Source: NSW LRS HLRV/Parish of Botany, Map No. 192)

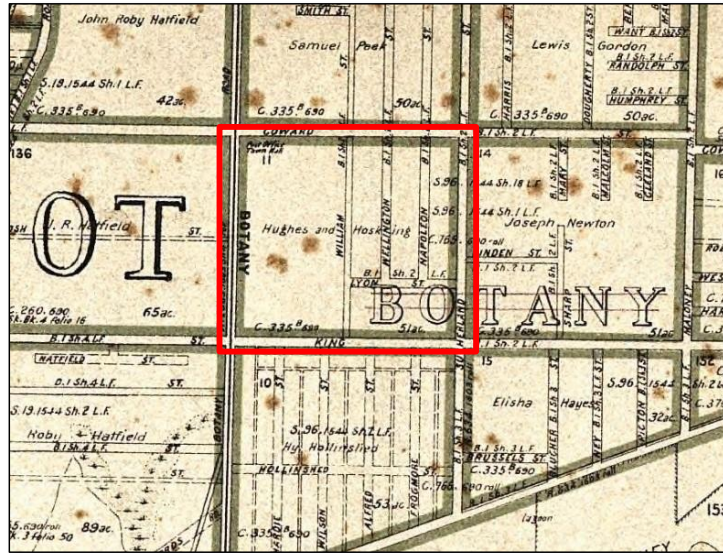


Figure 6: Extract from Metropolitan Land District Map of Botany 1898 showing the subdivision of 51-acre land from the Coward Street

(Source: NSW LRS HLRV/Parish of Botany, Map No. 24500)

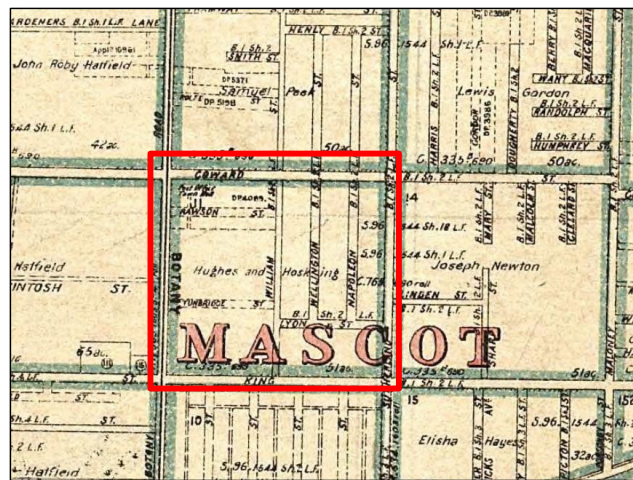


Figure 7: Extract from Metropolitan Land District Map of Botany 1905 showing the subdivision of 51-acre land from the Botany Road

(Source: NSW LRS HLRV/Parish of Botany, Map No. 24499)

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

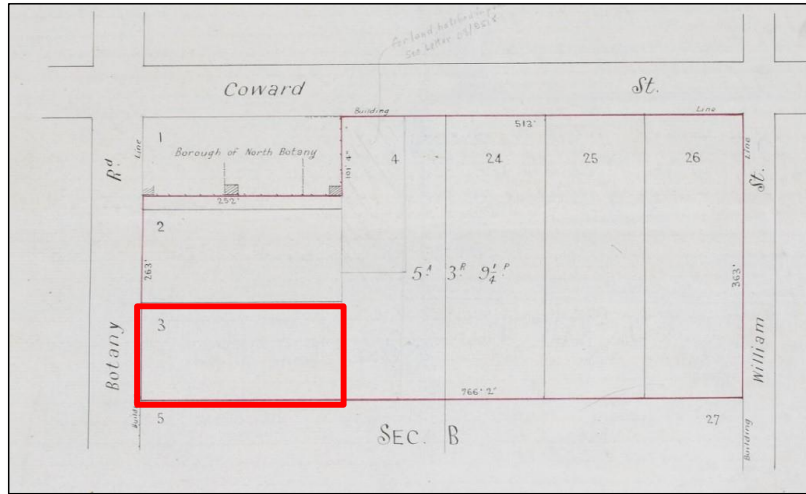


Figure 8: The Plan shows the Subdivision from Coward Street in 1903 and the subject sites No. 1015, 1017, and 1019 Botany Road were a part of Lot 3.  
(Source: NSW LRS HLRV, Vol.1464 Fol. 110)

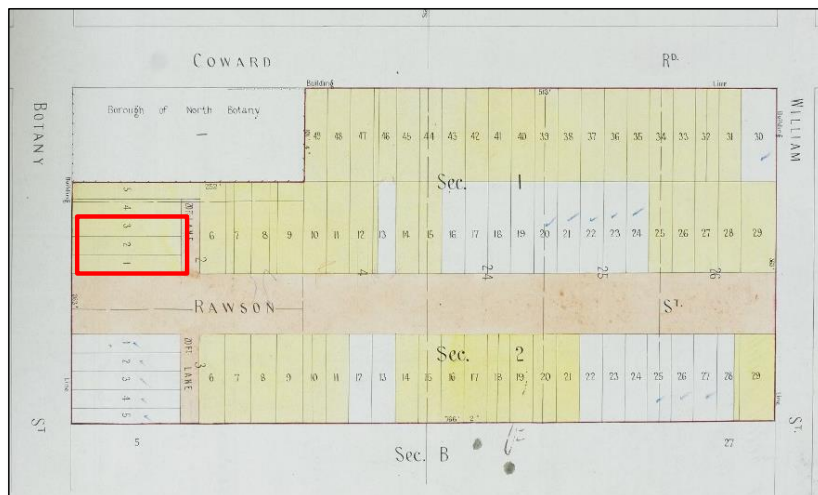


Figure 9: The Plan shows the Subdivision from 1907 to 1915, the subject sites are a part of Lots 1, 2 and 3 of Section 1.  
(Source: NSW LRS HLRV, Vol.1838 Fol. 5)

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

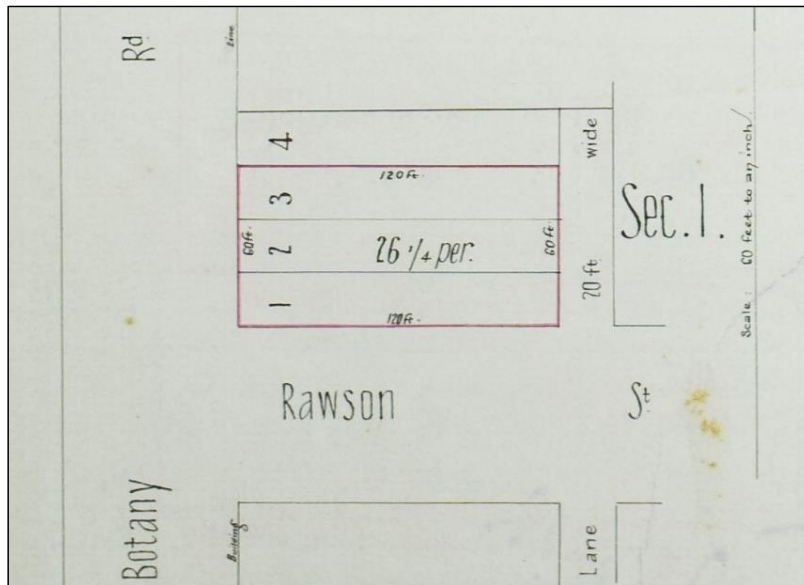


Figure 10: The Plan shows the Lot 1, 2, and 3 of Section 1 are owned by Ellen Pascoe wife of Fredrick Thomas Pascoe from 24th March 1904.

(Source: NSW LRS HLRV, Vol.1525 Fol. 68)

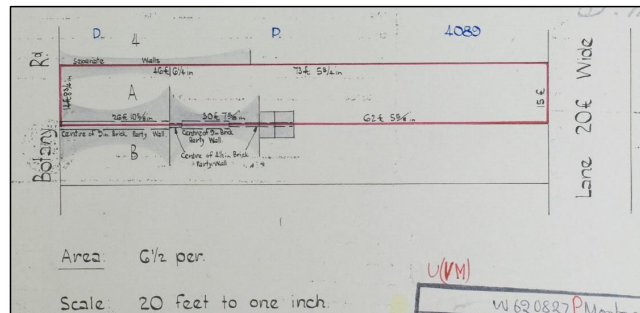


Figure 11: Plan from the NSW Certificate of Title 1956, shows Lot A (No. 1015) with building layout sharing a brick partition wall with Lot B (No. 1017)

(Source: NSW LRS HLRV, Vol.7137 Fol. 116)

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

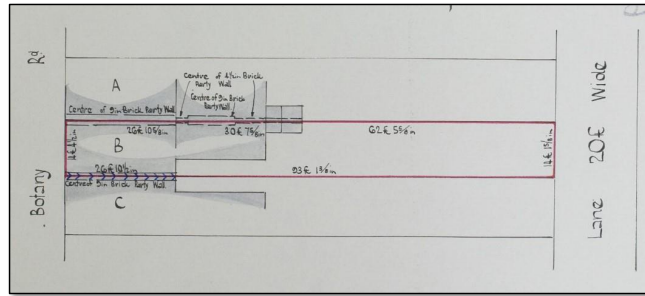


Figure 12: Plan from the NSW Certificate of Title 1956, shows Lot B (No. 1017) with similar building layout as Lot A (No. 1015) (Source: NSW LRS HLRV, Vol.7137 Fol. 117)

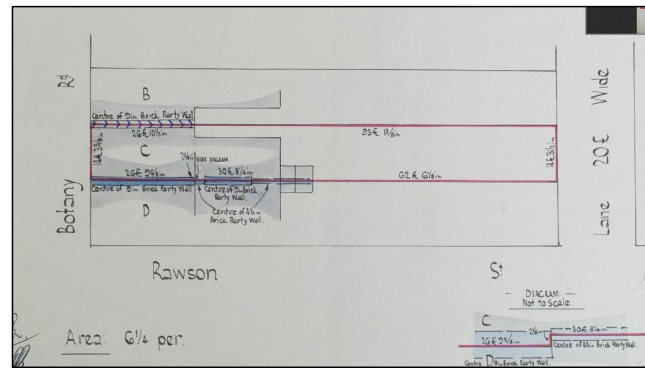


Figure 13: Plan from the NSW Certificate of Title 1956, shows Lot C (No. 1019) with a cross-easement in blue with No. 1021. Both the lots were built to the party wall and subsequent rear extensions were added later. (Source: NSW LRS HLRV, Vol.7137 Fol. 118)

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

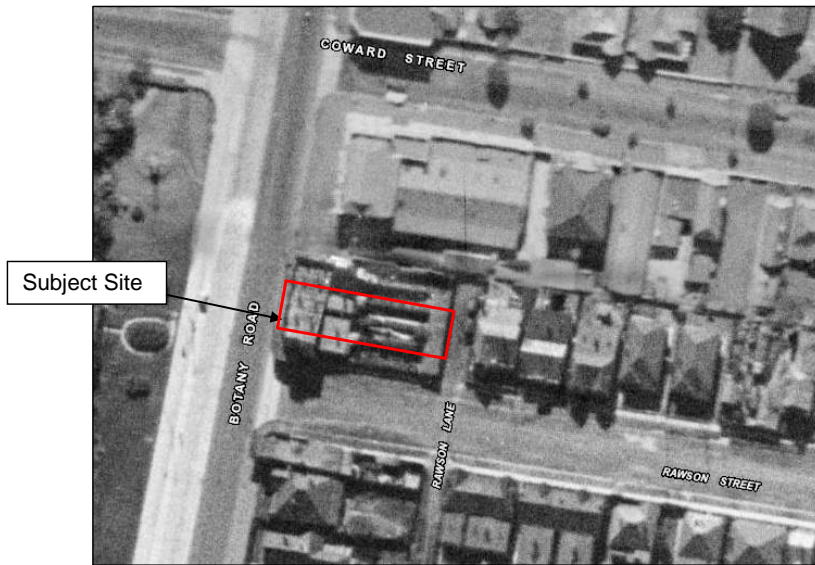


Figure 14: Aerial map from 1943, showing the building layouts of No. 1009 to 1021 Botany Road.  
 Source: NSW Department of Lands SIXMaps, <https://maps.six.nsw.gov.au/>, Accessed April 2022.

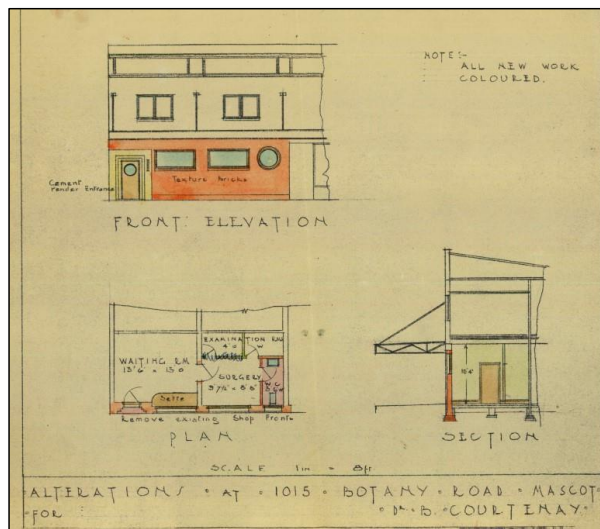


Figure 15: DA approval drawing of No. 1015 and 1017 from circa 1949, showing that existing front façade and internal layout has been altered  
 Source: Bayside Council Archives



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Figure 16: Google Street View from 2007, showing the rear extension in Brick at No. 1021  
Source: Google Maps, Accessed April 2022.



Figure 17: Picture from 2015, showing the rear alterations and additions at No. 1021 Botany Road.  
Source: NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210033>, Accessed April 2022.

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Figure 18: Picture from 2015, showing the subject site No. 1015, 1017, and 1019 Botany Road.  
Source: NSW State Heritage Inventory, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210033>, Accessed April 2022.

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**3.0 PHYSICAL EVIDENCE AND SETTING**

The subject site is located in the Bayside Council government area, within the group of early 20th century shops from 1009 to 1021 Botany Road and is of local heritage significance to the Bayside area as one of the earliest surviving groups of shops along Botany Road (c.1903-1904 completion). Although altered, the buildings have retained very good historic and aesthetic integrity as a group. The aesthetically distinctive and substantially intact Victorian Free Classical style parapet extends across all buildings in the group and is a notable element in the context of the local area.

Figure 17-20 show the existing streetscapes of the immediate vicinity of the site.



Figure 19 – The Commercial building Group – 1009-1021 Botany Road  
(Source: Google Maps Street View, accessed April 2022)

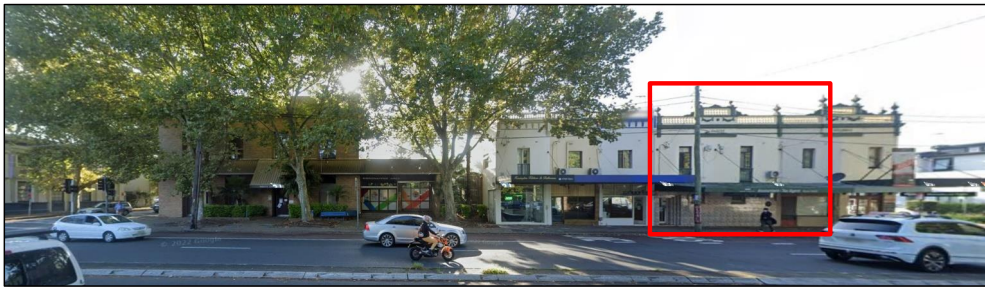


Figure 20 – Buildings along the Botany Road, adjacent to the Commercial Buildings Group is the Heritage Item the Mascot Town Hall  
(Source: Google Maps Street View, accessed April 2022)

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Figure 21 – Intersection of Botany Road and Rawson Street  
(Source: Google Maps Street View, accessed April 2022)



Figure 22 – Intersection of Botany Road and Coward Street with Mascot Town Hall adjacent to the subject site and Mascot Memorial Park opposite to the subject site.  
(Source: Google Maps Street View, accessed April 2022)

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#### **4.0 ASSESSMENT OF SIGNIFICANCE**

##### **4.1 Statement of Cultural Significance**

The following statements are extracted from the applicable pages of the NSW State Heritage Inventory website, regarding the subject sites at 1015, 1017, and 1019 Botany Road, MASCOT which is within the Commercial building group that includes 1009-1021 Botany Road. Below is a verbatim description of the subject group of houses:

**ITEM DETAILS:**

**Name:** Commercial Building Group

**Former Name:** Pascoe Buildings

**Construction Year Start & End:** 1902 - 1904

**Physical Description:**

*The group of commercial buildings from 1009 to 1021 Botany Road read as substantially cohesive set of early 20th century shops with accommodation above. The northern building (1009-1013) has three separate tenancies to both the upper and lower levels in clearly defined structural bays. The southern group (1015-1021) is formed by two wider bays, each containing a pair of shops. The group was built in two stages. The three northernmost shops (1009 to 1013 Botany Road) were built c.1902-3; and the southern four shops, identified on their façade as "Pascoe Buildings" were built immediately after this, c.1903-4.*

*The facades are austere and contrast with the highly detailed bracketed parapets that unify the group through their similar aesthetic treatments, including string mouldings, decorative urns/balls/pediments and Italianate detailing. The northern group includes a shield to the pediment; and the southern pair include the name of the group, "Pascoe" and "Buildings" (Pascoe being the owner and occupier of the site at the time).*

*All shopfronts have been removed and a range of 20th century fronts inserted. Most are typical examples of their period and have retained a traditional retail character, but 1015-1017 has been almost fully tiled in an unsympathetic manner. The awnings to the group are typical mid-late 20th century suspended awnings with deep facades allowing for shop identification.*

*The original composition of the upper façade can be seen in c.1938 photos of the streetscape, although the images are highly foreshortened and are not clear. They reveal that however that the upper façade of the Botany Road elevation of Pascoe Buildings originally included French-opening doors to small balconies, each shaded by a bracketed awning. Evidence of this can be seen in the intact doors to 1015-1017 Botany Road; and the flashing above the window to 1019. The balconies in the early photos appear to be deeper than the pair of cast iron railings to 1015 and 1017 today, but the photographs suggest that they may be a balustrade-screen of some*

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*form, and the cast iron railings may have sat behind. The existing window to the front bay of the southern elevation appears to be original. The upper façade to 1009-1013 also had full-length French doors, but the photograph (c. 1935-40) does not show any balcony or awning, suggesting that the existing form/fabric to 1009 may be original. The elevation of 1021 Botany Road to Rawson Street has recently undergone alterations and additions including the insertion of a second window to the upper façade and an extension to the rear which includes two balconies to the upper level. These reference the form and proportions of the balconies visible in the early photographs (except for the awnings) and are therefore a contemporary version of the original detailing of the property. It is not known if this was a deliberate or accidental reference.*

**Other Information:**

**Statement of Significance:**

*The group of early 20th century shops from 1009 to 1021 Botany Road are of local heritage significance to the Bayside area as one of the earliest surviving groups of shops along Botany Road (c.1903-1904 completion), and which, although altered, have retained very good historic and aesthetic integrity as a group. The aesthetically distinctive and substantially intact Victorian Free Classical style parapet that extends across all buildings in the group is a notable element in the context of the local area.*

*This parapet detailing is also aesthetically significant because it is substantially intact to all properties in the group and provides very good evidence of the ways in which this exuberant style was interpreted at the modest scale of the small group of suburban shops. The facades above awning level have been altered in various ways, but sufficient fabric and photographic evidence exists to allow reconstruction if desired in the future. The recently added balconies to the southern (Rawson Street) elevation reference the form of the original Botany Road facades.*

*As is the case with all shops in the area, the shopfronts have been removed and a variety of replacements fitted. Most are typical mod-late 20th century designs, but several have been bricked and wall tiles applied and are unsympathetic elements in the group. These shopfronts could also be removed and a more appropriate form inserted as part of future works. As a group they provide evidence of the evolution of retail presentation and patterns of interaction with customers over the last 100 years.*

*Despite these changes to the facade, the overall form of the building is substantially intact or altered in the traditional pattern of this type of shop. The heritage values of the group, and particularly the aesthetic qualities of the parapet when viewed against the skyline, satisfy the Criteria for local heritage significance.*

*The group is also locally significant for its contribution to the development of the area and the evidence that it provides of the form and pattern of development in the area in the early years of the development of this part of Mascot following the formation and construction of the nearby North Botany Town Hall in 1889.*

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**Recommended Management Summary:**

*The building should be retained and conserved. All original external fabric and detailing should be retained. If replacement fabric is necessary it should match or be sympathetic to the original fabric or based on photographic evidence. Facades are not to be obscured by signs. No sign of any type is to be located above the awning.*

*Although all original shopfronts and some upper level windows have been overlaid, in some cases unsympathetically, fabric and photographic evidence remains of the façade detailing above awning level and reconstruction is a potentially realistic option should it be considered desirable to do so. Replacement of the bricked/tiled shopfronts with a contemporary interpretation of an early 20th shopfront should be considered as part of any new work.*

*Any future additions should be modestly scaled and not be visible in views over the property from any part of the intersection or from within Memorial Park or impact on the integrity of the silhouette of the parapet detailing against the sky.*

*Any significant original internal fabric should be retained and conserved. Internal alterations should be consistent with original detailing and overall form. Signage relating to current or new uses should be sympathetically scaled and detailed and not obscure significant architectural details.*

*It is strongly recommended that the advice of Council's Heritage Advisor be sought early in the planning of any alteration or addition.*

**Assessment of management recommendations:**

With respect to the recommended management summary in the State Heritage Inventory (SHI) data sheet above, the proposed works will result in the retention of the existing building. All original external fabric and detailing such as the distinctive parapet, which is in excellent condition, together with the proud building façade are proposed to be maintained. The proposed addition will also result in the retention in the primary building form, including the internal party walls which separate buildings 1015,1017, and 1019 respectively.

The proposed works will restore the existing altered and unsympathetic shopfronts along Botany Road via a contemporary interpretation of an early 20<sup>th</sup> Century shopfront. This is proposed via the amendment of sympathetic and carefully designed façade, with consideration to ground floor window proportions as well as appropriate materials chosen for the proposed window and door frames. The above is consistent with the recommended replacement of the bricked/ tiled shopfronts.

The proposed additions are primarily located toward the rear of the subject site and are modestly scaled and located below the existing first floor roof line, and parapet wall. Subsequently, the

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proposed additions will not be visible from the Botany Road and Rawson Road intersection, or from Memorial Park.

The proposed works involve the deletion of the internal rear wall of the existing principal building form. Consideration was given to the potential inclusion of a single storey link structure in efforts to retain the said rear wall. However, during careful consideration, the rear wall is proposed for removal for the following reasons:

- The said rear wall if maintained will result in decreased solar access to the ground floor and first-floor components of the shop top housing building due to the existing east-west orientation of the subject site. The retention of the said rear wall will result in the increased dependency of artificial lighting throughout the building.
- The said rear wall if maintained will pose hindrance to natural ventilation amenity and overall increase the dependence of artificial ventilation throughout the building. The deletion of the said wall will result in optimal access to natural ventilation and will enable an efficient cross breeze through the building.
- The deletion of the said wall will also result in enhanced pedestrian manoeuvrability and will result in an unobstructed open floor plan that is consistent with and evidence of the evolution of contemporary commercial presentation and patterns of interaction with customers, whilst also maximising a spatially constrained internal floor plan.



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## 5.0 DESCRIPTION OF PROPOSED DEVELOPMENT

### 5.1 Proposal

The application seeks consent for alterations and additions to the existing 3 units at 1015, 1017, and 1019 Botany Road, Mascot respectively. The proposal involves internal alteration together with rear extensions of the existing ground floor and first floor. The proposal will retain the existing front facade wall, the parapet, together with the internal party walls within the primary building element, which fronts Botany Road.

### 5.2 Building work

This application seeks Development Approval (DA) for the **proposed alterations and additions to three (3) existing contiguous shop top housing buildings at Nos. 1015, 1017 and 1019 Botany Road, Mascot NSW 2020**. These are detailed as below:

- Ground floor front façade alterations – to remove unsympathetic alterations
  - Repositioning of entry doors for Nos. 1015 and 1019
  - Reestablishment of entry door for No. 1017
  - New glazed shopfront windows
  - Existing front awning to be made good
- First floor front façade alteration
  - Nos. 1015 and 1017 windows to be made good
  - No. 1019 window position to be adjusted and consistent with Nos. 1015 and 1017
- Ground floor rear extension to existing commercial area
- First floor rear extension to existing residential area
- Construction of detached ancillary rear media rooms

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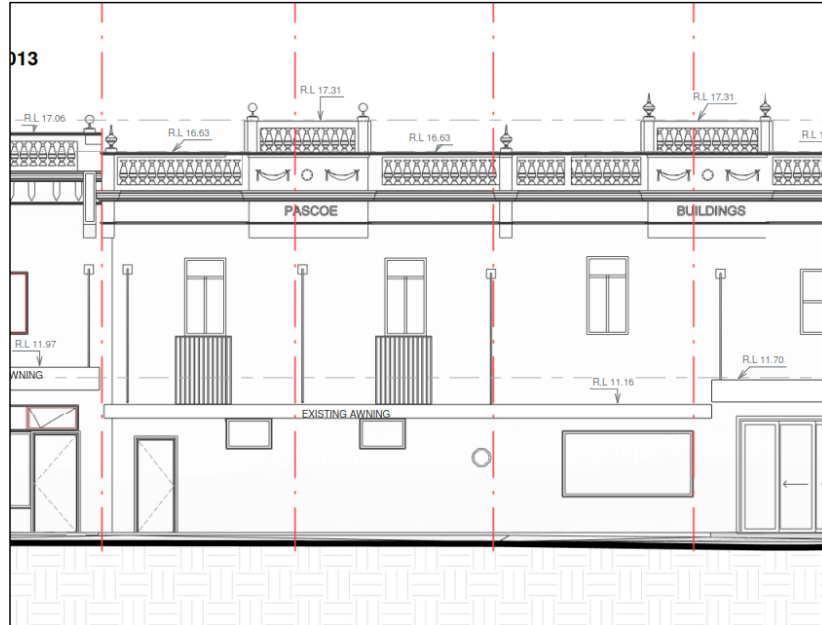


Figure 23 – Existing Front Façade

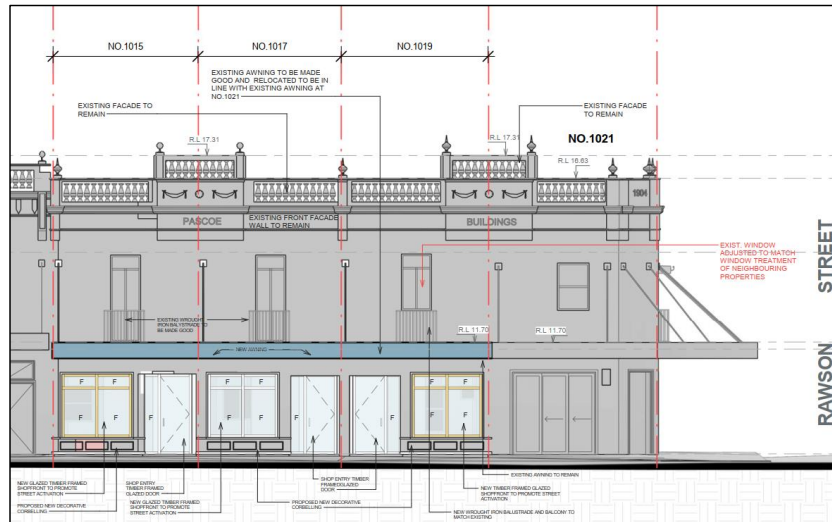


Figure 24 – Proposed Front Façade

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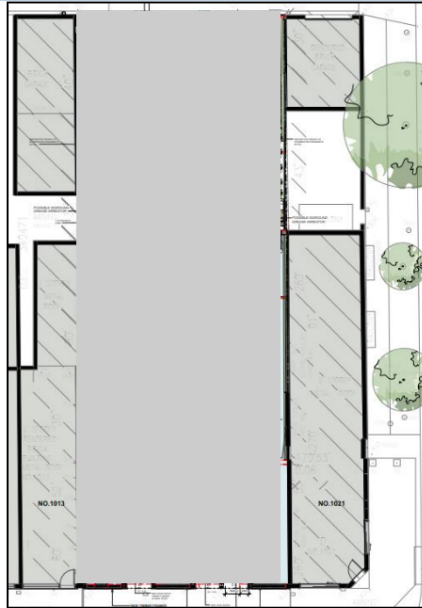


Figure 25: Proposed Ground Floor

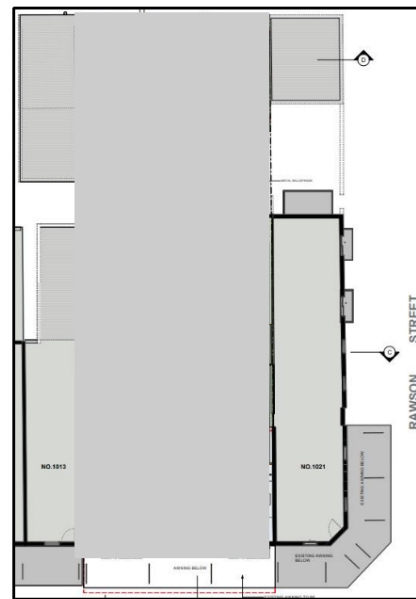


Figure 26: Proposed First Floor residential tenancy with detached ancillary media rooms

Additional details pertaining to the use of the proposed development are as follows:

The proposed development comprises the retention of the Botany Road facade and parapet walls, demolition of the internal buildings and construction of 3 x shop-top housing buildings that are similar to a typical SOHO development where the resident will also operate from the ground level business.:

**1015 Botany Road** A ground floor business with a floor area of 89.4m<sup>2</sup> and a first floor 2 bedroom residence with no direct access to either Botany Road or Rawson Lane. As noted above, the development will be similar to a SOHO where the residence will be owned and occupied by the owner of the ground level business. The proposal will be served by 2 off-street parking spaces in a tandem arrangement with access to Rawson Lane. The parking will serve both the resident and business owner.

**1017 Botany Road** A ground floor business with a floor area of 89.4m<sup>2</sup> and a first floor 2

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bedroom residence with no direct access to either Botany Road or Rawson Lane. The proposal will be served by 2 off-street parking spaces in a tandem arrangement with access to Rawson Lane.

**1019 Botany Road** A ground floor business with a floor area of 89.4m<sup>2</sup> and a first floor 2 bedroom residence with no direct access to either Botany Road or Rawson Lane. The proposal will be served by 2 off-street parking spaces in a tandem arrangement with access to Rawson Lane.

**5.3 Built form**

Rear extension to the existing double story built form with minimal impact to the front façade. The proposed rear addition is located behind the existing parapet and will not be visible from the street level at Botany Road, as a result the proposed additions are considered to remain subservient to the overall row of terraces.

In accordance with the proposed demolition plan, the proposed works will not result in any undue negative physical impact upon the existing built form and heritage fabric of 1013 or 1021 Botany Road, which flank the subject site respectively. The proposed rear additions will remain wholly within the subject sites of 1015,1017 and 1019 respectively and will not result in any encroachment upon the adjoining adjacent structures.

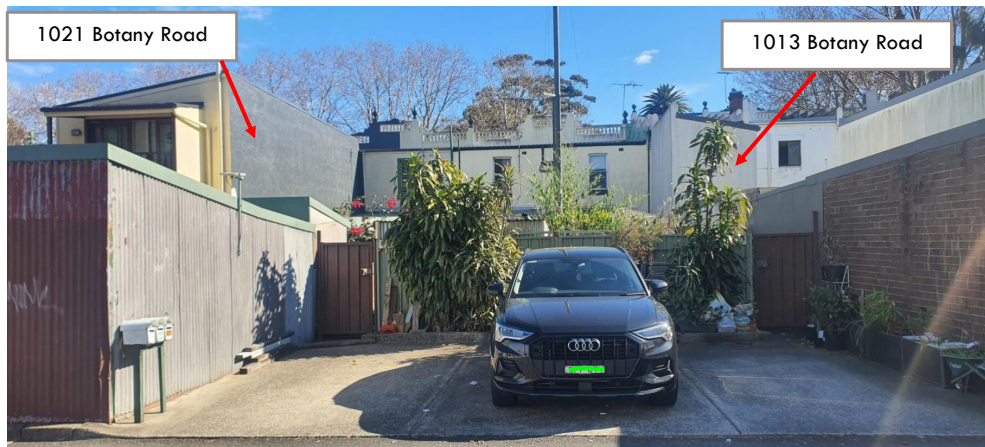


Figure 27 photo taken from rear of subject site illustrating existing flanking built form.

**5.3.1 Gross Floor Area and Floor Space Ratio**

The proposed GFA = 590.60m<sup>2</sup>

Proposed FSR = 1.22:1 (Permissible is 2:1)

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### **5.3.2 Building Height**

Proposed Height of the building = 9.8m (Permissible is 14m)

## **6.0 ASSESSMENT OF HERITAGE IMPACT**

This assessment is based upon the Heritage status (refer to Section 1.2 of this HIS); the physical inspection of the site and the photographic evidence (refer to Section 3 of this HIS); and a review of the applicable planning instruments and sources relating to heritage aspects of the proposal.

Table 1 of Section 1.2 of this HIS has determined that the subject site is located within the vicinity of eight heritage items, all within Botany Road and Coward Street. The subject site is directly adjacent to one of these items with visual dialogue. We therefore assess the impact the proposed development would have upon the adjacent heritage item. To this end, the issues outlined below are addressed.

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**6.1 Bayside Local Environmental Plan 2021**

Heritage provisions are contained in Clause 5.10 of Bayside Local Environmental Plan 2021. The proposed development has been assessed against the following relevant provisions:

<b>Bayside Local Environmental Plan 2021</b>	
<b>5.10 Heritage conservation</b>	
<b>Refence to Part of LEP</b>	<b>Assessment</b>
<p>(1) <b>Objectives</b> The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Bayside,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>(a) The proposed development does not involve modifications that will have an impact on the integrity of the place. The environmental heritage of the item is conserved by keeping the exiting front façade wall and parapet.</p> <p>(b) The proposed development will not result in any physical impact on listed heritage items in the immediate vicinity of the subject site or on their setting. There will be no impact on the significance of items or on views and the settings of items.</p> <p>(c) 1015, 1017, and 1019 Botany Road are not known to be an archaeological site.</p> <p>(d) 1015, 1017, and 1019 Botany Road are not known to be a place of Aboriginal heritage significance.</p>
<p>(2) <b>Requirement for consent</b> Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p>	<p>The proposed development at 1015, 1017, and 1019 Botany Road, Mascot is the subject of a formal development application with Bayside Council.</p>

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<p><b>(4) Effect of proposed development on heritage significance</b> 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).</p>	<p>This statement of heritage impact has been written to determine the impacts of the proposed development on the significance of heritage items in the vicinity.</p>
<p><b>(5) Heritage assessment</b> The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>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.</p>	<p>This statement of heritage impact has been written to accompany a formal development application for alterations and additions at 1015, 1017, and 1019 Botany Road, Mascot. It evaluates the extent of impacts on the nearby heritage items and the heritage significance of the building itself.</p>

**6.2 Botany Bay Development Control Plan (DCP) 2012**

In Table 2 below, we assess the proposal against the relevant sections of the Botany Bay DCP 2013. To this end, we address the controls listed in Section 3B of the Botany Bay DCP 2013.

<b>Botany Bay DCP 2013</b>	
<b>3B Heritage</b>	
<b>Control</b>	<b>Assessment</b>
<p><b>3B.3.1 General Design</b> General</p> <p>C1 The demolition of Heritage Items is not permitted. Note: Poor structural condition or costs associated</p>	<p>The proposal involves extension of the existing buildings on the subject site.</p>

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<p>with renovating the item are not adequate justification for the removal of an item.</p> <p>C2 Architectural features or elements that contribute to the heritage significance of an item must be retained.</p> <p>C3 New work or additions to Heritage Items must be located away from highly significant or intact parts of the Item.</p> <p>C4 The building height of new development must not exceed that of the original Heritage Item and provide a transition in height to preserve and maintain an appropriate scale and the visual prominence of a Heritage Item.</p> <p>C5 New additions must be compatible (able to co-exist) in terms of materials, size, proportions, colour and plan configuration. Care must be taken when considering the design of alterations or extensions to a Heritage Item. New work is to be distinguishable from the old.</p> <p>C6 The replication of a historic detailing in new development is to be avoided. Good contemporary design is preferable to copying historic or period designs.</p> <p>C7 New buildings or structures, including landscaping must be located to minimise adverse impacts on the Heritage Item and its setting</p> <p>C8 Servicing, fire safety or BCA compliance upgrades for a new use must not impact on the heritage significance of the item.</p>	<p>The proposal retains the existing historically significant Parapet from 1904.</p> <p>The proposed alterations and additions are located at the rear of the subject site and are consistent with the existing Parapet.</p> <p>The proposed building height will not impact the exiting building fabric, scale and visual prominence as viewed from the Botany Road. The proposed works remain in accordance with the existing Parapet in terms of bulk and scale, and thus results in the preservation of the subservient nature of the proposed additions in respect to the existing heritage significant fabric, and complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p>
<p><b>Form and Scale</b></p> <p>C9 The form, scale and massing of new work is to be consistent with the Heritage Item.</p>	<p>The proposed addition to the existing building has been designed in consideration of the heritage significance. The proposed additions reduces the visual bulk of the building and</p>

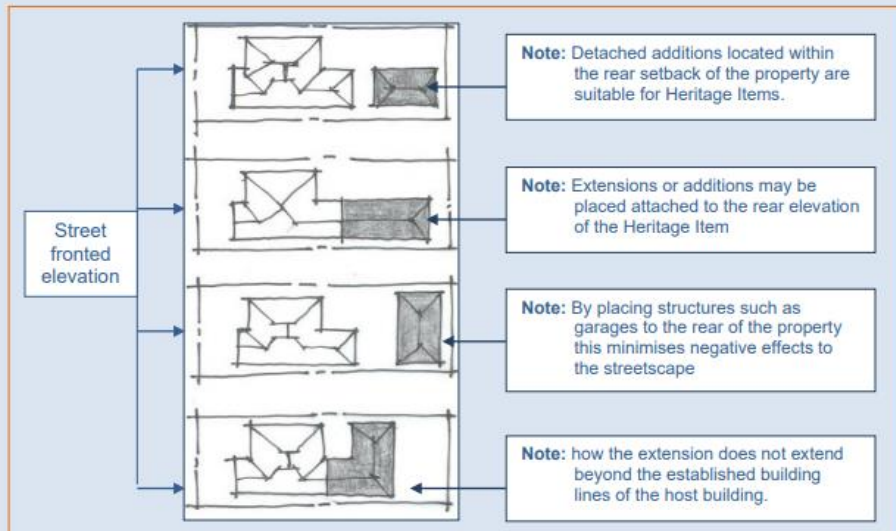


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<p>C10 Alterations and additions must be located to the rear of Heritage Items away from the principal elevation (refer to Figure 1).</p> <p>C11 The massing of the rear addition must be behind and below the main roof ridge. It should also be smaller in scale than the existing building.</p> <p>C12 Large second storey additions are not permitted.</p>	<p>does not impact the exiting views from the Botany Road.</p> <p>The proposed garage and first floor media rooms are at the rear of the site, therefore will have no impact on the heritage item. All the proposed additions and alterations are behind the exiting front façade. The historically significant Front façade wall, awning, Parapet, exiting windows and balconies are retained. All the proposed alterations and additions are consistent with the exiting building and replace the unsympathetic and already altered elements.</p> <p>The rear garage and media room addition is at the same height as the exiting building, remaining at a maximum of 2 storeys in height.</p> <p>The proposed development will result in a rear extension to the existing 2 storey building and thus will not result in unnecessary bulk and scale to the subject sites and adjoining buildings.</p>
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**Figure 1 - Additions and Extensions at the Rear of the Property**



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<p><b>Unsympathetic Alterations</b></p> <p>C13 Where substantial changes are proposed to a Heritage Item, existing unsympathetic alterations should be removed as this will assist in improving the integrity of the Heritage Item</p>	<p>As per the Statement of Significance, the shopfronts have been replaced and altered over the years with some unsympathetic changes as well, therefore the proposed front façade changes will help to improve the Heritage significance of the building.</p>
<p><b>Internal work</b></p> <p>C14 Development must retain significant interior elements (ie decorative ceilings, fireplaces and the like).</p> <p>C15 Modifications to the interior of a building must be minimal, so that the historic evolution of the building remains recognisable.</p>	<p>The subject site doesn't have known heritage significant interiors and most of which have been altered over the years, therefore the proposed internal alterations and additions will not impact the heritage significance of the existing building.</p>
<p><b>Materials and Finishes</b></p> <p>C16 Materials and finishes are to complement the period and style of the existing item.</p> <p>C17 The colours and materials used in a new development (whether an extension of an addition) are to be recessive (does not dominated) and complement the colours and materials of the heritage Item. The reinstatement of historical colour schemes of heritage items, based on photographic evidence and discrete paint scrapings is encouraged.</p> <p>C18 Rendering or painting original face brickwork is not permitted.</p>	<p>Complies.</p>
<p><b>3B.3.3 Garages, Carports and Driveways</b></p>	
<p>C1 Garages and carports should be located at the rear of Heritage Items. Where sites have rear lane access this access must be used (refer to Figure 2).</p> <p>C2 Garages and carports in front of the front building setback are not permitted.</p> <p>C3 Where there is no rear or side access, provide a simple hardstand area in front of the building in preference to a garage or carport (refer to Figure 3).</p>	<p>The proposed Garages are proposed at the rear of the subject site and will have access from the rear lane.</p>

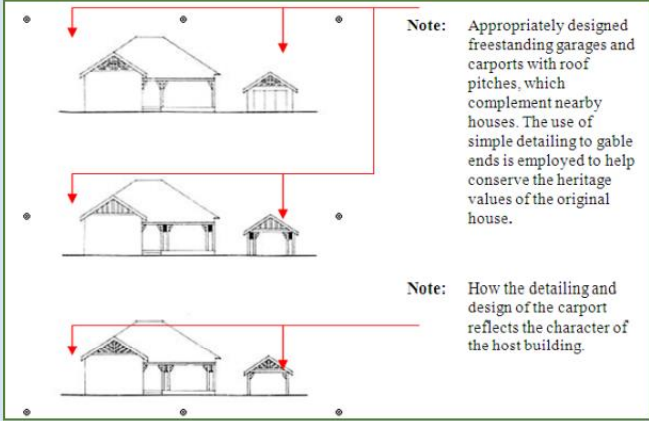
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<p><b>Figure 2 - Examples of Minimising Impacts of New Carports/garages</b></p>	
<p><b>Design</b></p> <p>C4 Carports and garages are to be designed so they do not dominate or detract from the building.</p> <p>C5 Carports and garages shall be sympathetically designed so as to complement design the character of/and take reference from the Heritage Item.</p> <p>Note: Use design detailing, materials and colours from the Heritage Item (refer to Figure 4).</p> <p>C6 Garages and carports must incorporate suitable roof plans which complement the main building.</p> <p>C7 Garages and carports are not permitted where they involve the loss of significant gardens, landscaping or protected trees.</p> <p>C8 Garages and carports should not be the dominant feature of the building façade.</p>	<p>Complies.</p>

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<p><b>Garages</b></p> <p>C11 Where garages are sited away from the main dwelling, features such as side positioned parallel concrete strip driveways, should be retained where possible.</p>	<p>Complies.</p>
<b>3B.3.7 Heritage Items in Business Zones</b>	
<p>C1 New development must maintain traditional shopfronts and respect the form, scale and detailing of the existing building.</p> <p>Note: The removal or reconfiguration of the external appearance of heritage listed shops, banks and public house frontages is not permitted without prior Consent from Council.</p> <p>Note: The structural alteration of interior features of heritage protected commercial buildings is not permitted without prior consent from Council.</p> <p>C2 All original, early or significant verandahs, awnings and frontages (shop, bank or pub) should be retained and conserved.</p> <p>C3 Infilling of original verandahs is not permitted.</p> <p>C4 Colour schemes for repainting must be based on historical evidence.</p>	<p>The proposed development retains the existing awning of the shopfront. Additional details are proposed to remove the existing unsympathetic alterations.</p> <p>The proposal retains the existing awning, verandahs on the first floor and the parapet.</p> <p>Complies.</p>

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

<p>C5 Signs must be located on parts of the building that have been traditionally used for signs and comply with Part 3D - Signage.</p> <p>C6 Where commercial buildings have a history of being publicly accessible, new uses should continue such accessibility.</p> <p>C7 Rehabilitation of obsolete commercial buildings is promoted.</p> <p>C8 Where original commercial buildings exist, retention of these buildings in their original configuration is promoted.</p> <p>C9 Sympathetic refurbishment and conversion of commercial buildings, whereby significant architectural features such as ground floor frontages, detailing and windows etc. are retained is promoted (refer to Figure 19). For instance:</p> <ul style="list-style-type: none"> <li>(i) Corner splays to commercial buildings must be retained;</li> <li>(ii) Parapet walls, inscriptions, and historic detailing must be retained;</li> <li>(iii) Recessed porches, and verandahs are important elements;</li> <li>(iv) Retain upper floor windows where significant;</li> <li>(v) Awnings are important features, which should not be removed from commercial buildings; and</li> <li>(vi) Public house frontages (similar to shops, banks etc) are important elements and should be retained.</li> </ul> <p>C10 Ornamental parapet detailing (such as pediments, urns and finials) are important elements of commercial Heritage Items as they help to establish what period they were erected in, and as such their removal negatively impacts on the architectural significance of commercial buildings and is not permitted (refer to Figure 18 and Figure 19). Applicants are advised that such elements not only assist in the identification of the period of the building but also contribute to the integrity of the architectural</p>	<p>Complies.</p> <p>Existing signage retained.</p> <p>Complies.</p> <p>Complies.</p> <p>The existing parapet is retained in its original form.</p>
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*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

style, aesthetic and sensory appeal and heritage characteristics of the building and streetscape	
<b>3B.7 Development in the Vicinity of Heritage Items or Heritage Conservation Areas</b>	
<b>General</b>	
C1 New development in the vicinity, (nearby, adjoining or adjacent) of a Heritage Item or a Heritage Conservation Area must be designed to maintain the setting and the character of the street in which it is located.  Note: A preferred approach is to design new buildings in a contemporary manner, which is sympathetic to the surrounding area, and to the Heritage Item or Heritage Conservation Area to which it is nearby, adjoining or adjacent to.	Complies.
C2 New development should be consistent in scale with the Heritage Item or Heritage Conservation Area. Note: To prevent changes in the scale of development, the building height of the Heritage Item or Heritage Conservation Area should be used as a benchmark for the maximum achievable building height of the proposed new development.	The proposed scale of the building has been carefully considered and is designed to step up away from the heritage items to diminish the dominance of the buildings over the corner heritage buildings.
C3 Parking facilities and driveways must be designed and located so as not to dominate the character of the street.	Complies.
C4 The design and siting of new work must compliment the form, orientation, scale and style of a Heritage Item or Conservation Area in the vicinity of the site.	Complies.
C5 Adequate space must be provided around the Heritage Item or Heritage Conservation Area in order to maintain significant or historic public domain views to and from the Heritage Item or Heritage Conservation Area.	Complies.
C6 Original or significant landscape features that are associated with the Heritage Item or Heritage Conservation Area and which contribute to the setting must be retained.	Complies.
<b>Design / Form</b>	

*Proposed Alterations and Additions to existing shop top housing development*

1015, 1017, 1019 Botany Road, Mascot 2020

<p>C7 New development must adopt the same eave lines, height of floors, stringcourses and rooflines (itches and eave overhangs) of the Heritage Item or Heritage Conservation Area in the vicinity.</p> <p>Note: New or infill development must not match the existing Heritage Item, but rather sympathetically interpret the façade elements of the adjoining Heritage Item and the pattern of development within the street.</p> <p>C8 The proportion and spacing of door and window openings of new development shall relate to those of adjoining historic buildings.</p> <p>C9 The siting of new development shall not affect the structure of, or otherwise cause physical damage to any Heritage Item.</p>	<p>The proposed infill development has been designed in consideration of the existing heritage character of the street and adjoining buildings. The proposed scale and additions façade detailing will positively impact the heritage significance by removing the existing unsympathetic alterations and enhancing the existing details like the awning, verandah and parapet.</p> <p>The proposed infill development on the upper floors is located away from the exiting parapet will increase the viability of the existing commercial building to its full potential.</p>
<p><b>Height</b></p> <p>C10 Notwithstanding the maximum height limit under Bayside LEP 2021, new or infill development shall not exceed the height of an adjoining, adjacent or nearby Heritage Item.</p> <p>C11 Where the Heritage Item is single-storey or where buildings in the Heritage Conservation Area are predominantly single-storey, new development must also be single-storey.</p> <p>C12 Where a Heritage Item or a majority of buildings in the Heritage Conservation Area are two storey, new or infill development in the vicinity may also be two-storeys.</p> <p>C13 Any new development or additions, which have a negative impact on the character of the streetscape or a Heritage Item, will not be permitted.</p>	<p>The proposed infill development results in a balanced built form via the proposed floor space and height of the building required to improve the amenity of the Building with the reinstatement of significantly more appropriate form, detailing and character.</p> <p>The massing of the building has been carefully considered and is designed and setback away from the heritage significance in order to diminish the dominance of the buildings over the corner heritage buildings.</p> <p>All existing views to and from the heritage items in the vicinity will be retained and conserved.</p>
<p><b>Colours</b></p> <p>C14 New development shall incorporate the use of colours and materials that are recessive (i.e. not as prominent) so that they do not visually dominate the Heritage Item or a Heritage Conservation Area.</p>	<p>Complies.</p>

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

<p>Note: Darker colours and simple façade treatments can assist in minimising the visual impact of new development.</p>	
<p><b>Roof</b></p> <p>C15 The roof shape and materials of new development or existing development shall relate to adjoining or nearby heritage buildings (refer to Figure 36).</p> <p>C16 New developments that utilise a variety of roof forms such as gabled or hipped roof plans are encouraged.</p> <p>C17 Materials and finishes used in the roof plans of new developments should be sympathetic in character to that of the Heritage Item or Heritage Conservation Area.</p>	<p>The contemporary style roof will not be incongruous with the character of the street.</p>
<p><b>Setbacks and Orientation</b></p> <p>C20 New development must be sited to reflect the front and side setbacks and predominant orientation of Heritage Item or Heritage Conservation Area in the Vicinity and the established pattern of setbacks within a street or precinct.</p> <p>Note: Where there is a variation in the front setbacks within a street, the prevalent pattern of setback along the entire length of the street should be used to determine the appropriate front setback.</p> <p>C21 Building encroachments within existing side setbacks defined by existing building lines are not permitted.</p> <p>C22 A reduction of front and side setbacks is not permitted for development adjoining a Heritage Item within an R2 Low density Residential zone.</p> <p>C23 New buildings or alterations and additions to existing buildings should be orientated to relate to existing Heritage Items and should not be oriented across sites contrary to the established pattern.</p>	<p>Complies.</p>



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The NSW Heritage Office's recommended management table states that:

*The building should be retained and conserved. All original external fabric and detailing should be retained. If replacement fabric is necessary it should match or be sympathetic to the original fabric or based on photographic evidence. Facades are not to be obscured by signs. No sign of any type is to be located above the awning.*

*Although all original shopfronts and some upper level windows have been overlayed, in some cases unsympathetically, fabric and photographic evidence remains of the façade detailing above awning level and reconstruction is a potentially realistic option should it be considered desirable to do so. Replacement of the bricked/tiled shopfronts with a contemporary interpretation of an early 20th shopfront should be considered as part of any new work.*

*Any future additions should be modestly scaled and not be visible in views over the property from any part of the intersection or from within Memorial Park or impact on the integrity of the silhouette of the parapet detailing against the sky.*

*Any significant original internal fabric should be retained and conserved. Internal alterations should be consistent with original detailing and overall form. Signage relating to current or new uses should be sympathetically scaled and detailed and not obscure significant architectural details.*

*It is strongly recommended that the advice of Council's Heritage Advisor be sought early in the planning of any alteration or addition.*

The proposal respects the heritage significance of the building by retaining its front façade wall, its awning, its verandahs, and retaining its Parapet and building signage from 1904. As such, no negative impacts will be imposed on the building.

The history of the sites demonstrates their evolution since first developed c.1904. It has been a story of constant change, of development and redevelopment and reconfiguration of the structures, including usage. The proposal is for more of the same.

The works on the Botany Street frontage remove unsympathetic shopfront windows and provides cohesion between the properties.

The proposed internal modifications generally will enhance the viability of the commercial building and have the potential to encourage greater appreciation of the heritage significance of the building by visitors and those working in it.

The proposed infill development will have positive impact on the heritage significance and . It is envisaged that this will consequently decrease the potential risk to the continued viability and maintenance of the structure.

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

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## **7.0 CONCLUSION**

The proposal is for the alterations and additions to the existing three commercial individual Torrens title buildings at 1015, 1017, and 1019 Botany Road, Mascot, and are proposed to remain as three separate Torrens titled buildings. The proposed alterations and additions will be carried out on each building respectively.

The proposal is deemed to be in keeping with considerations pertaining to Heritage items within the Bayside LEP and Botany Bay DCP. The proposal will achieve the objectives of the brief without adverse impact on the heritage qualities of the items in its vicinity.

The proposed infill development will significantly improve the amenity of the property for the proprietors and will positively improve the building's contribution to the street. With a focus on improving the streetscape and complimenting the neighbouring buildings, the proposal avoids disrupting the generally homogenous rhythm and character of the Botany Road, rather enhance the character by removing the unsympathetic blank façade,

Based on the report and summary above, Local Approvals is satisfied with the proposal and are confident it will not generate a negative impact on the heritage significance of the subject building or adjacent heritage items. As such, it is the recommendation the findings of this report, that Council favorably consider the proposed development.

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

## 8.0 APPENDIX 1

### OPTION 1 – PROPOSED WORKS FOR BUILDINGS 1015, 1017, 1019

The following table is provided on a per building basis:

Subject Building	Proposed GFA	Number of units	Proposed carparking
1015 Botany Road	Shop: 89.4m <sup>2</sup> Residential: 108.3m <sup>2</sup>  Total: 197.7m <sup>2</sup>	2	2
1017 Botany Road	Shop: 89.4m <sup>2</sup> Residential: 108.3m <sup>2</sup>  Total: 197.7m <sup>2</sup>	2	2
1019 Botany Road	Shop: 89.4m <sup>2</sup> Residential: 105.8m <sup>2</sup>  Total: 195.2m <sup>2</sup>	2	2
Total across all three respective buildings	590.6m <sup>2</sup>	6	6

Total GFA across all three buildings = 590.6m<sup>2</sup>  
Proposed FSR across all three buildings = 1.22:1  
Proposed Height across all three buildings = 9.8m

#### **3 Respective commercial space**

- Ground floor commercial area ancillary to the first floor residential component and rear media room
  - Extension of existing Ground Floor which includes 3 respective commercial areas
  - The layout of the proposed commercial areas include a main open plan area, storage room, toilet and stairs to the first floor residential component.
  - Existing front façade wall and parapet walls are retained.
  - The layout includes a communal entry to residential units via internal stairs.
- First floor – Residential accommodation:
  - 3 x 2 Bedroom residential units, resulting in 1 per respective lot. The proposed residential component are proposed to consist of the following internal areas:
    - Living room
    - Kitchen

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*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

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- Dining area
- Laundry room
- Master bed with associated ensuite
- Communal bathroom
- Rear facing balcony

**3 respective detached garage & 3 ancillary media rooms in conjunction to the ground floor commercial area**

- 3 x rear facing, first floor media rooms with associated ground floor vehicular parking respectively. Resulting in 1 structure per lot.

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*

**PROPOSED FLOOR PLANS**

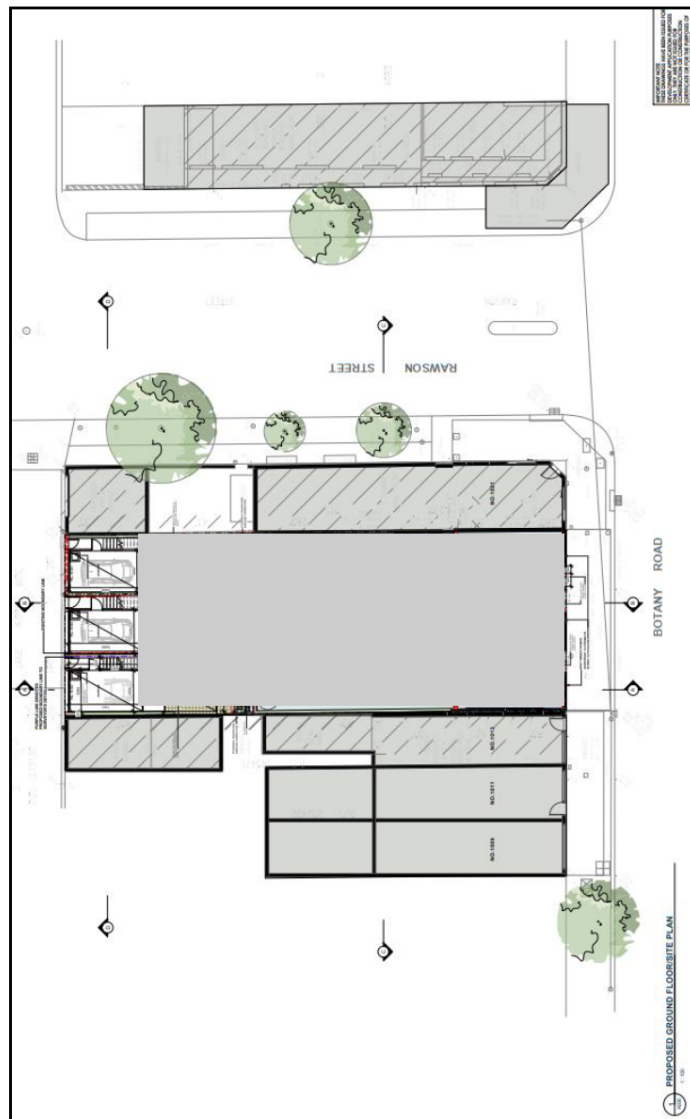


Figure 28: Proposed Ground floor plan.

*Proposed Alterations and Additions to existing shop top housing development*

1015, 1017, 1019 Botany Road, Mascot 2020

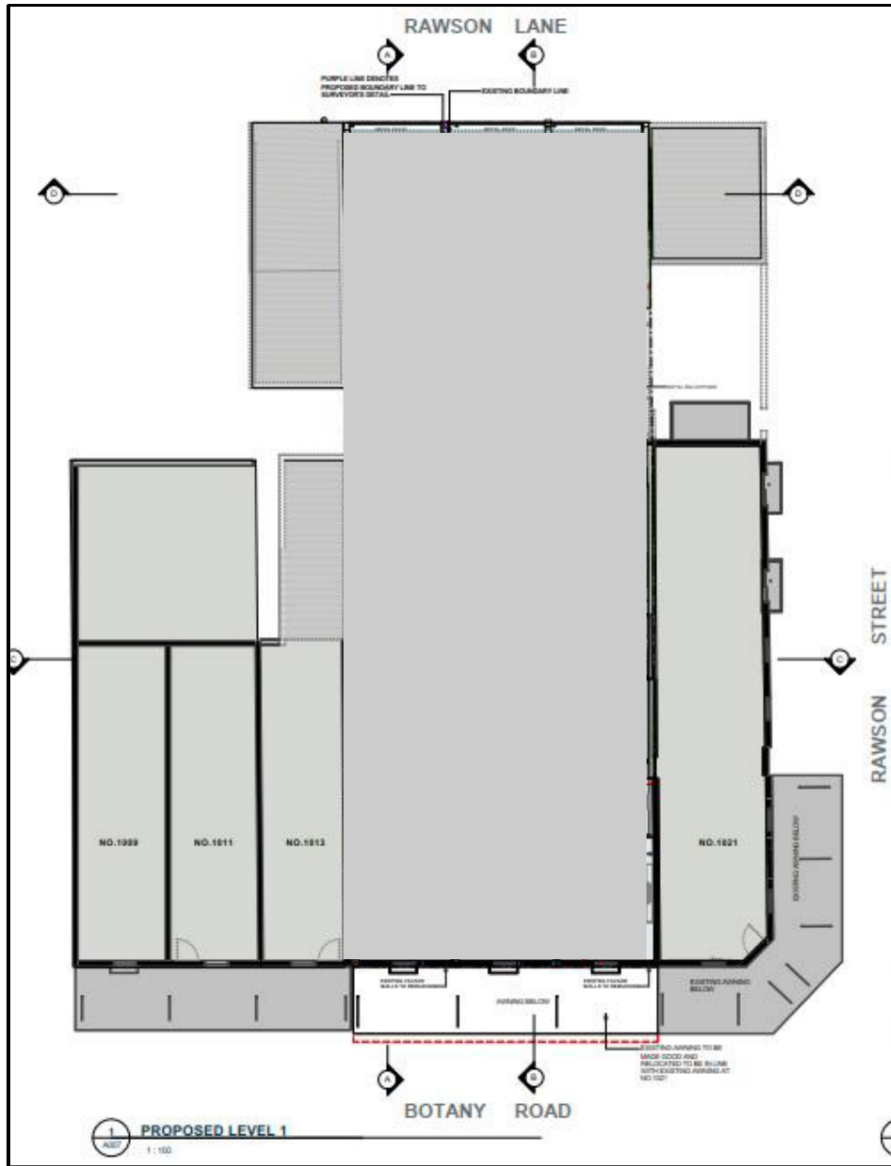


Figure 29 Proposed first floor plan.

*Proposed Alterations and Additions to existing shop top housing development*

*1015, 1017, 1019 Botany Road, Mascot 2020*



Figure 30 Proposed roof plan.

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

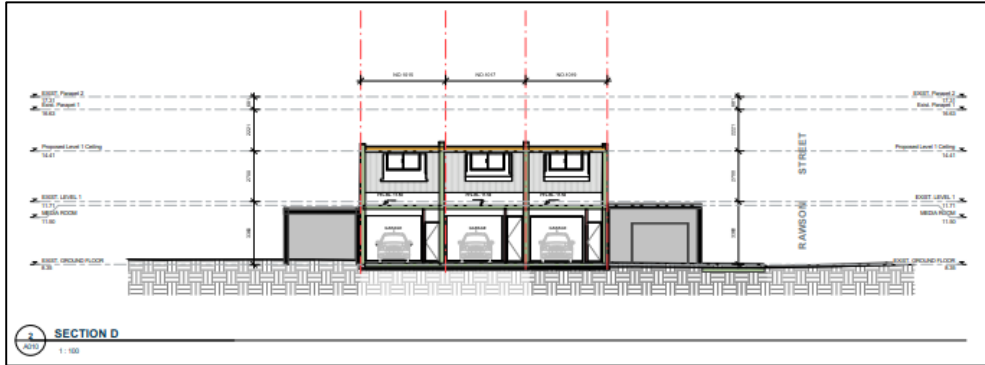


Figure 34

ELEVATION PLANS



Figure 35

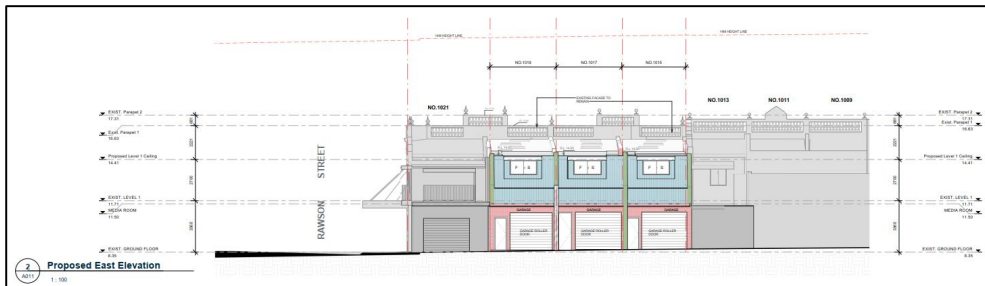


Figure 36



Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

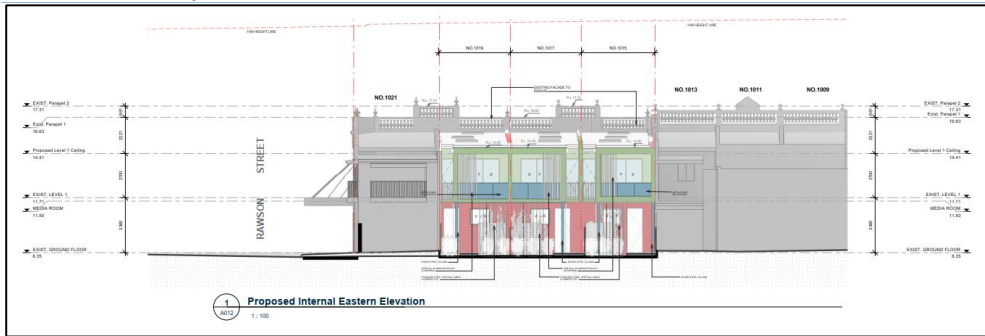


Figure 37



Figure 38

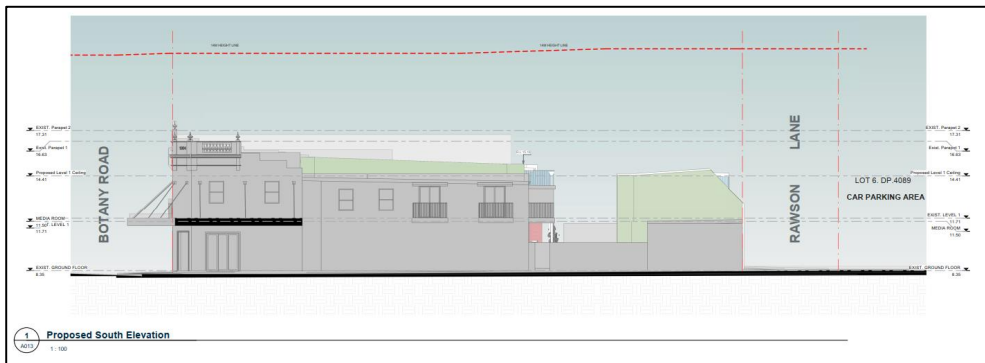


Figure 39

Proposed Alterations and Additions to existing shop top housing development

1015, 1017, 1019 Botany Road, Mascot 2020

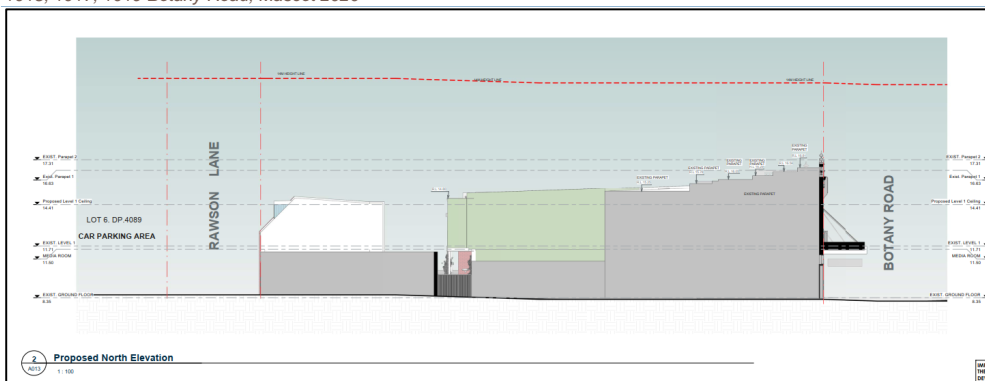


Figure 40

*Proposed Alterations and Additions to existing shop top housing development*




*1015, 1017, 1019 Botany Road, Mascot 2020*

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**8.1 APPENDIX 2 – FABRIC ANALYSIS**

The elements or components of a place make different relative contributions to the overall significance of that place. In this instance the listed item is the whole site, with *the Commercial Building Group* listing as being an element of local significance. The building is itself the combined value of its components. The following provides further definition and considerations for the existing built fabric of the building.

GRADE	CODE	SIGNIFICANCE
Grade: High		An element possessing a high degree of original fabric. Demonstrates a key attribute of the place’s original fabric, original character and significance. Changes to be avoided or minimized
Grade: Moderate		An altered or modified element still having significance, particularly as contribution to the overall significance of the place. Changes may be carefully undertaken.
Grade: Low		An element that makes a minor or no contribution to overall significance or is difficult to interpret. Either remove the element or improve the interpretation of the element and understanding of any significance attributed to the element.

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*

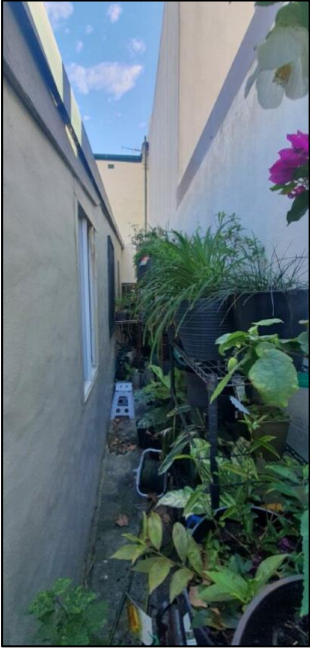





Existing ground floor plan




Existing first floor plan

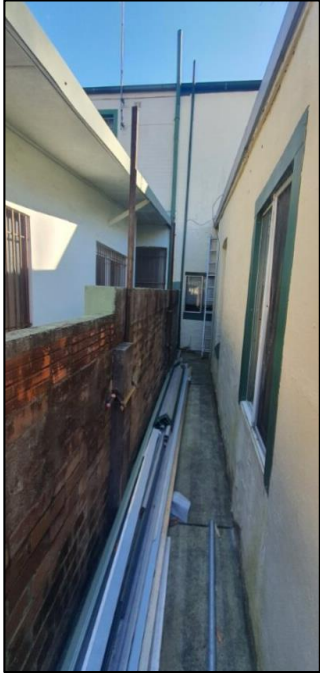

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*

		<p>Rear wing to 1015 Botany Road</p> 
		<p>Rear aspect of subject site from rear yard of 1015 Botany Road</p> 

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*



	PHOTO	ANALYSIS
<p><b>1017 BOTANY ROAD, MASCOT</b></p>		<p>Detached rear outbuilding located at 1017 Botany Road</p> 
		<p>Rear of 1017 Botany Road. Existing ground floor rear addition containing face brick material</p> 

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*



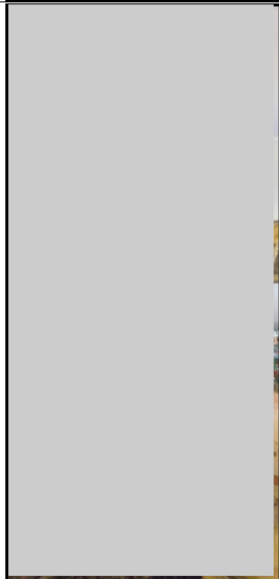

			<p>Rear wing to 1017 Botany Road</p> 
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*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*

			<p>Existing rear yard and detached outbuilding and laundry addition</p> 
			<p>Existing rear yard and detached outbuilding and laundry addition.</p> 

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*

		<p>Existing rear yard of subject site.</p> 
		<p>Internal staircase located within 1019 Botany Road, Mascot. The condition of the staircase is deteriorating.</p> 

*Proposed Alterations and Additions to existing shop top housing development  
1015, 1017, 1019 Botany Road, Mascot 2020*

			<p>1019 Botany Road. Rear first floor window fronting Rawson Lane retained.</p> 
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## Bayside Local Planning Panel - Other Applications

14/05/2024

Item No	6.2
Application No	DA-2023/226
Property	<b>52 Monterey Street MONTEREY</b>
Application Type	Development Application
Proposal	Addition of a roof top terrace to a two (2) storey dwelling approved under complying development
Owner	Gamal Abdel Halim
Applicant	Mrs Amani Salameh
Ward	Ward 5
Lodgement Date	16/08/2023
No. of Submissions	Nil
Cost of Development	\$50,000
Reason Criteria	Departure from standards
Report by	Peter Barber, Director City Futures

### Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority is satisfied that the applicant's written request to contravene Section 4.4 of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2023/226 for Addition of a roof top terrace to a two (2) storey dwelling approved under complying development at 52 Monterey Street, MONTEREY NSW 2217 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Development Assessment Conditions Set [↓](#)
- 3 Statement of Environmental Effect [↓](#)
- 4 Section 4.6 Variation Request [↓](#)
- 5 Architectural Drawings [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report



### Application Details

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<b>Application Number:</b>	DA-2023/226
<b>Date of Receipt:</b>	16 August 2023
<b>Property:</b>	52 Monterey Street, MONTEREY NSW 2217 Lot 158 DP 10707
<b>Owner:</b>	G A Halim
<b>Applicant:</b>	Mrs A Salameh
<b>Architect:</b>	Dezcon
<b>Town Planner:</b>	Rockeman Town Planning
<b>Proposal:</b>	Addition of a roof top terrace to a two (2) storey dwelling approved under complying development
<b>Recommendation:</b>	Approval
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Ivy Zhang
<b>Date of Report:</b>	29 April 2024

### Key Issues

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The key issues identified in the assessment of the development application relate to:

- Floor space ratio; and
- Visual privacy.

The development application ("DA") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and is recommended for approval, subject to conditions of consent.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or

persons associated with it and have provided an impartial assessment.

## Recommendation

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1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority is satisfied that the applicant's written request to contravene Section 4.4 of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2023/226 for Addition of a roof top terrace to a two (2) storey dwelling approved under complying development at 52 Monterey Street, MONTEREY NSW 2217 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

## Background

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### History

The following applications have previously been considered by Council in relation to the subject site:

- FA-2022/197 – The subject site was affected by 1% AEP Flood and PMF Flood events and a flood advice letter was issued on 10 August 2022.
- CD-2024/49 - Demolition of existing structures, construction of a two (2) storey dwelling with basement garage, concrete in-ground swimming pool and cabana was issued on 20 December 2023.

The history of the subject application is summarised as follows:

- 16 August 2023 - The DA was lodged with Council.
- 28 September 2023 – Site inspection was carried out.
- 7 November 2023 – A letter was sent to the applicant requesting additional information to be submitted regarding issues including Floor Space Ratio, CDC documents and rooftop balustrades.
- 20 November 2023 – Additional information was received from the applicant, however CDC documents were not provided.
- 9 February 2024 – Further additional information was received from the applicant, including CDC approved plans, revised architectural drawings, area calculation plan and a revised Section 4.6 variation request.
- 12 April 2024 – A revised Section 4.6 variation request was received from the applicant.

## Proposal

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The proposed development is summarised as follows:

Demolition/Excavation/Tree Removal

- Demolition of two external walls on the west elevation to accommodate the new staircase.

Construction

- New roof top terrace of 24sqm;
- New one (1) metre high balustrade around the perimeter of the rooftop terrace;
- Operable skylight/roof hatch to access the rooftop terrace from the first floor
- New internal staircase on extending from the first-floor staircase to a roof hatch in the CDC approved roof; and
- Planter box around the perimeter of roof top terrace

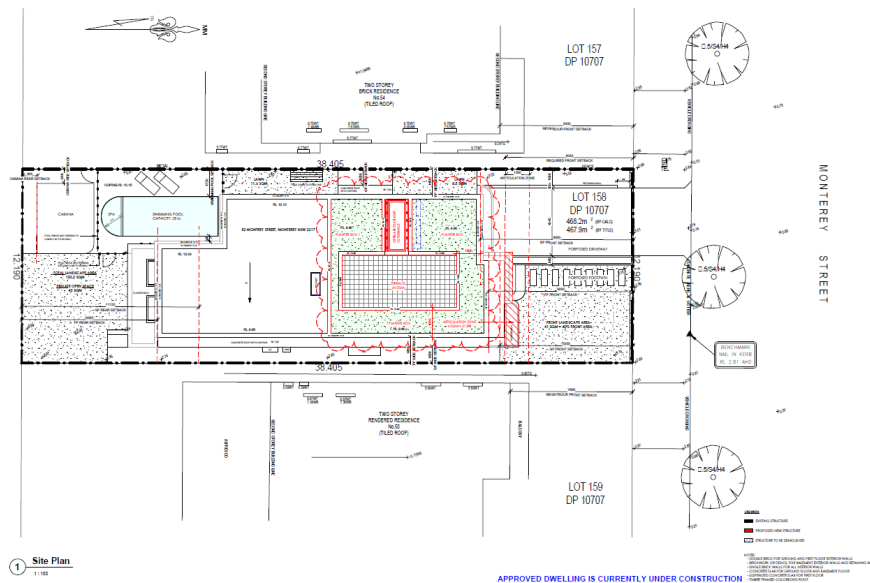


Figure 1. Proposed Site Plan



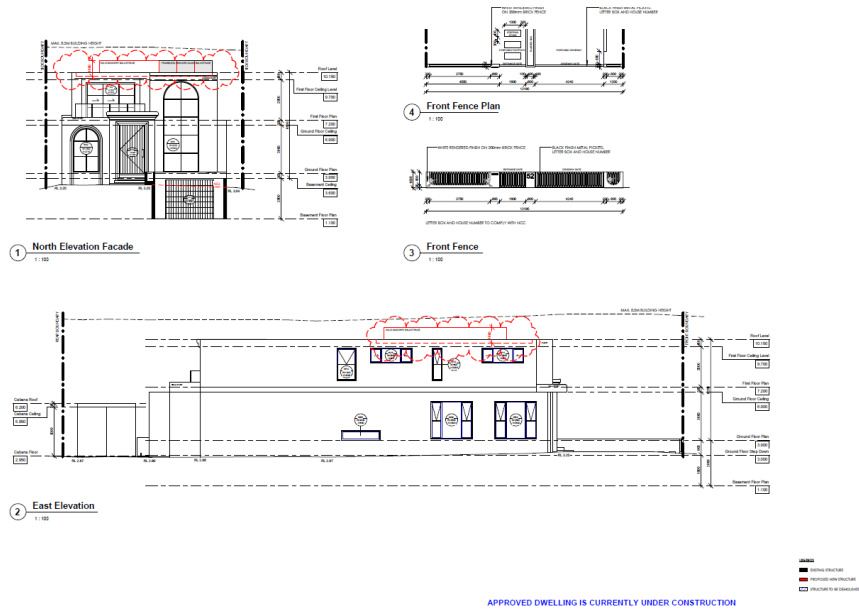


Figure 2. Proposed North and East Elevations

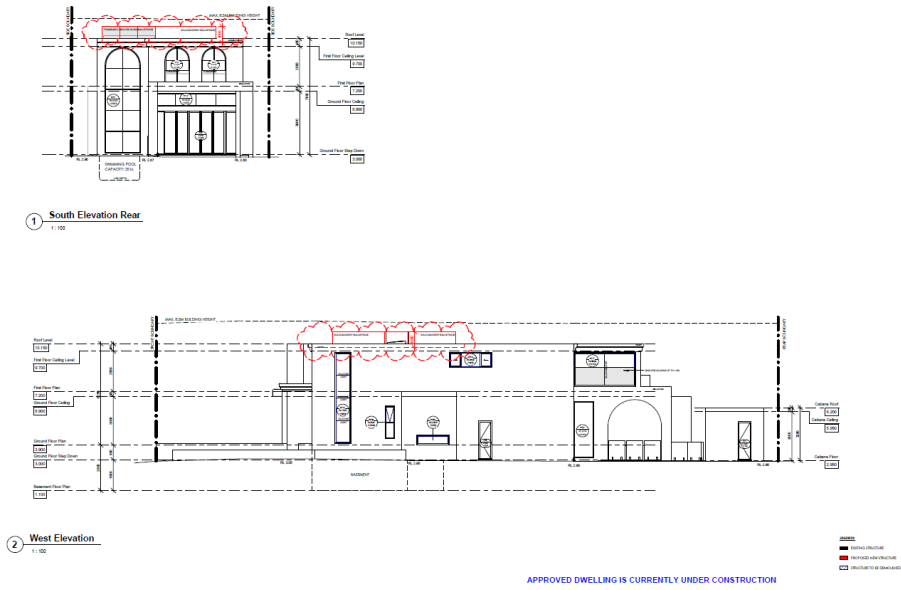


Figure 3. Proposed South and West Elevations

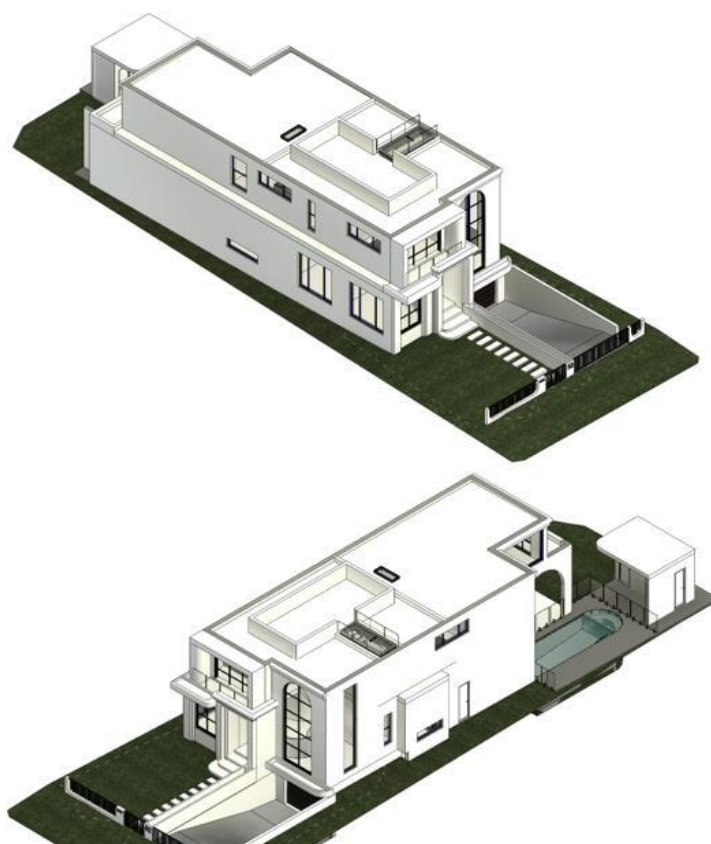


Figure 4. Proposed 3D perspectives

## Site Location and Context

The subject site is legally identified as Lot 158 DP 10707 and is known as 52 Monterey Street, Monterey. The site is a rectangular shape with front and rear boundary widths of 12.19 metres. The side boundaries are 38.405 metres deep. The site has sole frontage to Monterey Street. The total site area is 468.2sqm. The topography of the site is relatively flat, however falls to the rear (RL3.19 – 2.79).

The subject site is empty and under construction at the time of assessment. The site is located on the south-western side of Monterey Street between Chuter Avenue to the west and The Grand Parade to the east. Adjoining development to the sides includes a two storey dwelling on each of the properties. A two storey dwelling is situated on the rear adjoining property. There is a mix of single and two storey residential buildings within close proximity to the subject property.



Figure 5. Aerial View of the Subject Site



Figure 6. View of the Subject Site at the Time of Assessment

There are no trees of significance on the site. There is one (1) *Lophostemon confertus* (Brush Box) tree on the public domain in front of the site.

The site is flood affected.

## Statutory Considerations

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### ***Environmental Planning and Assessment Act, 1979***

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979* ("the Act").

### **S4.15 (1) - Matters for Consideration - General**

### **S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments**

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The following Environmental Planning Instruments are relevant to this application:

### **State Environmental Planning Policies**

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#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

##### **Chapter 4 – Remediation of Land**

The provisions of Chapter 4 of the SEPP have been considered in the assessment of the proposal. Subsection 4.6 of the SEPP requires Council to be satisfied that the site is, or can be made, suitable for its intended use at the time of determination of an application.

The site appears to have been continuously used for residential purposes. The adjoining and adjacent properties are currently used for residential purposes. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in the SEPP, in particular industrial, agricultural or defence uses. There is no significant excavation proposed.

On the above basis, the site is considered suitable in its present state for the residential development. No further investigations of contamination are considered necessary. The proposal satisfies the requirements of Subsection 4.6 of the SEPP.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

##### **Chapter 2 Vegetation in non-rural areas**

This Chapter applies to non-rural areas of the State, including the Bayside local government area and aims to (a) *protect the biodiversity values of trees and other vegetation in non-rural areas of the State*, and (b) *preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation*.

There are no trees of significance on the site and the proposal does not involve removal of any trees.

Council's Tree Management Officer has reviewed the application and recommended conditions to protect the existing *Lophostemon confertus* (Brush Box) tree on the public domain in front of the site.

### **Bayside Local Environmental Plan 2021**

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The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 (“the LEP”) applicable to the proposal, while aspects warranting further discussion follows:

Relevant Section	Compliance with Objectives	Compliance with Standard / Provision
1.2 Aims of the Plan	Yes	Yes - see discussion
2.3 Zone and Zone Objectives - R2 Low Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.3A Exception of Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio (“FSR”)	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.21 Flood planning	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 4	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Stormwater and water sensitive urban design	Yes	Yes - see discussion
6.7 Airspace operations	Yes	Yes - see discussion
6.11 Essential services	Yes	Yes - see discussion

**1.2 – Aims of the Plan**

While not a mandatory consideration for DAs, Section 1.2 of the LEP does illustrate the strategic intent of the LEP and its provisions, and is considered relevant to the assessment of this application. Section 1.2 of the LEP Plan includes a range of aims, namely:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to protect, conserve and enhance Aboriginal cultural heritage and the environmental, cultural, scenic, built and landscape heritage of Bayside,*
- (b) *to provide high quality open space areas and recreational facilities,*
- (c) *to reduce community risk and improve resilience to, and from, urban and natural hazards,*
- (d) *to encourage sustainable economic growth and development in Bayside,*
- (e) *to create a liveable urban place through the application of design excellence in all elements of the built environment and public domain,*

- (f) *to encourage diversity in housing to meet the needs of, and enhance amenity for, Bayside residents,*
- (g) *to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (h) *to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,*
- (i) *to enhance and protect the functions and roles of the international trade gateways of Sydney Airport and Port Botany,*
- (j) *to increase urban tree canopy cover and enable the protection and enhancement of green corridor connections,*
- (k) *to promote and enhance the amenity of Botany Bay's foreshores and Bayside's waterways.*

The proposal is consistent with these general aims.

### **2.3 - Zone**

The subject site is zoned R2 Low Density Residential under the provisions of LEP. The proposal is defined as a dwelling house which constitutes a permissible development only with development consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development satisfies the objectives of the zone, specifically to provide for the housing needs of the community.

### **2.7 - Demolition**

The proposal seeks consent for demolition of some external walls to accommodate the new staircase on the first floor. In this regard, the proposal satisfies the provisions of this Section.

### **4.3 - Height of Buildings**

A maximum height standard of 8.5 metres applies to the subject site.

The proposal has a maximum height of 8.15 metres (RL 10.90 AHD) which complies with the provisions and objectives of this Section.

### **4.4 – Floor Space Ratio**

A maximum FSR standard of 0.5:1 (GFA of 234.1 sqm) applies to the subject site and proposal.

The proposal has a maximum GFA of 288.1 sqm and equates to an FSR of 0.615:1 which does not comply with the provisions of this section. This is a GFA exceedance of 54sqm and results in a variation of 23%. The non-compliance is discussed in Section 4.6 – Exceptions to Development Standards below.

#### **4.6 - Exceptions to Development Standards**

Section 4.6 of the LEP allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

*Section (3)(a)- that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*

*Section (3)(b)- that there are sufficient environmental planning grounds to justify the variation.*

In considering the applicant's submission, the consent authority must be satisfied that:

- i. Section 4(a)(1)- the applicant's written request is satisfactory in regards to addressing subsection (3) above, and*
- ii. Section 4(a)(ii)- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*
- iii. Section 5(a)- The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
- iv. Section 5(b)- the public benefit of maintaining the development standard.*

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant is seeking to contravene the Floor Space Ratio development standard by 54sqm which equates to a 23% variation. It is noted that the CDC approved dwelling has a gross floor area of 282.4sqm or 0.6:1. The proposed development includes an additional GFA of 5.7sqm on the first floor and results in a total GFA of 288.1sqm or 0.615:1.

A contravention request in accordance with Section 4.6 of the LEP, seeking to justify the proposed contravention, has been prepared by Rockeman Town Planning and dated April 2024.

The applicant's Section 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to support the non-compliant Floor Space Ratio. These components are summarised below, with the assessing officer's response provided:

**Section 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,**

Applicant Comments/Arguments (summarised):

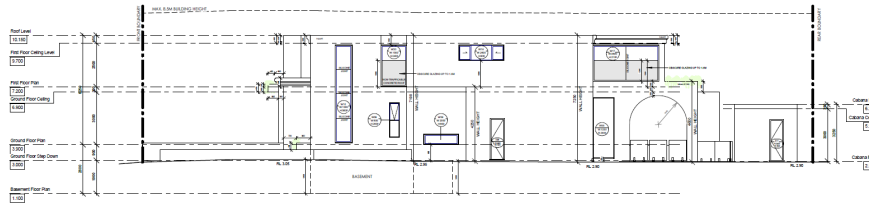
*The subject application relies on the first of the Wehbe Tests being, the objectives of the standard are achieved notwithstanding non-compliance with the standard. Compliance with the standard is considered unreasonable or unnecessary for the following reasons:*

- *The proposal is a permissible form of development in the R2 Low Residential zone and complies with the objectives of the development standard and zone;*
- *The variation of the proposed additional gross floor area is due to the additional gross floor area provided via CDC controls under Part3 of the Exempt and Complying SEPP 2008 and the infill of the western façade indentation to make provision for the new staircase creating an overall building that is compatible with the approved dwelling footprint;*
- *The bulk and scale of the development remains reflective of and almost consistent with the approved dwelling with a minor change to the western facade indentation that allows for the façade to be a solid wall rather than articulated.*
- *The development maintains a density reflective of the approved CDC plans and a bulk and scale that is proportionate and functional. The massing of the building is compatible to the approved development.*
- *The proposal western façade staircase infill makes alignment with the established first floor side setback of 1.6m ensuring that the proposed additional floor space maintains adequate building separation, access, privacy, natural lighting and ventilation;*
- *The bulk, scale and massing of the proposal maintain the characteristics of the streetscape;*
- *The proposed design complies with the required development standards and controls, with the exception to FSR, and responds to the sites context and positioning providing a functional and proportionate development;*
- *The proposal remains within the public interest because it includes an articulated development that provides for a compatible design and harmonious balance between the current building and the transitioning desired outcome for the dwelling.*

Officer Comment:

Council is satisfied that the written request provided by the applicant is adequate in demonstrating the matters required by subclause (3)(a). As discussed by the applicant above, the development standard is unreasonable and unnecessary as the objectives of the development standard are achieved (as discussed further below) notwithstanding non-compliance with the standard.





2 - West Elevation  
1:100

Figure 7. CDC approved West Elevation

**Section 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?**

Applicant Comments/Arguments (summarised):

- The development application responds to the objectives of Section 4.4 of the BLEP 2021 and has been designed to ensure the proposal does not pose any adverse impacts on to the adjoining neighbours and streetscape;
- The variation of the proposed additional gross floor area is due to the additional gross floor area provided via CDC controls under Part 3 of the Exempt and Complying SEPP 2008 and the infill of the indentation on the first floor to make provision of a staircase in which the proposed design has responded with a solid wall that is compatible with the approved design;
- The bulk, scale and massing of the proposal is not impacted by the variation and would provide a density that is reflective of the approved dwelling and within the locality;
- The proposed works are permissible in the zone and suitable for the subject site;
- The variation will not impact any local heritage, environmental significance or view corridor;
- Strict compliance with the standard would be unreasonable considering the proposed development remains within the approved development envelope and would constitute a development outcome creating a development that remains within the public interest;
- The proposal achieves the objectives and the key provisions of the DCP;
- The character of the area remains unaffected as the resultant development;
- The design maintains a low-density character consistent with the existing, desired and transitioning outcome of the planned locality;
- The design incorporates a compatible building mass, compliant setbacks which responds to the sites context on the western facade;
- The proposal has a negligible impact on solar access;
- The site demonstrates potential for an increase in FSR whilst maintaining a compatible building envelope; and
- The proposal remains within the public interest due to the lack of impact and overall compliance with the remaining development standards and controls.

Officer Comment:

The proposal is commensurate with the CDC approved building with additional rooftop terrace and the new staircase on the first floor. As discussed by the applicant above, there are sufficient environmental planning grounds to justify contravening the development standard as

the proposed development will not pose any additional amenity impacts.

**Section 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Section 4.6(3)**

Officer Comment:

An assessment of Section 4.6(3) has been undertaken, as outlined above. The justification provided by the applicant has adequately addressed the requisite matter in Section 4.6(3), as required.

**Section 4.6(4)(a)(ii) - Consent authority that the proposal is in the public interest because it is consistent with the zone and development standard objectives**

These considerations relate to the whole development, not just the issue of non-compliance leading to the Section 4.6 Contravention Request and refers to matters the consent authority must be satisfied with, independent of the Clause 4.6 Contravention Request. In this context, the following commentary and consideration is provided:

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

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

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,*
- (e) to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.*

Officer Comment:

The proposal successfully achieves the objectives of the FSR standard and the R2 Low Density Residential zone by providing a consistent built form response that will deliver a positive urban design outcome whilst providing for the housing needs of the community within a low density residential environment.

The bulk and scale of the development is compatible with the existing two storey dwellings within the area and comply with the maximum permissible building height of 8.5m. Additionally, the proposal incorporates generous first floor side setbacks of 1.6m on both sides, which exceeds the minimum requirements of DCP and the average setbacks

established within the locality.

The proposal maintains a very similar development as the CDC approved building with an additional rooftop terrace and infill of an indentation to the western facade to accommodate the staircase that cannot be viewed from the street. Potential impacts upon adjoining properties have been considered and are discussed in this report.

As the proposal is consistent with the zone objectives and the relevant development standard being contravened, the consent authority can reasonably conclude the proposal is in the public interest in the context of Section 4.6(4) of the LEP.

#### **5.21 – Flood Planning**

Council records indicate that the lot is subject to flooding in a 1% AEP and PMF event. The floor levels of the development are therefore required to be RL2.88m for habitable spaces and RL2.38m for non-habitable spaces.

The proposal does not involve any works on the ground floor and the CDC approved ground floor level is RL3.0m and RL3.9m, which comply with the minimum floor level required.

The proposal has been designed to adhere to the relevant minimum flood levels and is satisfactory with respect of the provisions of this LEP section.

#### **6.1 – Acid Sulfate Soils**

Acid Sulfate Soils (ASS) – Class 4 affect the property by the LEP mapping. The proposal involves alterations to the first floor only and does not involve any excavation below natural ground level. In this regard, an Acid Sulfate Soils Management Plan is not warranted in this instance and the proposal is acceptable in the context of the LEP Clause.

#### **6.2 – Earthworks**

The proposal involves works on the first floor and rooftop only and does not involve any earthworks.

#### **6.3 – Stormwater and WSUD**

The proposal will connect to the existing stormwater system. However, a roof drainage plan was not submitted with the application. Councils Development Engineer has imposed conditions in the draft Notice of Determination to ensure a detailed roof drainage plan is prepared at the Construction Certificate stage.

#### **6.7 – Airspace Operations**

The site is subject to 45.72m Building Height Civil Aviation Regulations and OLS of 51m AHD. The application seeks approval for the redevelopment of the site to a maximum overall building height of 8.15 metres (RL10.90).

The proposal is satisfactory with respect of the objectives and requirements of this section.

#### **6.11 – Essential Services**

Services are generally available on site to facilitate to the proposed development. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

**S4.15(1)(a)(ii) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

There are no draft environmental planning instruments of direct relevance to the proposal.

**S4.15 (1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

**Bayside Development Control Plan 2022**

The application is subject to the Bayside Development Control Plan 2022 (“the DCP”). This is the comprehensive DCP relevant to the proposal. The DCP was adopted by the elected Council on 22 March 2022 and came into effect on 10 April 2023, and supports the provisions of the LEP.

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
<b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>		
3.1 Site Analysis and Locality	Yes	Yes – See Discussion
3.3 Energy and Environmental Sustainability	Yes	Yes
3.5 Transport, Parking and Access	Yes	Yes
3.7 Landscaping, Private Open Space and Biodiversity	Yes	Yes – See Discussion
3.8 Tree Preservation and Vegetation Management	Yes	Yes
3.9 Stormwater Management and WSUD	Yes	Yes – See Discussion
3.10 Flood Prone Land	Yes	Yes – See Discussion
3.11 Contamination	Yes	Yes – See Discussion
3.12 Waste Minimisation and Site Facilities	Yes	Yes – See Discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes	Yes – See Discussion
<b>PART 5 – RESIDENTIAL AND MIXED USE DEVELOPMENTS</b>		
5.2.1 Low Density Residential	Yes	Yes – See Discussion

## **PART 3 – GENERAL DEVELOPMENT CONTROLS**

### **Part 3.1 – Site Analysis and Locality**

#### 3.1.5 Views

Some properties along Monterey Street enjoy views of Scarborough Park to the west and Botany Bay to the east. The proposal involves the addition of a new staircase on the first floor and a rooftop terrace to the CDC approved two storey house and does not involve any obtrusive structures. Further, the proposal is not excessive in height and the proposed maximum building height of RL10.9m AHD is lower than those of the adjoining dwellings. In this regard, the proposed development will have minimal adverse impact on the surrounding views presently enjoyed by adjacent residents and is satisfactory having regard to this clause.

### **Part 3.7 – Landscaping, Private Open Space and Biodiversity**

#### 3.7.1 Landscaping

The proposal does not involve increased density on the site or any changes to the CDC approved landscaped area.

#### 3.7.3 Communal and Private Open Space

For single dwellings, this clause requires a minimum private open space (POS) of 50sq.m. and a width of 5 metres. The proposal provides a POS of 77sq.m. with a minimum width of 6.9m in the rear alfresco and the rear yard, which complies. Further, the proposal involves an additional 24sqm POS provided in the proposed rooftop terrace.

Both private open spaces are usable, accessible, clearly defined and will meet occupants' requirements of privacy, solar access, outdoor activities and landscaping. In this regard, the proposal satisfies the objectives of this clause and is accessible.

### **Part 3.9 – Stormwater Management and WSUD**

An assessment against stormwater management has been discussed in response to Section 6.3 of the LEP, in the previous Section of this report.

### **Part 3.10 – Flood Prone Land**

An assessment against flood management has been discussed in response to Section 5.21 and 5.22 of the LEP, in the previous Section of this report.

### **Part 3.11 – Contamination**

An assessment of contamination has been discussed in response to *SEPP (Resilience and Hazards) 2021* in a previous Section of this report.

### **Part 3.12 – Waste Minimisation and Management**

A Waste Minimisation and Management Plan prepared by Dezcon accompanied the CDC application for the two storey dwelling listing methods for minimising and managing construction and ongoing waste on site.

An appropriate condition has been included in the recommended conditions regarding a revised waste management plan.

### **3.14 Noise, wind, vibration and air quality**

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

## **PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS**

### **5.2.1 - Low-density residential (dwellings, dual occupancy, semi-detached dwellings)**

#### **5.2.1.1 - Streetscape, Local Character and Quality of Design**

The proposed development involves a rooftop terrace and infill of an indentation to the western façade to accommodate the new staircase to access the proposed rooftop terrace. The materials and finishes used for the proposed infill will be consistent with the CDC approved western façade and the proposed development is unlikely to be visible from the street. In this regard, there will be minimal impacts on the existing streetscape.

#### **5.2.1.2 - Built Form Controls**

The building is two storeys high and therefore complies with the requirements of this Clause.

The proposal does not involve changes to the approved building length, roof form or voids.

#### **5.2.1.3 – Setbacks**

The proposal does not involve changes to front, rear or eastern side setbacks and retains the existing first floor western side setbacks of 1.6m, which complies with DCP controls.

This allows for appropriate spatial relief between the subject site and adjoining dwellings. The proposal does not unreasonably impact upon the adjoining dwellings by way of overshadowing and overlooking, and will not significantly reduce the solar access, light or air received by the adjoining dwellings. Therefore, the proposed setbacks are consistent with the objectives and controls for building setbacks.

#### **5.2.1.4 - Landscaping and Private Open Space**

The landscaping controls in Part 3.7 of the DCP have been addressed previously.

The proposal incorporates a rooftop terrace. This complies with the maximum size of 24sqm, and minimum 1.5m setbacks from edges, as stipulated in the DCP.

The proposed rooftop terrace does not contain any obtrusive structures and does not result in excessive bulk and scale. The rooftop terrace is enclosed by in-built planter boxes and appropriate conditions have been imposed within the draft Notice of Determination regarding the screening planting to minimise any impacts on the visual privacy of adjoining neighbours.

The proposal is consistent with the objectives and controls of this section of the DCP.

#### **5.2.1.5 - Solar Access and Overshadowing**

Dwellings within the development site and adjoining properties are required to receive a minimum of 2 hours direct sunlight to habitable living rooms (family rooms, rumpus, lounge and kitchen areas) and to at least 50% of the primary open space between 9am and 3pm in mid-winter (June 21).

The subject site is orientated northeast to southwest with the frontage of the site facing the northeast and the rear of the site facing the southwest. The lot pattern of the street is such that each adjoining site also has the same orientation.

The applicant has provided proposed aerial shadow diagrams at 9am, 12pm and 3pm for mid-winter (June 21) and spring-equinox (September/March 21). As demonstrated within the shadow diagrams, the proposal does not further diminish the solar access received from living spaces or private open space of neighbouring properties or the development site.

In this regard, the proposal is consistent with the objectives and controls of this section of the DCP.

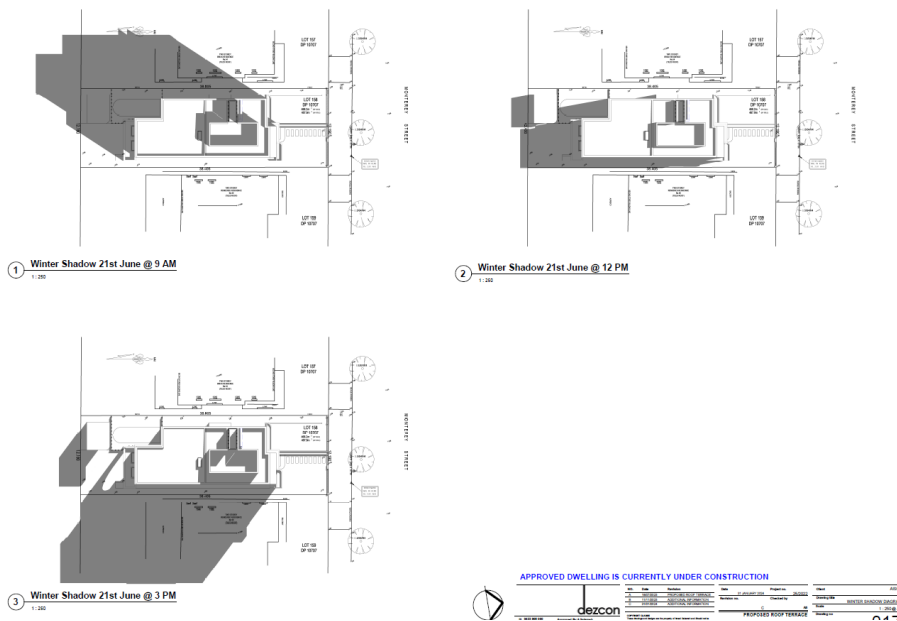


Figure 8. Shadow diagrams for mid-winter

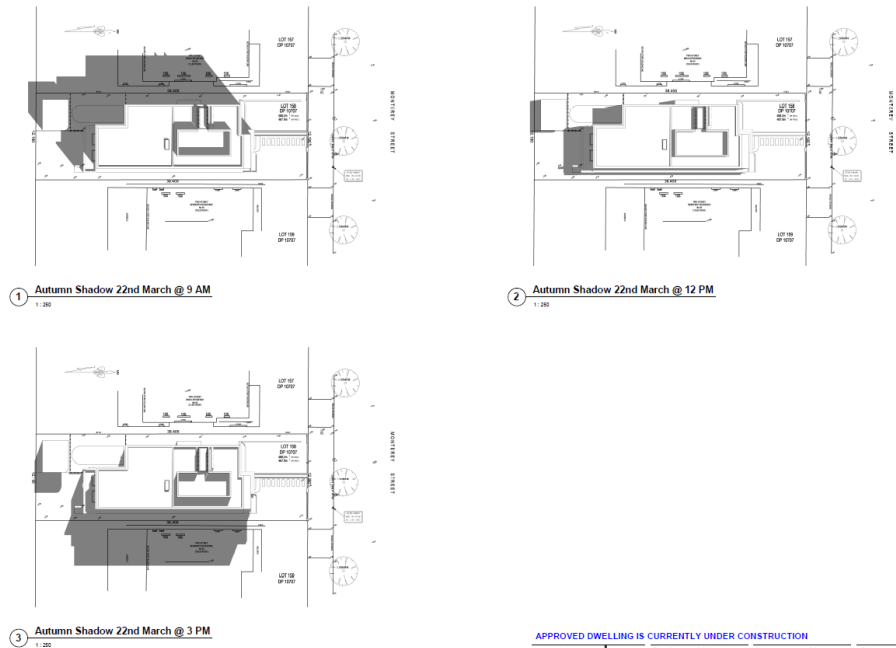


Figure 9. Shadow diagrams for equinox

**5.2.1.6 - Parking and Access**

This has been addressed previously in accordance with Part 3.5 of the DCP.

**5.2.1.7 - Visual and Acoustic Privacy**

An assessment of potential privacy impacts upon neighbours has been undertaken having regard to the controls and objectives of this Part of the DCP.

The proposed staircase on the west elevation does not involve any new windows and therefore does not have any impacts.

The proposed rooftop terrace will have a 5.19m western side setback, a 3.5m eastern side setback and a 20m rear setback. A minimum 1.5m wide in-built planter boxes are proposed around the proposed rooftop terrace and appropriate conditions have been imposed within the draft Notice of Determination regarding screen planting to further minimise potential adverse visual privacy impacts.

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

Following the above assessment, the proposal has been assessed accordingly with regard to visual and acoustic privacy objectives and controls and is found to be appropriate in this instance.



#### **S4.15(1)(a)(iii) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

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There is no planning agreement applicable to the proposal.

#### **S4.15(1)(a)(iv) Provisions of the Regulation**

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Sections 61-62 of the Regulations outline the matters to be considered in the assessment of a development application. Section 61 requires the consent authority to consider the provisions of AS 2601:2001 - Demolition of Structures when demolition of a building is involved. In this regard a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

#### **S4.15(1)(b) - Likely Impacts of Development**

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Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The proposed development will have no significant adverse environmental, social or economic impacts in the locality.

#### **S4.15(1)(c) Suitability of the Site**

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The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal, throughout this report. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development. Appropriate conditions of consent are proposed to further manage and mitigate impacts on neighbouring properties and the environment. Subject to the recommended conditions, the proposal is suitable for the site.

#### **S4.15(1)(d) Public Submissions**

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The development has been notified in accordance with the DCP, between 18 August 2023 and 7 September 2023. Nil submissions have been received.

The amended plans were not required to be renotified because there were no further adverse impacts.

#### **S4.15(1)(e) - Public interest**

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The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As demonstrated in this assessment of the development application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposed development will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

## S7.11/7.12 - Development Contributions

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The proposal is not subject to development contributions under Council's Contribution Plans.

## Conclusion and Reasons for Decision

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The proposed development at 52 Monterey Street, MONTEREY NSW 2217 has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development, being addition of a roof top terrace to a two (2) storey dwelling approved under complying development, is a permissible land use within the zone with development consent. In response to the public notification, nil submission was received.

The proposal is supported for the following main reasons:

- The proposed height variation has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is acceptable.
- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives and controls of Bayside Development Control Plan 2022.
- The site is suitable for the proposed development.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

## Schedule 1 – Draft Conditions of Consent

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Refer to draft conditions attached separately.



### NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application number</b>	DA-2023/226 PAN-360163
<b>Applicant</b>	Amani Salameh SHOP 1/25 KYLE PARADE KYLE BAY 2221
<b>Description of development</b>	PROPOSED ADDITION OF A ROOF TOP TERRACE TO THE APPROVED DWELLING
<b>Property</b>	52 MONTEREY STREET MONTEREY 2217 158/-/DP10707
<b>Determination</b>	Approved Consent Authority - Local Planning Panel
<b>Date of determination</b>	14/05/24
<b>Date from which the consent operates</b>	14/05/24
<b>Date on which the consent lapses</b>	13/05/29

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

#### Reasons for approval

DA-2023/226

1

- The proposed variation has been assessed in accordance with Clause 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable.
- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives and controls of Bayside Development Control Plan 2022.
- The proposal and use is suited to the site and area.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

#### **Right of appeal / review of determination**

If you are dissatisfied with this determination:

#### **Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

#### **Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Luis Melim  
Manager Development Services  
Person on behalf of the consent authority

For further information, please contact Ivy Zhang / Development Assessment Planner

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**General Conditions**

1	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the <i>Building Code of Australia</i>.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the <i>Home Building Act 1989</i>, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the <i>Building Code of Australia</i>.</li> <li>4. In subsection (1), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the <i>Building Code of Australia</i> or a fire safety standard is in force under the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—</li> </ol>

	<ul style="list-style-type: none"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>c. stating that unauthorised entry to the work site is prohibited.</li> </ul> <p>3. The sign must be—</p> <ul style="list-style-type: none"> <li>a. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>b. removed when the work has been completed.</li> </ul> <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> <li>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>b. Crown building work certified to comply with the <i>Building Code of Australia</i> under the Act, Part 6.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ul style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—             <ul style="list-style-type: none"> <li>a. for work that requires a principal contractor to be appointed—                 <ul style="list-style-type: none"> <li>i. the name and licence number of the principal contractor, and</li> <li>ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ul> </li> <li>b. for work to be carried out by an owner-builder—                 <ul style="list-style-type: none"> <li>i. the name of the owner-builder, and</li> <li>ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ul> </li> </ul> </li> <li>3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</li> <li>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
	<p><b>Condition reason:</b> Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p>

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
002	C	Site Plan	Dezcon	31 January 2024
005	C	First Floor Plan	Dezcon	31 January 2024
006	C	Roof Plan	Dezcon	31 January 2024
007	C	North and East Elevations	Dezcon	31 January 2024
008	C	South and West Elevations	Dezcon	31 January 2024
009	C	Sections	Dezcon	31 January 2024
010	C	Windows & Doors Schedule	Dezcon	31 January 2024

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

**Condition reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**5 Carrying out of Works Wholly within the Site**

All approved works shall be carried out inside the confines of the site boundary and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.

**Condition reason:** To avoid encroachment of the development beyond the site boundaries.

**6 Approved Development (DA-2023/226)**

This Notice of Determination Letter grants approval for the alterations and additions to the dwelling house approved under Complying Development Certificate CD-2024/49. Aside from the proposed works regarding stairwell and roof top level, all other demolition and building works shall be carried out in accordance with Complying Development Certificate CD-2024/49.

	<p><b>Condition reason:</b> To ensure the development will be carried out according to all relevant conditions and approved plans and documents.</p>
7	<p><b>Construction Certificate Required</b></p> <p>A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.</p> <p>Building work is defined under the <i>Environmental Planning and Assessment Act Part 6</i>.</p> <p><b>Condition reason:</b> To ensure that a Construction Certificate is obtained at the appropriate time.</p>
8	<p><b>Tree Protection</b></p> <p>Located in the Public Domain is one (1) <i>Lophostemon confertus</i> (Brush Box) this tree shall be protected with a Tree Protection Zone. (TPZ).</p> <p>Prior to commencing demolition/any works on site, to ensure that the abovementioned tree is protected during demolition and construction, and the health and structural stability are ensured a Tree Protection Zones shall be established as follows.</p> <p>In accordance with AS49702009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement. The area within the fenced area is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken. The protective fence shall consist of a chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.</p> <p>Or alternatively:</p> <p>Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, then the tree/s are to be physically protected by wrapping the trunk with hessian or carpet underlay to a height of 2.5 meters or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).</p> <p>Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.</p> <p>All detailed Construction Certificate plans shall show all trees to be protect with a TPZ.</p> <p>Tree Preservation Bond:</p> <p>Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$2,000.00 to ensure protection of the one (1) retained Public Domain tree. The duration of the Bond shall be limited to a period of twelve months (12 months) after the occupation certificate is issued. At completion of the bond period of twelve (12) months the Bond shall be refunded pending an inspection of the tree/s by council. If a tree is</p>



	found to be dead, pruned or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree/s.
	<b>Condition reason:</b> To minimise adverse impacts on trees, protect local canopy through tree retention and replacement and ensure best practice is implemented.

**Demolition Work**

**Before demolition work commences**

<b>9</b>	<p><b>Construction Site Management Plan</b></p> <p>Before site work commences, a construction site management plan must be prepared, and provided to the Principal Certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> <li>a. The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>b. Provisions for public safety;</li> <li>c. Pedestrian and vehicular site access points and construction activity zones;</li> <li>d. Details of construction traffic management including:             <ul style="list-style-type: none"> <li>i. Proposed truck movements to and from the site;</li> <li>ii. Estimated frequency of truck movements; and</li> <li>iii. Measures to ensure pedestrian safety near the site;</li> </ul> </li> <li>e. Details of bulk earthworks to be carried out;</li> <li>f. The location of site storage areas and sheds;</li> <li>g. The equipment used to carry out works;</li> <li>h. The location of a garbage container with a tight-fitting lid;</li> <li>i. Dust, noise and vibration control measures;</li> <li>j. The location of temporary toilets;</li> <li>k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:             <ul style="list-style-type: none"> <li>i. AS 4970 – Protection of trees on development sites;</li> <li>ii. An applicable Development Control Plan;</li> <li>iii. An arborist’s report approved as part of this consent</li> </ul> </li> </ul> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<b>10</b>	<p><b>Deliveries</b></p> <p>While site work is being carried out, deliveries of material and equipment must only be carried out between—</p>

	<p>7am to 5pm on Monday to Saturday</p> <p>No deliveries to be carried out on Sunday and public holidays.</p> <p><b>Condition reason:</b> To protect the amenity of neighbouring properties.</p>
11	<p><b>Erosion and sediment control plan</b></p> <p>Before site work commences, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:</p> <ul style="list-style-type: none"> <li>a. Council's relevant development control plan,</li> <li>b. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li> <li>c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).</li> </ul> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
12	<p><b>Erosion and sediment controls in place</b></p> <p>Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
13	<p><b>Notice of commencement for demolition</b></p> <p>At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:</p> <ul style="list-style-type: none"> <li>1. name</li> <li>2. address,</li> <li>3. contact telephone number,</li> <li>4. licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor, and</li> <li>5. the contact telephone number of council and</li> <li>6. the contact telephone number of SafeWork NSW (4921 2900).</li> </ul> <p><b>Condition reason:</b> To advise neighbours about the commencement of demolition work and provide contact details for enquiries</p>

14	<b>Payment of fees</b>
	Before any site work commences, the following must be paid to Council and written evidence of these payments provided to the principal certifier:  1. inspection fees as specified in Council's fees and charges at the payment date.
	<b>Condition reason:</b> To ensure fees are paid for inspections carried out by Council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to Council property
15	<b>Payment of security deposits</b>
	Before demolition work commences, the applicant must:  1. make payment of \$1,290.00 for a security deposit to the consent authority; and 2. if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.
	<b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.
16	<b>Tree protection measures</b>
	Before any site work commences, the principal certifier must be satisfied the measures for tree protection detailed in the construction site management plan are in place.
	<b>Condition reason:</b> To protect and retain trees.
17	<b>Dilapidation Report - Public Domain - Pre-Construction - Minor</b>
	At the proposed point of construction site entry, a full photographic survey showing the existing conditions of Bayside Council's infrastructure shall be submitted to Bayside Council and the Principal Certifier. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the Applicant being liable for any construction related damages to these assets. Any damage to Bayside Council's infrastructure during the course of this development shall be restored at the Applicant's cost.
	<b>Condition reason:</b> To advise Council of, and provide Council with, the required dilapidation report.
18	<b>Toilet Facilities</b>
	(a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site, and

	<p>(b) Each toilet must:</p> <ul style="list-style-type: none"> <li>i. Be a standard flushing toilet connected to a public sewer, or</li> <li>ii. Have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or</li> <li>iii. Be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.</li> </ul>
	<p><b>Condition reason:</b> To ensure compliance with the Local Government Act 1993.</p>

**During demolition work**

19	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times –</p> <p>For building work, demolition or vegetation removal from 7am to 5pm on Monday to Saturday</p> <p>No works to be carried out on Sunday and public holidays.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>
20	<p><b>Implementation of the site management plans</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and</li> <li>b. a copy of these plans must be kept on site at all times and made available to Council officers upon request.</li> </ul> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p>
21	<p><b>Noise and Vibration – an approved document of this consent</b></p> <p>While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the approved noise and vibration management plan.</p>

	<b>Condition reason:</b> To protect the amenity of the neighbourhood during construction
22	<b>Noise and Vibration requirements</b>
	While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at a lot boundary of the site.
	<b>Condition reason:</b> To protect the amenity of the neighbourhood during construction.
23	<b>Responsibility for changes to public infrastructure</b>
	While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
	<b>Condition reason:</b> To ensure payment of approved changes to public infrastructure.
24	<b>Site maintenance</b>
	While demolition work is being carried out, the following requirements, as specified in the approved demolition management plan, must be maintained until the demolition work and demolition waste removal are complete:
	<ol style="list-style-type: none"> <li>1. Protective fencing and any hoardings to the perimeter on the site</li> <li>2. Access to and from the site</li> <li>3. Construction traffic management measures</li> <li>4. Protective measures for on-site tree preservation and trees in adjoining public domain</li> <li>5. Onsite temporary toilets</li> <li>6. A garbage container with a tight-fitting lid</li> </ol>
	<b>Condition reason:</b> To protect workers, the public and the environment
25	<b>Tree protection during work</b>
	While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:
	<ol style="list-style-type: none"> <li>a. the construction site management plan &lt;Insert required/approved&gt; under this consent;</li> <li>b. the relevant requirements of AS 4970 Protection of trees on development sites;</li> <li>c. Part 3.8 of Council's relevant development control plan (in force as at the date of determination of this consent); and</li> <li>d. any arborist's report approved under this consent.</li> </ol>
	This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
	<b>Condition reason:</b> To protect trees during the carrying out of site work.

26	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>b. upon disposal of waste, records of the disposal must be compiled and provided to the Principal Certifier, detailing the following: <ul style="list-style-type: none"> <li>i. The contact details of the person(s) who removed the waste;</li> <li>ii. The waste carrier vehicle registration;</li> <li>iii. The date and time of waste collection;</li> <li>iv. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill;</li> <li>v. The address of the disposal location(s) where the waste was taken;</li> <li>vi. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.</li> </ul> </li> </ul> <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p> <p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
27	<p><b>Construction Activities - Minimise Pollution</b></p> <p>The following conditions are necessary to ensure minimal impacts during construction:</p> <ul style="list-style-type: none"> <li>(a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment, and</li> <li>(b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and</li> <li>(c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and</li> <li>(d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system, and</li> <li>(e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural</li> </ul>

	<p>watercourse, kerb or road surface, and</p> <p>(f) Windblown dust from stockpile and construction activities shall be minimised by one or more of the following methods:</p> <ul style="list-style-type: none"> <li>(i) spraying water in dry windy weather, and</li> <li>(ii) cover stockpiles, and</li> <li>(iii) fabric fences.</li> </ul> <p>(g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and</p> <p>(h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and</p> <p>(i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and</p> <p>(j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and</p> <p>(k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.</p> <p><b>Condition reason:</b> To protect neighbourhood amenity and the quality of the waterways.</p>
28	<p><b>Site Fencing</b></p> <p>The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p>
29	<p><b>Vibration During Demolition Works</b></p>

	Demolition and construction works shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority’s <i>Technical Guidelines for Assessing Vibration</i> .
	<b>Condition reason:</b> To protect the amenity of the neighbourhood and the structural integrity of nearby developments.

**On completion of demolition work**

30	<p><b>Completion of landscape and tree works</b></p> <p>After the clearing of vegetation, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p><b>Condition reason:</b> To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
31	<p><b>Release of securities</b></p> <p>After completion of all site work, an application may be lodged to release the securities held in accordance with Council’s policies.</p> <p><b>Condition reason:</b> To allow release of securities where the terms and conditions for the securities have been met to Council’s satisfaction.</p>
32	<p><b>Removal of waste upon completion</b></p> <p>After completion of all site work:</p> <ul style="list-style-type: none"> <li>a. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and</li> <li>b. written evidence of the waste removal must be provided to the satisfaction of the <b>principal certifier</b>.</li> </ul> <p><b>Condition reason:</b> To ensure waste material is appropriately disposed or satisfactorily stored.</p>
33	<p><b>Repair of infrastructure</b></p> <p>After completion of all site work:</p> <ul style="list-style-type: none"> <li>a. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or</li> <li>b. if the works in (a) are not carried out to Council’s satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this</li> </ul>



	consent.
	<b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.
34	<b>Occupation Certificate.</b>
	The Occupation Certificate must be obtained prior to any use or occupation of the building / development. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.
	<b>Condition reason:</b> To ensure that an Occupation Certificate is obtained.

**Building Work**

**Before issue of a construction certificate**

35	<b>Waste Management Plan requirements</b>
	Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the Principal Certifier. The plan must be prepared
	<ol style="list-style-type: none"> <li>1. in accordance with             <ol style="list-style-type: none"> <li>a. the Environment Protection Authority’s Waste Classification Guidelines as in force from time to time; and</li> <li>b. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and</li> </ol> </li> <li>2. include the following information—             <ol style="list-style-type: none"> <li>a. the contact details of the person removing waste;</li> <li>b. an estimate of the type and quantity of waste;</li> <li>c. whether waste is expected to be reused, recycled or sent to landfill;</li> <li>d. the address of the disposal location for waste.</li> </ol> </li> </ol>
	A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.
	<b>Condition reason:</b> To ensure resource recovery is promoted and local amenity protected during construction.
36	<b>Detailed Landscape Plan</b>
	Prior the issue of the Construction Certificate, a detailed landscape plan must be submitted to private certifier. The detailed landscape plan must comprise detailed landscape construction documentation (plans and specifications). The detailed landscape plan shall include, but not be limited to, the following:

	<ol style="list-style-type: none"> <li>1. A planting plan at 1:100 showing all plant locations/groupings and plant centres/species.</li> <li>2. Elevated planter box (located around the rooftop terrace) sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.</li> <li>3. Rooftop terrace periphery built in planters are not to be replaced with individual pots. Planters shall be capable to support screening shrubs, shall be connected to drainage system, and include automatic irrigation system.</li> <li>4. Screening shrubs shall be small leave and capable to reach a minimum mature height of 1meter in local conditions. Screening shrubs shall be supplied and planted at minimum 27 litres/400mmm pots size. Note: Recommended shrubs species for this location and conditions is Raphiolepis indica.</li> </ol>
	<p><b>Condition reason:</b> To ensure compliance with landscape requirements from relevant policies.</p>
37	<p><b>Detailed Roof Drainage</b></p> <p>Prior to the issue of any Construction Certificate, a detailed roof drainage plan to be prepared by a qualified Civil Engineer designed in accordance with AS/NZS3500.3 2018 and to be submitted to the Principal Certifier for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans.</p> <p><b>Condition reason:</b> To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.</p>

**Before building work commences**

No additional conditions have been applied to this stage of development.

**During building work**

38	<p><b>Responsibility for changes to public infrastructure</b></p> <p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <p><b>Condition reason:</b> To ensure payment of approved changes to public infrastructure.</p>
39	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>2. upon disposal of waste, records of the disposal must be compiled and provided</li> </ol>

	<p>to the principal certifier, detailing the following:</p> <ol style="list-style-type: none"> <li>a. The contact details of the person(s) who removed the waste;</li> <li>b. The waste carrier vehicle registration;</li> <li>c. The date and time of waste collection;</li> <li>d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill;</li> <li>e. The address of the disposal location(s) where the waste was taken;</li> <li>f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.</li> </ol> <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p> <p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
40	<p><b>Approved Plans kept on Site</b></p> <p>A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.</p> <p><b>Condition reason:</b> To ensure relevant information is available on site.</p>
41	<p><b>Implementation of Soil and Water Management Plan</b></p> <p>All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.</p> <p>Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.</p> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
42	<p><b>Noise during Construction</b></p> <p>The following shall be complied with during construction and demolition:</p> <ol style="list-style-type: none"> <li>(a) Construction Noise</li> </ol>

	<p>Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>(b) Level Restrictions</p> <p>Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>(c) Out of hours work</p> <p>For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.</p> <p>(d) Silencing</p> <p>All possible steps should be taken to silence construction site equipment.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood.</p>
43	<p><b>Protection of Council's Property</b></p> <p>During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation, and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Bayside Council.</p> <p><b>Condition reason:</b> To ensure public safety at all times and to protect the function and integrity of public infrastructure.</p>
44	<p><b>Site Fencing</b></p> <p>The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.</p>

	<b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.
45	<p><b>Site Management - Principal Certifier Inspections</b></p> <p>Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:</p> <p>(a) Sediment control measures, and</p> <p>(b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and</p> <p>(c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.</p> <p><b>Condition reason:</b> To protect public safety and water quality around building sites.</p>
46	<p><b>Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land</b></p> <p>During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the <i>Roads Act 1993</i> and <i>Local Government Act 1993</i>. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:</p> <ul style="list-style-type: none"> <li>• Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.</li> <li>• Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.</li> <li>• Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.</li> <li>• Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work</li> </ul>

	<p>Zone being that you must not stop or park in a work zone unless you are driving a vehicle that is engaged in construction work in or near the zone.</p> <ul style="list-style-type: none"> <li>• Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A &amp; B hoarding, type A &amp; B hoarding with scaffolding and type B hoarding plus site sheds.</li> <li>• Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.</li> <li>• Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.</li> <li>• Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.</li> <li>• Temporary Dewatering – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.</li> <li>• Road Opening Application Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the Roads Act.</li> </ul> <p>A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.</p> <p><b>Condition reason:</b> To ensure appropriate permits are applied for and comply with the Roads Act 1993.</p>
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**Before issue of an occupation certificate**

47	<p><b>Certification of Roof Drainage System</b></p> <hr/> <p>Prior to the issue of any Occupation Certificate, a qualified Civil Engineer must certify that the roof drainage system has been constructed in accordance with the approved plans and in</p>
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	accordance relevant Australian Standard and Codes.
	The constructed roof drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications.
	<b>Condition reason:</b> To ensure that the roof drainage system is constructed as approved and in accordance with Australian Standards relevant standards.

**Occupation and ongoing use**

48	<b>Maintenance of Stormwater Drainage System</b>
	The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
	<b>Condition reason:</b> To protect waterways and minimise adverse impacts to the environment.

**General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

DRAFT



## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**Council** means BAYSIDE COUNCIL.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Bayside Local Planning Panel

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to

building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Sydney district or regional planning panel** means Sydney Eastern City Planning Panel.

R T P

ROCKEMAN TOWN PLANNING

## Statement of Environmental Effects Development Application



### **No. 52 Monterey Street, Monterey**

Addition of a roof top terrace to the approved dwelling

August, 2023

Prepared by:

**ROCKEMAN TOWN PLANNING**

ABN 25163862020

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Bayside Development Control Plan 2022

### **Section 4.15 Evaluation**

The provisions of any planning instrument, draft environmental planning instrument, development control plan or regulations

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The suitability of the site for the development

Any submissions received in accordance with this Act or the regulations

The public interest

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Annexure Survey Plan

Annexure Architectural Plans

Annexure Approved Architectural Plans

Annexure Stormwater Management Plan

## Introduction

This Statement of Environmental Effects has been prepared on behalf of the client. This Statement has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act (EPA Act), 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000.

This Statement accompanies a Development Application for addition of a roof top terrace to the approved dwelling currently under construction at No. 52 Monterey Street, Monterey. The approved dwelling currently under construction was approved via complying development.

The purpose of this document is to provide a context of the subject site and its surrounding local environment, provide a detailed description of the proposed development, assess the compliance of the proposal in relation to subject planning policies and controls and examine the environmental, social and economic effects of the proposal against the Evaluation Criteria prescribed under Section 4.15 of the EPA Act, 1979.

The proposed development is permissible with Council's consent in the R2 Low Density Residential zone under Bayside Local Environmental Plan 2021 and Bayside Development Control Plan 2022. The proposal is consistent with the aims and objectives of the relevant environmental planning instruments and an assessment of the proposal has not identified any adverse impacts that are likely to result from the proposed development.

## Site Location and Description

### Site Description and Locality

The site is legally described as Lot 158 DP 10707 and is known as No. 52 Monterey Street, Monterey. The site is located in the suburb of Monterey which resides to the south of Sydney. The subject site is within the Bayside local government area. An aerial map of the site is shown in Figure 1 below.



**Figure 1:** Aerial Map

**Source:** Six Maps, 2023

The site is a regular shaped allotment with a site area of 468.2m<sup>2</sup> and a frontage of 12.19m. The site is currently occupied by a two (2) storey dwelling under construction. The existing building is not identified as a heritage item or within a conservation item under the Bayside Local Environmental Plan 2021.

Monterey Street and the surrounding area is characterised by predominately newly constructed two (2) storey dwellings, dual occupancies and multi dwelling housing developments. The street includes on-street car parking and landscaping. Images of the site and the surrounding locality are shown below in Figures No. 2-7.



Figure 2: Subject site

Source: Dezcon

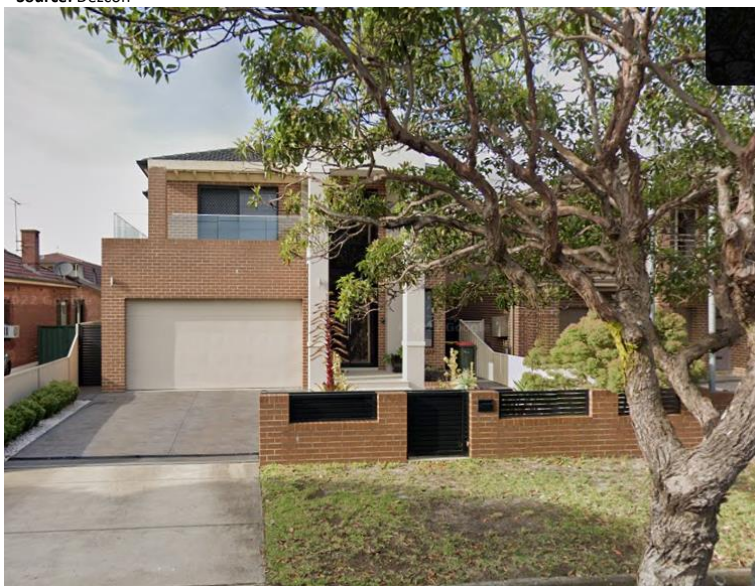


Figure 3: Adjoining dwellings to the west

Source: Google Maps, 2023

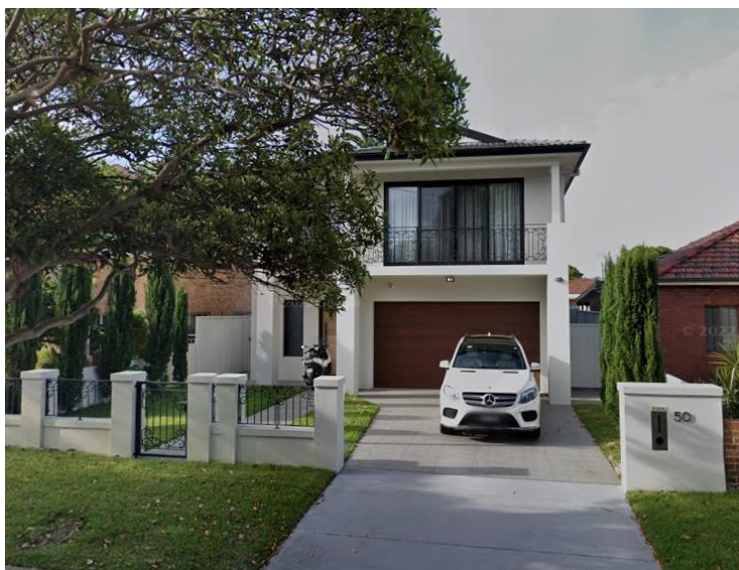


Figure 4: Adjoining dwelling to the east  
Source: Google Maps, 2023



Figure 5: Newly constructed dwelling located near subject site with roof top terrace  
Source: Google Maps, 2023



## Development Proposal

The subject development application seeks consent for addition of a roof top terrace to the approved dwelling currently under construction at No. 52 Monterey Street, Monterey.

The proposal specifically seeks consent for the following:

- New roof top terrace 24m<sup>2</sup> in area;
- New one (1) metre high balustrade around the perimeter of the roof terrace;
- Operable skylight/roof hatch to access the roof terrace from the first floor
- New internal staircase on extending from the first-floor staircase to a roof hatch in the approved roof; and
- Planter box around the perimeter of roof top terrace

### Building Configuration and Mix

Element	Proposed
Site Area	468.2m <sup>2</sup>
Gross Floor Area (CDC APPROVED)	282.4m <sup>2</sup>
Floor Space Ratio	Proposed – 0.6:1
Proposed Height	8.150m including balustrade
Storeys	Two (2)
Front Setback	No change from approved
Side Setbacks	No change from approved
Rear Setback	No change from approved
Proposed Private Open Space	Approved rear yard and additional 24m <sup>2</sup> within roof terrace
Car parking spaces	One (1) car space

### Detailed Description

The proposal is for an addition of a roof top terrace to the approved dwelling currently under construction at No. 52 Monterey Street, Monterey. The dwelling consists of open plan living, four (4) bedrooms, three (3) bathrooms, single car garage, outdoor alfresco area on the ground floor, swimming pool in the rear yard, and front and rear balconies protruding off bedrooms.

The proposal consists of a 24m<sup>2</sup> roof top terrace with side setbacks from the perimeter of the terrace of 5.84m and 2.9m to the side boundaries, one (1) m high balustrades, a planter box around the perimeter of the terrace and an operable skylight/roof hatch that provides access to the terrace space. The proposed roof top terrace is accessed via internal staircase extending from the approved first floor to a roof hatch that can be opened internally. The proposal is centrally located within the roof and creates an additional private open space without impacting the surrounding properties. The proposed design creates a functional response to the site's context and positioning.

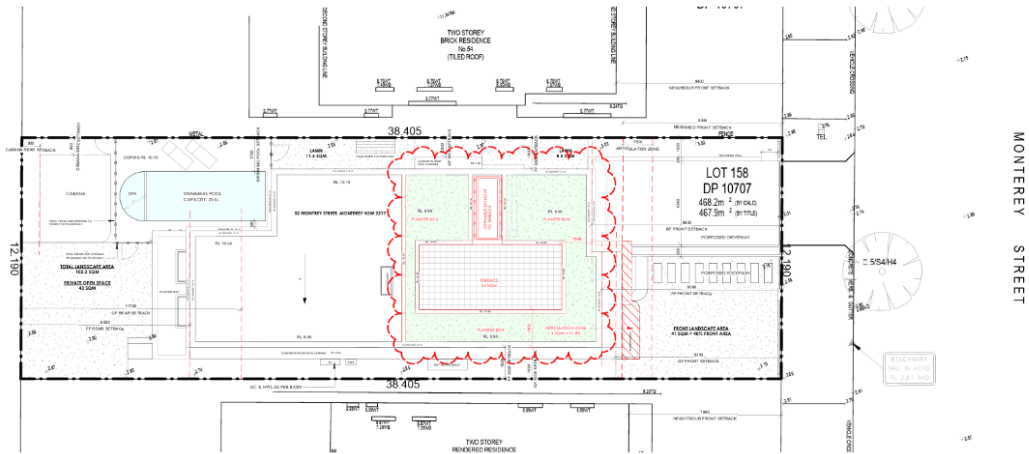


Figure 6: Proposed site plan



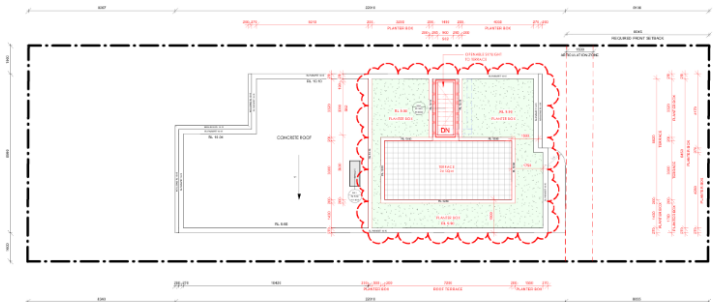
1 Ground Floor Plan  
1:100

Figure 7: Ground floor plan – no change



1 First Floor Plan  
1:100

Figure 8: Proposed First floor plan



1 Roof Plan  
1:100

Figure 9: Proposed Roof plan

**Materials and Finishes**

The proposal includes a glazed roof hatch/operable skylight and paved terrace. A planter box surrounding the roof top terrace. The palette of colours and finishes are considered to complement the existing and transitioning streetscape.

**Landscaping**

The proposal retains existing landscaping and includes planter boxed around the perimeter of the terrace.

**Solar Access**

The proposed does not alter solar access to the dwelling or surrounding properties from the approved built form. Shadow diagrams have been provided to demonstrate this.

**Privacy**

Development has been designed to maximise visual and acoustic privacy between the dwelling and neighbouring properties. The centralised rooftop terrace is surrounded with a planter box and has an area of 24m<sup>2</sup> and the dwelling includes an extended rear setback to alleviate impacts on to the rear neighbours. See below Figure No.11.

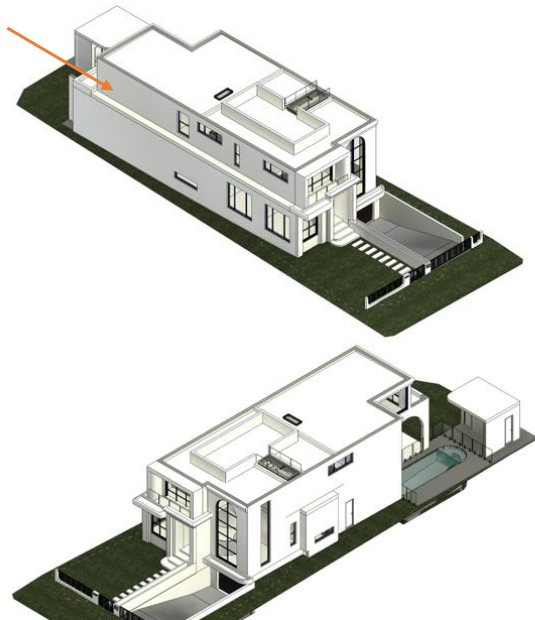


Figure 10: Proposed perspectives to illustrate setbacks of roof top terrace within surrounds.

# Statutory Planning Framework

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

A BASIX certificate accompanied the original CDC application and demonstrates that the proposal achieves compliance with the BASIX efficiency targets.

## Bayside Local Environmental Plan 2021

### Zoning

The site is zoned R2 Low Density Residential, as prescribed by the Bayside LEP Zoning Map.

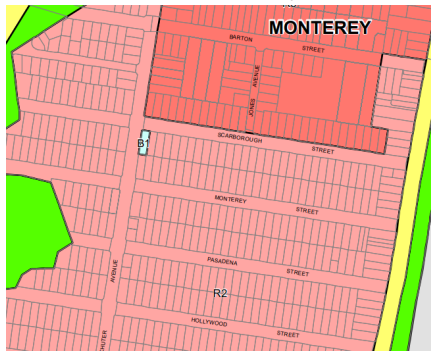


Figure 11: Zoning map extract

Source: Bayside LEP 2021

### Zone R2 Low Density Residential

#### 1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

#### 2 Permitted without consent

Home-based child care; Home occupations

#### 3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Tank-based aquaculture; Water supply systems

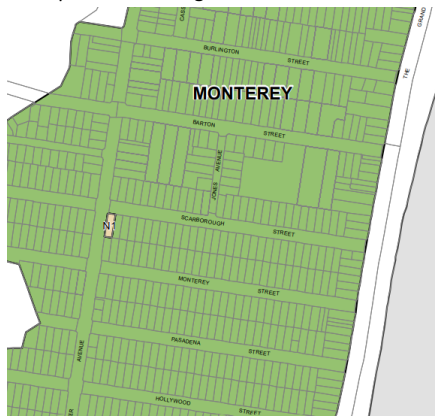
#### 4 Prohibited

Any development not specified in item 2 or 3

The proposed development achieves the objectives of the zone and is permissible with consent.

**Height**

The permissible height for the site is 8.5 metres, as prescribed by the Rockdale LEP Height Map.



**Figure 12:** Height map extract  
**Source:** Bayside LEP 2021

**4.3 Height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
  - (b) to permit building heights that encourage high quality urban form,
  - (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.
  - (2A) .....
  - (2B) .....

The development proposes a maximum height of 8.150m to the top of the balustrades.



**Floor Space Ratio**

The permissible floor space ratio for the site is 0.6:1. The proposed gross floor remains unchanged.

**Heritage**

The subject site is not listed as a heritage item or located within a Heritage Conservation Area under Bayside Local Environmental Plan 2021.

**Acid Sulphate Soils**

The subject site is affected by Class 4 Acid Sulphate Soils



**Figure 14:** Acid Sulphate Soils extract

**Source:** Bayside LEP 2021

There are no earthworks proposed.

**Bayside Development Control Plan 2022**

The following table outlines the proposed development’s compliance with the relevant provisions of the Bayside DCP – Residential Development.

Standard	Requirement	Proposal
<b>Bayside DCP 2022</b>		
<b>3 General Development Provisions</b>		
<b>3.5.3 On-site Car Parking Rates</b>	C1. Development is to provide on-site car parking in accordance with the car parking rates outlined in Table 3 below.	One (1) car space is provided in the existing garage in accordance with the approved CDC plans.
<b>3.5.8 Basement Parking</b>	C1. Basement car parking is preferred for large scale residential and commercial development. C2. For single dwelling development with basement parking spaces, the basement shall be designed to enable forward entry and exit from each space to ensure sightlines and pedestrian safety is maintained.	N/A
<b>3.7.1 Landscaping</b>	C4. At least 20% of the front setback area of a residential development is to be provided as landscaped area. C5. Side setbacks included in the landscape area shall be maximum 20% of the total landscape area provision. C6. Landscaped areas located between driveways/ pathways and side boundaries have a minimum width of 1.0m at the narrowest dimensions and a minimum of 75% landscaped area must consist of planting, grass and trees, but not gravel/paving. C7. A minimum of one tree in front setback and one tree in the rear open space in scale with the proposed built form shall be included in low and medium density residential developments. C12. The minimum amount of landscaped area within the site is as follows:	Approved landscaping is retained and proposed planters surround the proposed terrace to conceal its view from the street.



	<table border="1"> <thead> <tr> <th>Development Type</th> <th>Min. landscaped area (of the site area)</th> </tr> </thead> <tbody> <tr> <td>Low and medium density residential</td> <td>25%</td> </tr> <tr> <td>Residential flat buildings</td> <td>15%</td> </tr> <tr> <td>Mixed use (with shop top housing)</td> <td>10%</td> </tr> <tr> <td>Highway commercial</td> <td>10%</td> </tr> <tr> <td>Industrial</td> <td>10%</td> </tr> <tr> <td>Child care centres</td> <td>20%</td> </tr> </tbody> </table> <p><b>Table 7: Minimum Landscaped Area</b></p> <p>Note: Further details about the amount of landscaped area for specific development types is provided below.</p> <p>C13. If an Arborist Report / Tree Assessment is required, it must comply with the relevant other requirements of this DCP and use an appropriate replacement ratio and appropriate species. Refer to 3.8.2 (C3) for replacement ratio.</p> <p>C14. Street trees are to be provided in accordance with Council’s Street Tree Masterplan.</p> <p>Note: Council may require that all street trees be planted at the Site Establishment Phase or during Stage 1 of a staged development so that trees become established and soften the development by practical completion.</p> <p>C15. Existing trees, including street trees, and natural formations including rock formations must be preserved where possible. The development proposal must demonstrate all efforts have been done to preserve significant features, like trees or outcrops.</p>	Development Type	Min. landscaped area (of the site area)	Low and medium density residential	25%	Residential flat buildings	15%	Mixed use (with shop top housing)	10%	Highway commercial	10%	Industrial	10%	Child care centres	20%	
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<p><b>4 Subdivision, Consolidation and Boundary Adjustments</b></p>																
<p><b>4.1 General</b></p>	<p>C1. Subdivision or amalgamation must not compromise any significant features of the existing or adjoining sites including streetscape character, landscape features or trees.</p> <p>C2. Where no minimum lot size exists for a site under Bayside Local Environmental Plan 2021, any proposed subdivision or amalgamation must have characteristics similar to the prevailing subdivision pattern of lots</p>	<p>N/A</p>														

	<p>fronting the same street, in terms of area, dimensions, shape and orientation.</p> <p>Note: Council generally considers the 'prevailing subdivision pattern' to be the typical characteristic of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. Properties located in the surrounding streets do not usually form part of the streetscape character and are therefore not taken into consideration when determining the prevailing subdivision pattern.</p> <p>C3. Subdivision results in a density of dwellings that is consistent with that prevailing in the surrounding area.</p> <p>C4. Applications must demonstrate that the following has been considered:</p> <ul style="list-style-type: none"> <li>a. site topography and other natural and physical features</li> <li>b. existing services</li> <li>c. existing vegetation</li> <li>d. existing easements or the need for new easements</li> <li>e. vehicle access</li> <li>f. any land dedications required (e.g. road widening)</li> <li>g. existing vegetation</li> <li>h. potential flood affectation and stormwater management requirements</li> <li>i. contamination of the land</li> <li>j. existing buildings or structures</li> <li>k. heritage Items, Conservation Areas and adjoining Heritage Items</li> </ul> <p>Note: Development Applications for subdivision where in the Council's opinion will create a new lot that contains significant features, such as streetscape character, landscape features or trees, the DA is to include the construction of any buildings on the new allotment and the residual allotment.</p> <p>C5. In accordance with the planning principles established under Parrot v Kiama [2004] NSWLEC 77, where a proposal for subdivision or site amalgamation involves the creation</p>	
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	<p>of new allotments that are smaller than typical allotments, are environmentally sensitive, or where it is considered that there could be significant impacts on neighbours as a result of future development, the development application must be accompanied by a conceptual building plan, demonstrating that the relevant DCP controls can be satisfied.</p> <p>C6. Subdivision which results in additional residential allotments of land within an Australian Noise Exposure Forecast (ANEF) contour of 30+ is not permitted.</p> <p>C7. Subdivision and amalgamation is not permitted in areas identified to be affected by projected 2100 sea level rise by NSW State Government unless it can be demonstrated that potential impacts can be mitigated (refer to Sydney Coastal Council and CSIRO – Mapping and Responding to Coastal Inundation, February 2012).</p> <p>C8. Subdivision must not result in the creation of a new lot that contains significant site features that would render the land unable to be developed (e.g. creation of allotments that are solely burdened by easements, flooding, highly contaminated land, land that contains significant trees or land of a size which could not facilitate development as per the zoning and controls applicable to the land).</p> <p>C9. Proposed lots shall have street frontage widths not less than the prevailing subdivision pattern within the business zone and are to have a compatible shape and orientation.          Note: The prevailing subdivision pattern does not include the subdivision pattern shown in zones adjoining the business centre. Properties located in the surrounding streets do not usually form part of the streetscape character and are therefore not taken into consideration when determining the prevailing subdivision pattern. C10. Developers</p>	
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	<p>are to demonstrate to Council’s satisfaction that adjoining parcels not included in their development site are capable of being economically developed.</p> <p>C11. The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants. Note: Development of existing isolated sites may not achieve the maximum potential, particularly height and floor space ratio and will be assessed on merit.</p> <p>C12. All lots created shall have at least one (1) frontage to the street.</p> <p>C13. Inter-allotment draining easement is to be provided if any proposed lots are not able to drain stormwater runoff from the site to a street or public drain way.</p> <p>C14. On corner allotments, the dedication to Council for road widening purposes is a minimum 3 metres splay.</p>	
<p><b>5.1.1 Fences and Retaining Walls – General Controls</b></p>	<p>C1. The maximum height of front fences are: a. 1.5m if at least 50% transparent b. 1.2m if less than 50% transparent (Refer to Figure 15) NB: Council may consider taller fences where properties adjoin significantly busy or hostile road corridors. The visual impacts of taller fencing must be offset by means of additional landscaping provision.</p> <p>C2. For dwelling houses, the top 50% of a front fence is to be transparent or open style to allow for passive surveillance.</p> <p>C3. The maximum height of a fence along a road is: a. 1.5m along a road other than a classified road, where C1 is met b. 1.5m along a classified road c. 1.8m where at least 30% transparent along a classified road</p> <p>C4. Fencing located along side boundaries tapers down from the front building line to the street frontage.</p> <p>C5. The height of a fence and/or wall along a sloping street shall be: a. a maximum combined height of 2.0m,</p>	<p>Approved front fence retained</p>

	<p>regularly stepped so there is a maximum height above footpath level of 1.2m C6. The maximum height of a fence along a side or rear boundary is 1.8m.</p> <p>C7. Fences do not cause unreasonable amenity impacts on adjoining land, in particular in relation to solar and daylight access, natural ventilation, outlook or views.</p> <p>C8. The maximum height of retaining walls along a road is 1m.</p> <p>C9. Retaining walls along a road are located to allow site responsive tree planting within the setback.</p> <p>C10. Retaining walls do not cause unreasonable amenity impacts on adjoining land, in particular in relation to solar and daylight access, natural ventilation, ponding, outlook or views.</p> <p>C11. Fence controls for Heritage Items and in Heritage Conservation Areas must be consistent with the requirements of Section 3.4 (Heritage) of this DCP.</p>	
<p><b>5.1.3 Swimming Pools, Spa Pools, and Child-Resistant Barriers</b></p>	<p>C1. Swimming pools and spa pools are sited to minimise unreasonable impact on the following: a. natural landform b. habitable rooms and the principal private open space of adjoining properties</p> <p>C2. Swimming pools, spa pools and associated structures such as decks or coping are: a. located at ground level b. where a site slopes, have a maximum height above existing ground level of 500mm</p> <p>C3. Swimming pools and spa pools are not located within the front setback.</p> <p>C4. Minimum setbacks for swimming pools and spas to side and rear boundaries from the coping are:</p> <p>a. 1m</p> <p>b. where adjoining a habitable room of a neighbouring dwelling, a setback greater than 1.5m may be required in order to protect the amenity of</p>	<p>Approved swimming pool retained</p>

	<p>residents</p> <p>C5. Pumps, filters and other noise emitting devices are located away from habitable rooms and the principal private open space of adjoining dwellings and/or enclosed or screened by appropriate, visually unobtrusive noise mitigating devices. Any devices are located and designed in accordance with the offensive noise provisions of the Protection of the Environment Operations Act 1997.</p> <p>C6. Water discharged from pools during maintenance or cleaning does not cause unreasonable nuisance or harm to adjoining properties.</p> <p>C7. Setbacks may be required to protect existing trees including their root systems, as well as trees on adjoining properties.</p> <p>C8. A geotechnical report is required where the site is located in a groundwater exclusion zone. C9. Any structure that is elevated above ground level is suitably screened by planting.</p> <p>Note: Planting details are to be provided on the landscape plan.</p> <p>C10. Swimming pools are to be sited to maximise solar access.</p> <p>Note: Locating pools in this manner reduces reliance on energy systems to provide water heating.</p> <p>C11. Water tanks are installed to provide water for pools as follows: a. pool size up to 20,000 litres: 1,000 litre tank b. pool size of 20,000 to 40,000 litres: 2,000 litre tank c. pool size over 40,000 litres: complies with BASIX</p> <p>C12. Where swimming pools are proposed on Flood Prone Land 1, swimming pools and associated structures achieve the following:</p> <ul style="list-style-type: none"> <li>a. do not obstruct a floodway</li> <li>b. do not exacerbate flooding into neighbouring properties</li> <li>c. do not drain to the properties external stormwater network</li> <li>d. drain into the sewer network</li> </ul> <p>C13. The surrounds or</p>	
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	<p>concourse of a swimming pool shall have a minimum 1% grade towards the pool to prevent surface waters (e.g. from rainfall) overflowing into the adjoining properties. In some instances, additional surface drains may be required.</p>	
<p><b>5.2.1 Low-density residential (dwellings, dual occupancy, semi-detached dwellings)</b></p>	<p>C1. Development is to be designed to reflect the relevant local character in Chapter 7 and reinforce the architectural features and identity which contribute to the desired future character of the area.                  C2. Development is oriented to be parallel with the primary road. Development sites with two or more frontages should address both frontages. Note: Council may vary this control where the lot has an irregular boundary to the primary road.                  C3. Proposed materials for low density dwellings should not include extensive areas of glass sheeting and glass blocks. Painting, rendering, or bagging of any original unpainted masonry or sandstone surfaces or cladding that provides a positive contribution to the streetscape character and requires maintenance is not permitted.                  C4. Where alterations or additions are proposed, the materials must be compatible with those of the existing building and/or desired future character of the streetscape.                  C5. Elevations should avoid large expanses of blank walls through the following:                  a. a harmonious composition of varied building elements                  b. recesses and projections                  c. changes in texture, material, detail and colour Note: for Dwelling Houses, Semi-Detached Dwelling and Secondary Dwellings, completely rendered buildings with a box shape envelope will not be supported.</p>	<p>Approved dwelling is under construction and the proposal includes a roof top terrace surrounded by planter boxes to conceal its view from the streetscape. The glazed balustrade also limit the trafficable space on the roof.</p>

	<p>C6. Development on sites with two or more frontages should address both frontages.</p>	
<p><b>5.2.1.2 Built Form Controls</b></p>	<p>C1. Maximum building height above ground level in metres complies with clause 4.3 of the Bayside LEP 2021.                  C2. Maximum building height above ground level (existing) in storeys excluding basements is:                  a. for a Dwelling House, Semi Detached Dwelling and Dual Occupancy: 2 storeys                  b. for a Secondary Dwelling: 1 storey                  c. for any of the above uses located at the rear of a site or on a battle axe: 1 storey.                  C3. A Secondary dwelling may be located at first floor level above a garage or outbuilding which fronts a rear lane or side street subject to compliance with:                  a. outbuilding controls in Sub-section 5.1.2                  b. relevant provisions in Chapter 3 – General                  c. other relevant provisions in this section                  C4. Maximum building length is compatible with that of adjoining sites.                  Two or three storey developments are only permitted towards the front of an allotment and may only extend to a maximum of 70% of the depth of the site measured from the front property boundary.                  Note: For Secondary Dwellings the total length of both the Secondary Dwelling and Dwelling House is to be considered.                  C5. Buildings must provide horizontal and vertical articulation of external walls to create visual interest and reduce building bulk.                  C6. Where roof forms in a streetscape are predominantly pitched, roof pitches are to be between 22.5 degrees and 40 degrees.                  C7. Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from</p>	<p>Maximum building height 8.150m to the top of the balustrades.</p>



	<p>the streetscape.</p> <p>C8. Pitched roofs must have a minimum eave overhang of 450mm (excluding gutters).</p> <p>C9. An attic may be used as a habitable room provided that:</p> <ul style="list-style-type: none"> <li>a. it is part of the dwelling immediately below</li> <li>b. it is incapable of being used as a separate dwelling</li> <li>c. it is contained wholly within a roof space above the ceiling line of the storey immediately below, except for minor elements such as dormer windows</li> <li>d. windows are limited to small dormer windows</li> </ul> <p>C10. Voids are to connect related uses and spaces and should not compromise the useability of spaces or result in an unreasonable loss of amenity for the residents.</p> <p>C11. Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported. Similarly, the infill of any existing void must not result in overdevelopment of the site by exceeding the maximum permitted FSR.</p>	
<p><b>5.2.1.3 Setbacks</b></p>	<p>C1. Minimum building setback to a primary road is either:</p> <ul style="list-style-type: none"> <li>a. the average of the dwellings on adjoining lots;</li> <li>b. otherwise, 6m.</li> </ul> <p>C2. Minimum building setback to a secondary road is 1.5m</p> <p>C3. Minimum building setback to a rear lane is:</p> <ul style="list-style-type: none"> <li>a. where habitable: 1.5m</li> <li>b. where non-habitable: 1m</li> </ul> <p>C4. Minimum building setback to a road identified as a Key Freight Route may be required to have a greater setback. Key Freight Routes are identified at:  <a href="https://data.datahub.freightaustralia.gov.au/ne/dataset/national-key-freight-routes-map">https://data.datahub.freightaustralia.gov.au/ne/dataset/national-key-freight-routes-map</a></p> <p>C5. Minimum building setback to a rear boundary is 5m.</p>	<p>No change to building setbacks.</p>

	<p>C6. Minimum building setback to a side boundary is 0.9m (ground floor) and 1.5m (first storey and above).</p> <p>C7. A dwelling house with a setback from a primary road of at least 3m may have an articulation zone that extends up to 1.2m forward of the minimum required setback from the primary road.</p> <p>C8. The following ground-floor building elements may be located in the articulation zone:</p> <ul style="list-style-type: none"> <li>a. an entry feature or portico</li> <li>b. a balcony, deck, pergola, terrace or verandah</li> <li>c. a window box treatment</li> <li>d. a bay window or similar feature</li> <li>e. an awning or other feature over a window</li> <li>f. a sun shading feature</li> <li>g. an eave</li> <li>h. any other small scale building element that in the opinion of council provides visual interest to the elevation</li> </ul> <p>Note: The maximum total area of all building elements in the articulation zone, other than a building element specified in e), f) or g), does not comprise more than 25% of the area of the articulation zone.</p> <p>C9. Minimum building setback for an awning or verandah is:</p> <ul style="list-style-type: none"> <li>a. to classified roads: 1.5m</li> <li>b. to local roads that intersect with classified roads: 1.5m for a distance of 100m from the intersection with the classified road</li> <li>c. to any signalised intersection: 1.5m for a distance of 100m from the signalised intersection</li> </ul>	
<p><b>5.2.1.4 Landscaping and Private Open Space</b></p>	<p>C1. New development must comply with the minimum private open space and landscaping provisions contained within Section 3.7 (Landscaping and Biodiversity).</p> <p>C2. The maximum area of a rooftop terrace is 24m<sup>2</sup> and should not represent the principal private open space for a dwelling. The roof top terrace is to be enclosed by in-built</p>	<p>No change to approved landscaping and existing private open space.</p> <p>The proposed roof top terrace compliments the existing private open space with an area of 24m<sup>2</sup> and is</p>

	<p>planter boxes.</p> <p>C3. The rooftop terrace must be oriented to minimise impacts on the visual and acoustic privacy of adjoining sites.</p> <p>C4. Where part of a rooftop terrace is oriented to a side boundary, its perimeter must be bordered screening vegetation. The floor of the rooftop terrace area must be differentiated from the rest of the flat roof. The enclosure of the rooftop terrace area with built-in planter boxes may be required.</p> <p>C5. Roof terrace balustrades must not be transparent.</p> <p>C6. The trafficable area of the rooftop terrace and balustrade shall be setback at least 1.5m from the building edge.</p> <p>C7. The rooftop entry point should not be excessive in size and should only be used as access to the terrace area.</p> <p>C8. Overlooking into the internal private and external open space of adjoining neighbours should be avoided.</p>	<p>fully enclosed by in-built planter boxes.</p> <p>The rooftop terrace is setback a minimum of 1.5m from the side walls of the dwelling, and 18m from the rear boundary.</p> <p>The proposed access staircase is an extension of the first floor staircase and leads to a roof hatch/operable skylight to access the rooftop terrace only.</p> <p>The side and rear setbacks of the rooftop terrace have been designed to prevent overlooking to the neighbouring external open space. The planter boxes conceal the terrace from street view.</p>
<p><b>5.2.1.5 Solar Access and Overshadowing</b></p>	<p>C1. Dwellings within the development site and adjoining properties should receive a minimum of 2 hours direct sunlight in habitable living areas (family rooms, rumpus, lounge and kitchen areas) and in at least 50% of the primary private open space between 9am and 3pm in mid-winter. Council may grant consent to a development that does not comply with the 2 hours of solar access requirement. However, Council must not grant consent, unless the applicant has satisfactorily addressed the questions identified in the Land and Environment Court Sunlight Planning Principle. The Planning Principle is updated by Court decisions and is available to view on the Land and Environment Court's website</p>	<p>No change to solar access and overshadowing. See shadow diagrams.</p>

	(www.lawlink.nsw.gov.au/lec). For development adjoining a semi-detached dwelling, first floor additions may need to be setback in order to provide adequate solar access to the living areas within the adjoining dwellings and their primary open space areas. C2. Consideration must be given to neighbouring properties' solar panels and the loss of sunlight to these panels as a result of any development proposal.	
<b>5.2.1.6 Parking and Access</b>	C1. Development must be consistent with the requirements in Section 3.5 (Transport, Parking and Access).	Yes

The proposed roof top terrace addition to the currently constructed two (2) storey dwelling at the subject premises is considered compliant with the relevant controls of the Bayside DCP 2022.

## Section 4.15 Evaluation

### **S4.15 (1)(a) The provisions of any planning instrument, draft environmental planning instrument, development control plan or regulations**

The development proposal is pursuant to Bayside LEP and DCP. The assessment shows that the proposed development is generally consistent and compliant with the objectives, performance criteria and the controls of the LEP and DCP.

### **S.4.15(1)(b) Impacts on the environment Context and Setting**

The proposed development is considered to be compatible with the scale and character of buildings within the streetscape.

#### **Access, transport and traffic**

The approved dwelling includes one (1) car parking spaces in the basement garage.

#### **Utilities**

Existing utility services will adequately service the development.

#### **Flora and fauna**

The proposal includes retention of existing landscaping..

#### **Waste collection**

Normal domestic waste collection applies to this development.

#### **Natural hazards**

The site is not affected by any known hazards.

#### **Economic impact in the locality**

The proposed development will provide temporary employment through the construction of the development and therefore benefit the surrounding businesses.

#### **Site Design and Internal Design**

The scale of the development is appropriate having regard to the allotment shape, context of the site, the objectives of the relevant planning provisions and is compatible with the scale of residential development in the local area. The design outcome will contribute positively to the surrounding built form and provides a building scale and mass that is appropriate to the form of the site.

#### **Construction**

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

### **S.4.15(1)(c)The suitability of the site for the development**

The subject site does not have any constraints that would affect the proposals suitability to the site.

**S.4.15(1)(d) Any submissions received in accordance with this Act or the regulations** Submissions that will be received by Council will be assessed in accordance with the EPA Act, 1979 and other relevant planning controls.

**S.4.15(1)(e) The public interest**

The proposed development is considered to be compatible with the surrounding development and is consistent with the objectives of the relevant planning controls. Therefore approval of the proposal is considered to be within the public interest.

## Conclusion

The proposed development application seeks consent for addition of a roof top terrace to the approved dwelling currently under construction at No.52 Monterey Street, Monterey.

The proposed development is permissible with consent and is considered to generally satisfy the controls and objectives of the relevant planning instruments. The proposed development implements a contemporary building design that provides a suitable character and scale within its surrounding context. The design, setbacks and materials of the building have been carefully considered to alleviate any adverse impacts on the adjoining properties.

In summary, in consideration of the merits of the proposal and the absence of any adverse environmental impacts, it is recommended to Council to grant consent to this development, subject to appropriate conditions.

# R T P

ROCKEMAN TOWN PLANNING

## **Clause 4.6: Request to Variation to Development Standard**

Proposal to vary Floor Space Ratio Development Standard under  
Clause 4.4 of Bayside Local Environmental Plan 2021

### **No.52 Monterey Street, Monterey**

Addition of a roof top terrace to the approved  
dwelling

*Updated April, 2024*

Prepared by:

**ROCKEMAN TOWN PLANNING**

ABN 26316930343



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### 3. Development Proposal

3.1 Proposed Development

### 4. Clause 4.6 Request for Variation

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

4.2 What is the zoning of the land?

4.3 What are the objectives of the zone?

4.4 What is the development standard being varied?

4.5 Under what Clause is the development standard listed in the environmental planning instrument?

4.6 What are the objectives of the development standard?

4.7 What is the numerical value of the development standard in the environmental planning instrument?

4.8 What is the proposed numerical value of the development standard in your development application?

4.9 What is the percentage variation between your proposal and the environmental planning instrument?

4.10 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

4.11 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (i i) of The Act?

4.12 Is the development standard a performance based control? Give details.

4.13 Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

4.14 Are there sufficient environmental planning grounds to justify contravening the development standard? Give details?

### Figures

Figure 1: Site Locality Map

Figure 2: Proposed Site plan

Figure 3: Southern Elevation

## 1. Introduction

A Development Application has been lodged for the addition of a roof top terrace to the approved dwelling currently under construction at No.52 Monterey Street, Monterey.

The proposed development is permissible with Council's consent in the R2 Low Density Residential zone under Bayside Local Environmental Plan 2021 (BLEP 2021) and Bayside Development Control Plan 2021. The proposal is consistent with the aims and objectives of the relevant environmental planning instrument and an assessment of the proposal has not identified any adverse impacts that are likely to result from the following variation applied for.

A request for variation to the floor space ratio development standard is required. This report constitutes the Applicant's Written Request for Variation to the Exceptions to Floor Space Ratio development standard contained within Clause 4.4 of BLEP 2021. The request for variation is lodged pursuant to Clause 4.6 of the LEP.

## 2. Site Details

### 2.1 Site Location

The subject site is situated on the southern side of Monterey Street within the suburb of Monterey.



Figure 1: Site Locality Map  
Source: Google Maps, 2023

### 2.2 Site Description

The site is legally described as Lot 158 DP 10707 and is known as No. 52 Monterey Street, Monterey. The site is located in the suburb of Monterey which resides to the south of Sydney. The subject site is within the Bayside local government area

### 2.3 Existing Development

The site is a regular shaped allotment with a site area of 468.2m<sup>2</sup> and a frontage of 12.19m. The site is currently occupied by a two (2) storey dwelling under construction. The existing building is not identified as a heritage item or within a conservation item under the Bayside Local Environmental Plan 2021.

### 2.4 Surround Development

Monterey Street and the surrounding area is characterised by predominately newly constructed two (2) storey dwellings, dual occupancies and multi dwelling housing developments. The street includes on-street car parking and landscaping. Images of the site and the surrounding locality are shown in the Statement of Environmental Effects.

### 2.5 Topography and Drainage

The topography of the site is relatively flat.

## 2.6 Zoning

The site is zoned R2 Low Density Residential and the objectives are listed below. The proposal is permissible with consent.

### **Zone R2 Low Density Residential**

#### **1 Objectives of zone**

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

#### **2 Permitted without consent**

*Home-based child care; Home occupations*

#### **3 Permitted with consent**

*Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Tank-based aquaculture; Water supply systems*

#### **4 Prohibited**

*Any development not specified in item 2 or 3*

*The proposed development achieves the objectives of the zone and is permissible with consent.*

The proposed development is permissible with consent and achieves the objectives of the zone.

### 3 Proposed Development

#### 3.4 Development Proposal

The proposal is for a Development Application for the addition of a roof top terrace to the approved dwelling currently under construction at No. 52 Monterey Street, Monterey.

The proposal specifically seeks consent for the following:

- New roof top terrace 24m<sup>2</sup> in area;
- New one (1) metre high balustrade around the perimeter of the roof terrace;
- Operable skylight/roof hatch to access the roof terrace from the first floor
- New internal staircase extending from the first-floor staircase to a roof hatch in the approved roof;
- New wall to replace indentation along western façade to make provision of the new staircase; and
- Planter box around the perimeter of roof top terrace

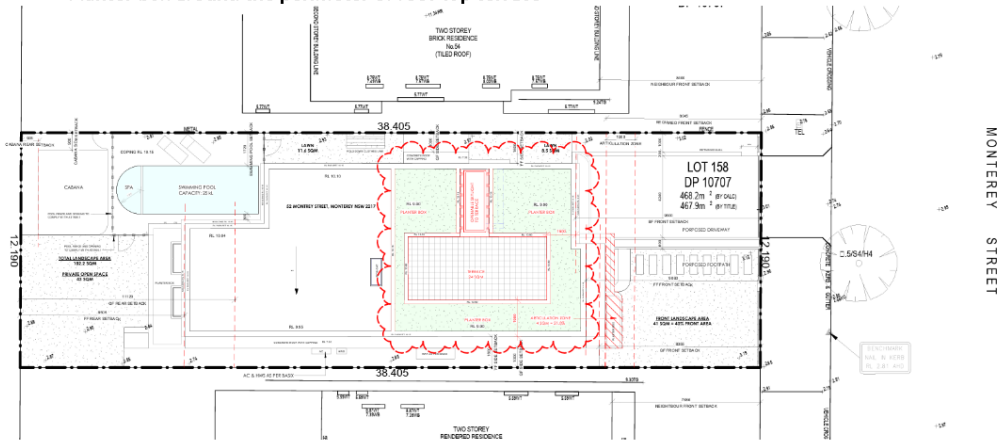


Figure 2: Proposed site plan/ roof terrace

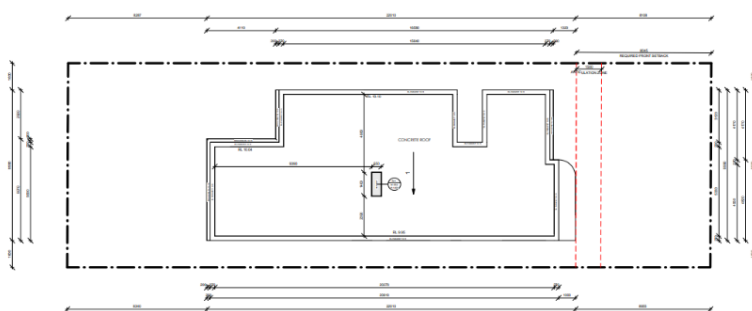


Figure 3: Approved CDC first floor

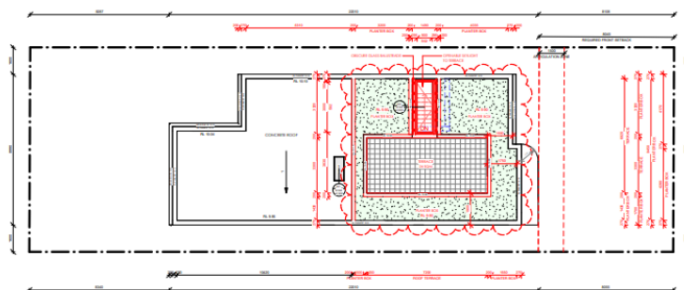


1 First Floor Plan  
1:100  
PROPOSED STAIRCASE TO FIRST FLOOR TO ENTER PROPOSED ROOF TERRACE

Figure 4: Proposed DA first floor infill of indentation of western façade



1 Roof Plan  
1:100  
Figure 4: Approved CDC roof form



1 Roof Plan  
1:100  
PROPOSED ROOF TERRACE  
Figure 6: Proposed DA roof form

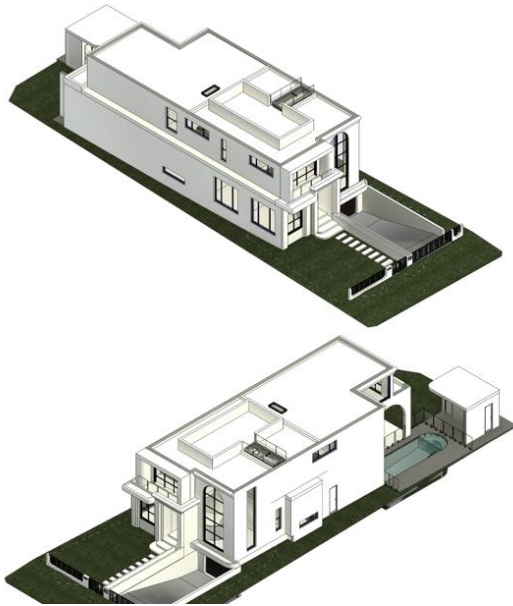


Figure 7: Proposed perspectives of rooftop terrace

**Clause 4.6 Request for Variation**

Clause 4.6 of BLEP 2021 allows for variation to development standards and principally replicates the operation of State Environmental Planning Policy No. 1 – Development Standards. The following sets out the Applicant's Written Request for Variation to the provisions of Clause 4.4 Floor Space Ratio (FSR) of BLEP2021 which permits a maximum prescribed FSR of 0.5:1 for the subject site.

Components of Clause 4.6 relevant to the preparation of the subject Written Request for Variation are provided below with a justification of how the application achieves the requirements of Clause 4.6:

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

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

Response: The variation of 0.115:1 or 54m<sup>2</sup> to the permitted FSR is due to the additional gross floor area provided via CDC controls under Part3 of the Exempt and Complying SEPP 2008. The variation would have a inconsequential impact as the approved development would maintain a compatible bulk and scale when viewed from the streetscape. The proposal would allow for an additional staircase to access the rooftop terrace (which is excluded from gross floor area calculations) with only a minor change to the western façade of the dwelling where previously there was indentation at the position of the proposed staircase on the first floor and now that indentation has been infilled to create a consistent western façade where the stairs will be positioned. Although there is a minor change to the bulk and scale of the western façade the predominant building form remains compatible with the approved CDC dwelling.

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

Response: There is a proposed minor change to the western façade that will infill the indentation where there is currently a lower roof form however the proposed development will allow for a density that remains consistent with the approved dwellings and will not compromise the characteristics of the streetscape.

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Response: The contravention to the development standard is supported under subclause 3 a) and b).

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

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Response: The compliance with the floor space ratio is considered unreasonable or unnecessary in this particular case as the approved development currently exceeds the allowable FSR and the proposed development maintains a compatible building envelope, with the exception of the infilled area on the western façade, and will not impact the amenity of the adjoining dwellings mostly because the façade will appear similar to the approved development. Considering the developments ability to achieve full compliance with all required and prescribed controls, with the exception to floor space ratio, strict compliance would be unreasonable or unnecessary as the application remains within the public interest as the development is almost consistent with the approved development and reflects the existing development pattern.

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Response: The application for the variation to Floor Space Ratio can be supported under the following



environmental planning grounds:

- The application for alterations and additions is a permissible form of development and achieves the objectives of the R2 Low Density Residential zone;
- The approved dwelling exceeds the permissible FSR;
- The application achieves the objectives of Clause 4.4 Floor Space Ratio and is discussed below:

**4.4 Floor space ratio**

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

*(a) to establish standards for the maximum development density and intensity of land use,*

Response – the proposal is almost consistent with the approved building envelope, with the exception of the minor infill for the staircase on the western façade, and provides for an adequate bulk and scale for the lot;

*(c) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*

Response – the proposal is almost consistent with the approved building envelope and provides for an adequate bulk and scale for the lot;

*(d) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

Response – The proposal maintains a similar development as the existing building with the exception of an additional rooftop terrace and infill of an indentation to the western facade to accommodate the staircase that cannot be viewed from the streetscape and designed to meet the controls of the Bayside DCP. The proposal ensures that the development provides appropriate built form transition between new portions of the building and adjoining properties.

*(e) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,*

Response - The proposal maintains the same development as the existing building with the exception of an additional rooftop terrace and infill of an indentation to the western facade to accommodate the staircase that cannot be viewed from the streetscape and designed to meet the controls of the Bayside DCP which is a permissible form of development.

*(e) to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.*

Response – The proposal maintains compliance with the 8.5m height limit.

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Response: Provided as requested.

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Response: The proposal achieves the objectives of Clause 4.4 Floor Space Ratio and remains within the public interest.

*(b) the concurrence of the Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Secretary must consider:*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental*

planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) .....

(7) .....

(8) .....

**4.1 What is the name of the environmental planning instrument that applies to the land?**

Bayside Local Environmental Plan 2021

**4.2 What is the zoning of the land?**

R2 Low Density Residential

**4.3 What is the objectives of the zone?**

**Zone R2 Low Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Tank-based aquaculture; Water supply systems

**4 Prohibited**

Any development not specified in item 2 or 3

The proposed development achieves the objectives of the zone and is permissible with consent.

Response: The proposal is considered to achieve the objectives of the zone, is a permissible form of development in the zone and maintains the amenity of the adjoining residents. The proposal is a permissible roof form development that has been designed in accordance with Bayside DCP controls and does not create any further gross floor area/FSR variations.

**4.4 What is the development standard being varied?**

Floor Space Ratio

**4.5 Under what Clause is the development standard listed in the environmental planning instrument?**

Clause 4.4

**4.6 What is the objectives of the development standard?**

- The application achieves the objectives of Clause 4.4 Floor Space Ratio and is discussed below:

(a) *to establish standards for the maximum development density and intensity of land use,*

Response – the proposal is almost consistent with the approved building envelope and provides for an adequate bulk and scale for the lot;

(f) *to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*

Response – the proposal is almost consistent with the approved building envelope and provides for an adequate bulk and scale for the lot;

(g) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

Response – The proposal maintains a very similar development as the existing building with the exception of an additional rooftop terrace and infill of an indentation to the western facade to accommodate the staircase that cannot be viewed from the streetscape and designed to meet the controls of the Bayside DCP. The proposal ensures that the development provides appropriate built form transition between new portions of the building and adjoining properties. through adequate side setbacks.

(h) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,*

Response - The proposal maintains a similar development as the existing building with the exception of an additional rooftop terrace and infill of an indentation to the western facade to accommodate the staircase that cannot be viewed from the streetscape and designed to meet the controls of the Bayside DCP which is a permissible form of development.

(e) *to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.*

Response – The proposal maintains compliance with the 8.5m height limit

**4.7 What is the numerical value of the development standard in the environmental planning instrument?**

0.5:1/ 234.1m2

**4.8 What is the proposed numerical value of the development standard in your development application?**

The approved gross floor area for the development is 282.4m2m2 creating an FSR of 0.61. The proposed development has a variation to the permitted gross floor area of 54m2 and to the FSR by 0.115:1(based on the gross floor area of BLEP2021 definition).

The variation of the proposed additional gross floor area is due to the additional gross floor area provided via CDC controls under Part3 of the Exempt and Complying SEPP 2008 and the infill of the indentation on the western façade to make provision for the new staircase.

**4.9 What is the percentage variation between your proposal and the environmental planning instrument)?**

$288.1 - 234.1 = 54m^2$

$54/234.1 \times 100 = 23.1\%$

Percentage Variation = 23.1%

**4.10 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007) sets out 5 ways in which compliance with a development standard can be demonstrated to be unreasonable or unnecessary in the circumstances of the case. The 5 ways are:

- *if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)*
- *the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*
- *the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*
- *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*
- *the zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that "compliance with the standard in that case would also be unreasonable or unnecessary."*

The subject application relies on the first of the *Wehbe* Tests being, the objectives of the standard are achieved notwithstanding non-compliance with the standard. Compliance with the standard is considered unreasonable or unnecessary for the following reasons:

- The proposal is a permissible form of development in the R2 Low Residential zone and complies with the objectives of the development standard and zone;
- The variation of the proposed additional gross floor area is due to the additional gross floor area provided via CDC controls under Part3 of the Exempt and Complying SEPP 2008 and the infill of the western façade indentation to make provision for the new staircase creating an overall building that is compatible with the approved dwelling footprint;
- The bulk and scale of the development remains reflective of and almost consistent with the approved dwelling with a minor change to the western facade indentation that allows for the façade to be a solid wall rather than articulated.
- The development maintains a density reflective of the approved CDC plans and a bulk and scale that is proportionate and functional. The massing of the building is compatible to the approved development.
- The proposal western façade staircase infill makes alignment with the established first floor side setback of 1.6m ensuring that the proposed additional floor space maintains adequate building separation, access, privacy, natural lighting and ventilation;
- The bulk, scale and massing of the proposal maintain the characteristics of the streetscape;
- The proposed design complies with the required development standards and controls, with the exception to FSR, and responds to the sites context and positioning providing a functional and proportionate development;
- The proposal remains within the public interest because it includes an articulated development

design that provides for a compatible design and harmonious balance between the current building and the transitioning desired outcome for the dwelling.

**4.11 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of The Act?**

**1.3 Objects of Act** (cf previous s 5)

*The objects of this Act are as follows—*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The proposed application remains compliant with Part 1.3 of The Act. The proposed use is permissible within consent and uses the subject site to its full potential to achieve the proposed development. This in turn will promote the orderly and economic use of the land. The proposed development adds to the social and economic welfare of the community by creating a development that responds to the nature of dwelling houses in Monterey and provides contemporarily designed housing choice.

**4.12 Is the development standard a performance based control? Give details.**

No, the standard is not a performance based control.

**4.13 Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?**

Strict compliance with the development standard is considered unreasonable and unnecessary as the non-compliance of the variation maintains a development that is sympathetic with the character and amenity of the transitioning streetscape, maintains a reflective density with the approved dwelling and within the local precinct.

**4.14 Are there sufficient environmental planning grounds to justify contravening the development standard? Give details?**

Furthermore, neither the LEP, nor any other environmental planning instrument or the Department of Planning and Infrastructure's August 2011 document entitled "Varying Development Standard: A Guide" provides a specific definition of the term "environmental planning grounds". Nevertheless, the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (30 January 2015) provides

some supportive guidance on the principal of “environmental planning grounds” and in accordance with Commissioner Pearson’s comments, we therefore acknowledge that “environmental planning grounds” must be specific to the proposed development on the subject site and would be matters arising from S.4.15 Evaluation Criteria in the EPA Act, 1979.

Based on that methodology, the environmental planning ground which support variation to the standard in this instance are:

- The development application responds to the objectives of Clause 4.4 of the BLEP 2021 and has been designed to ensure the proposal does not pose any adverse impacts on to the adjoining neighbours and streetscape;
- The variation of the proposed additional gross floor area is due to the additional gross floor area provided via CDC controls under Part3 of the Exempt and Complying SEPP 2008 and the infill of the indentation on the first floor to make provision of a staircase in which the proposed design has responded with a solid wall that is compatible with the approved design;
- The bulk, scale and massing of the proposal is not impacted by the variation and would provide a density that is reflective of the approved dwelling and within the locality;
- The proposed works are permissible in the zone and suitable for the subject site;
- The variation will not impact any local heritage, environmental significance or view corridor;
- Strict compliance with the standard would be unreasonable considering the proposed development remains within the approved development envelope and would constitute a development outcome creating a development that remains within the public interest;
- The proposal achieves the objectives and the key provisions of the DCP;
- The character of the area remains unaffected as the resultant development;
- The design maintains a low-density character consistent with the existing, desired and transitioning outcome of the planned locality;
- The design incorporates a compatible building mass, compliant setbacks which responds to the sites context on the western facade;
- The proposal has a negligible impact on solar access;
- The site demonstrates potential for an increase in FSR whilst maintaining a compatible building envelope; and
- The proposal remains within the public interest due to the lack of impact and overall compliance with the remaining development standards and controls.

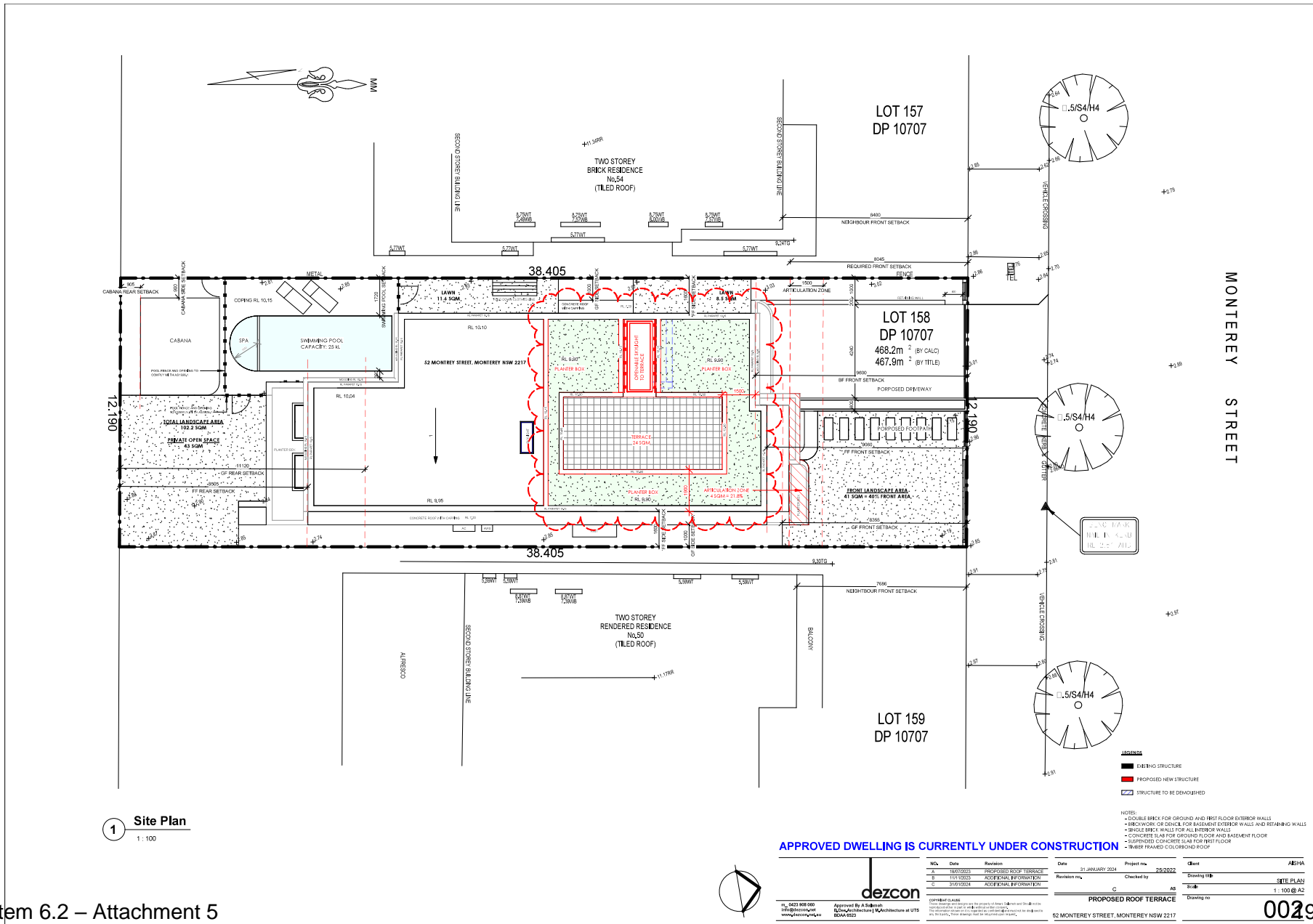
#### **Conclusion**

Although the proposal has a numerical floor space ratio non-compliance with Clause 4.4 Floor Space Ratio development standard the proposal remains in keeping within the streetscape and promotes a positive building form. In consideration of the merits of the proposal and the absence of any adverse environmental impacts, it is recommended to Council to grant consent to the development application, subject to appropriate conditions.

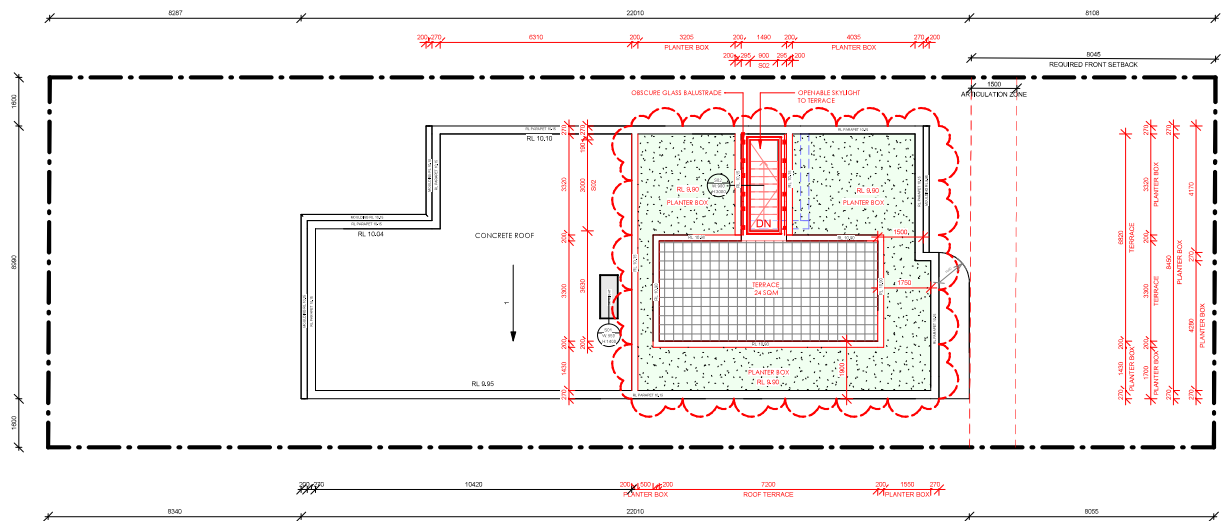
Signed,



**Rhonda Jamleoui**  
**Principal Planner**  
**Rockeman Town Planning**







1 Roof Plan  
1:100

PROPOSED ROOF TERRACE

LEGEND

- EXISTING STRUCTURE
- PROPOSED NEW STRUCTURE
- STRUCTURE TO BE DEMOLISHED

- NOTES:
- DOUBLE BRICK FOR GROUND AND FIRST FLOOR EXTERIOR WALLS
  - BRICKWORK OR CONCRETE FOR BASEMENT EXTERIOR WALLS AND RETAINING WALLS
  - BRICK BIRKS WALLS FOR ALL INTERIOR WALLS
  - CONCRETE SLAB FOR GROUND FLOOR AND BASEMENT FLOOR
  - SUSPENDED CONCRETE SLAB FOR WEB FLOOR
  - TIMBER FRAMED COLORBOND ROOF

APPROVED DWELLING IS CURRENTLY UNDER CONSTRUCTION



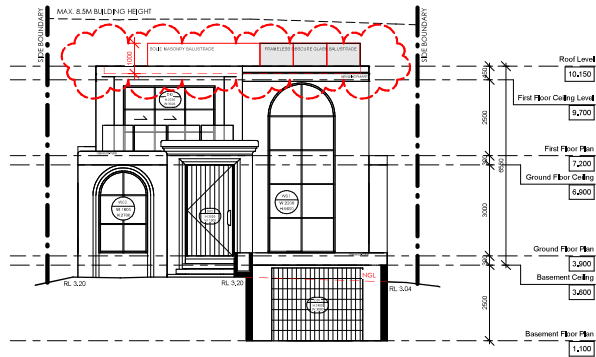
**dezcon**  
 Approved By A.S. Bivitt  
 325/52 Monterey Street  
 www.dezcon.com.au  
 BOAA 6325

NO	Date	Revision
A	18/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	23/07/2024	ADDITIONAL INFORMATION

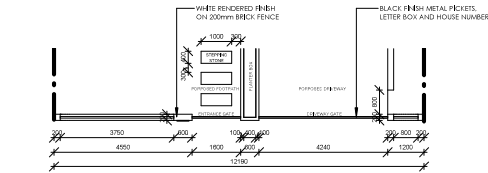
Date	Project no.	Sheet	ASNA
21 JANUARY 2024	282022	28 of 28	ASNA
Revision no.	Checked by	Drawn by	ROOF PLAN
C	AB	AB	1 : 100 @ A2
PROPOSED ROOF TERRACE			Sheeting no.

52 MONTEREY STREET, MONTEREY NSW 2217

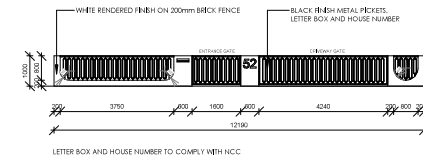
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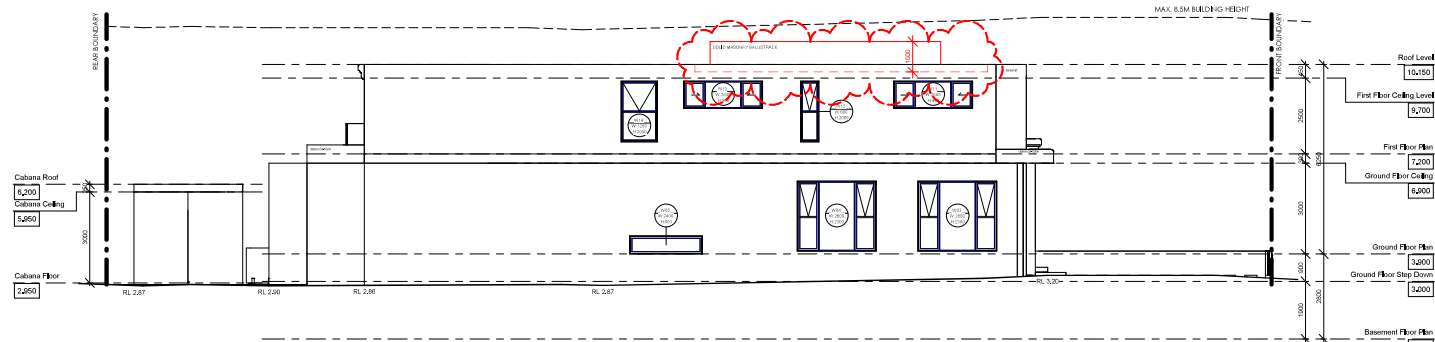
1 North Elevation Facade  
1 : 100



4 Front Fence Plan  
1 : 100



3 Front Fence  
1 : 100



2 East Elevation  
1 : 100

**LEGEND**  
 ■ EXISTING STRUCTURE  
 ■ PROPOSED NEW STRUCTURE  
 ■ STRUCTURE TO BE DEMOLISHED

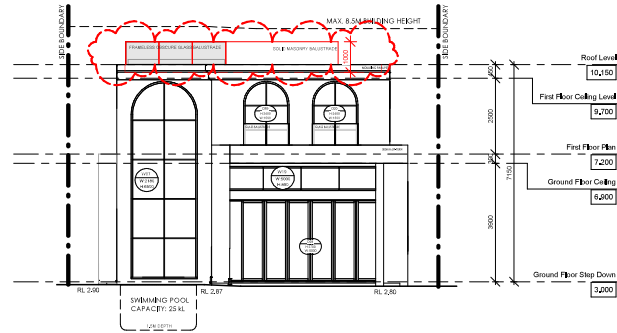
APPROVED DWELLING IS CURRENTLY UNDER CONSTRUCTION

**dezcon**  
 170 Sturt Street, Sydney NSW 1510  
 Approved By A.S. Baird  
 22/04/2024  
 82044 6323

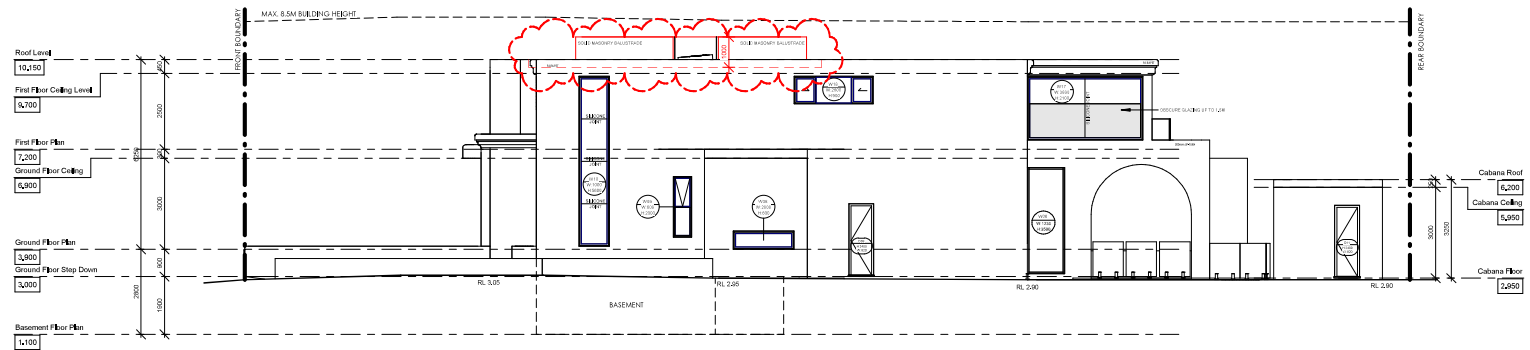
No.	Date	Revision
A	18/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	23/01/2024	ADDITIONAL INFORMATION

Date	Project No.	Client	ABN/A
31 JANUARY 2024	282/2022		
Revision No.	Checked By	Drawn By	ELEVATIONS 1
C	AB		
PROPOSED ROOF TERRACE			
52 MONTEREY STREET, MONTEREY NSW 2217			

Scale	Sheet	ABN/A
1 : 100 @ A2		



1 South Elevation Rear  
1 : 100



2 West Elevation  
1 : 100

- LEGEND**
- EXISTING STRUCTURE
  - PROPOSED NEW STRUCTURE
  - STRUCTURE TO BE DEMOLISHED

APPROVED DWELLING IS CURRENTLY UNDER CONSTRUCTION

**dezcon**  
 170 St Leonards Road  
 St Leonards NSW 1588  
 www.dezcon.com.au

NO.	Date	Revision
A	18/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	21/01/2024	ADDITIONAL INFORMATION

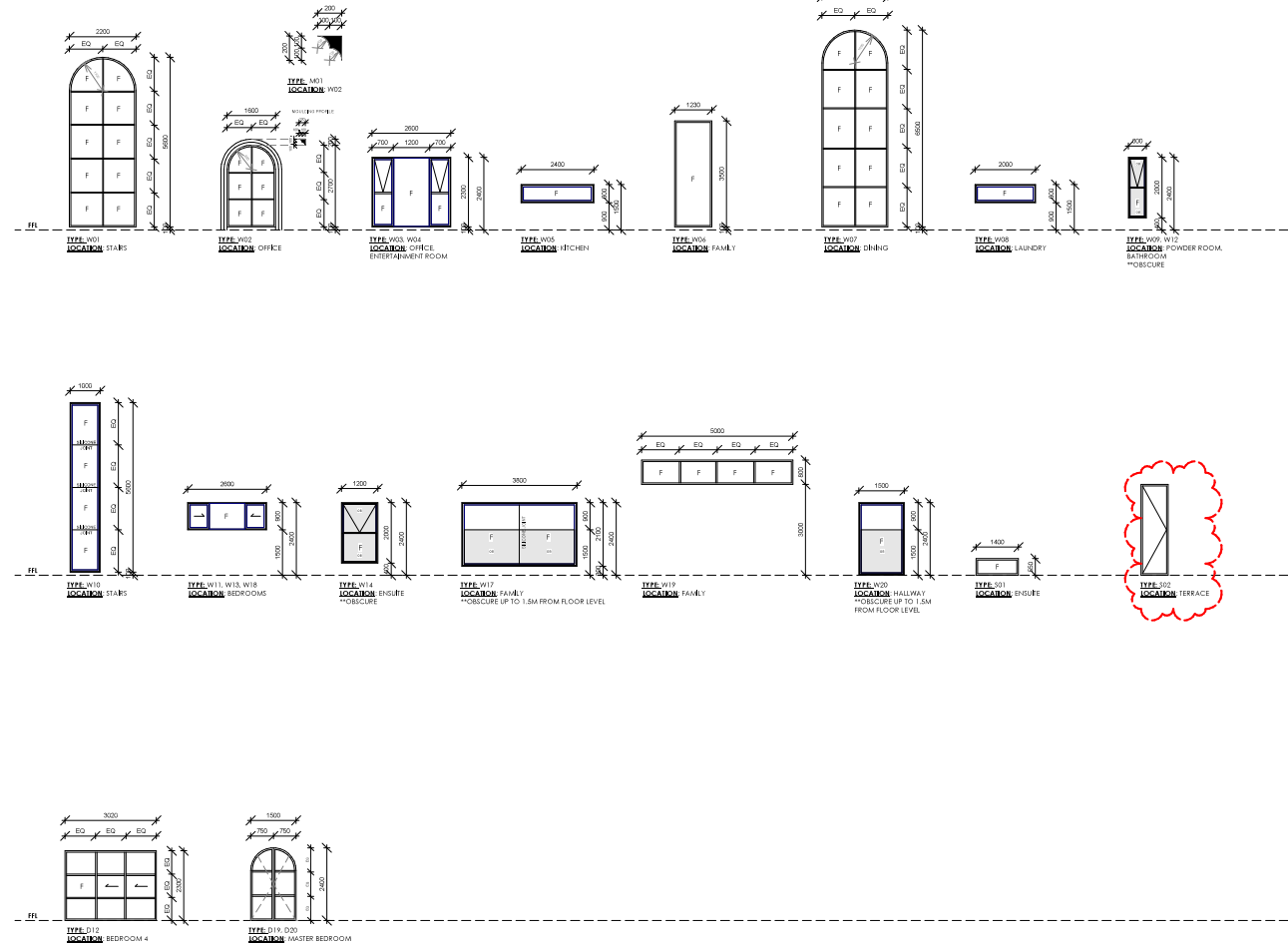
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31 JANUARY 2024	282/2022		
Revision no.	Checked by	Drawn by	ELEVATIONS 2
C	AB	AB	1 : 100 @ A2
<b>PROPOSED ROOF TERRACE</b>			
52 MONTEREY STREET, MONTEREY NSW 2217			

Scale	Sheet	ABNA
1 : 100 @ A2		

Window Schedule					
Mark	Width	Height	Sill Height	Comments	Glazing
W01	550	1400		Skylight	Clear
W02	900	3000		Skylight	Clear
W03	2200	5400	100	Fixed Window	Clear
W04	1600	2700	100	Fixed Window	Clear
W05	2600	2300	100	3 Panel Sliding Window	Clear
W06	2400	600	900	Fixed Window	Clear
W07	1700	3500	100	Fixed Window	Clear
W08	2180	2500	100	Fixed Window	Clear
W09	2000	600	900	Fixed Window	Clear
W10	600	5000	400	Awning Window	Obscure
W11	1000	2500	100	Fixed Window	Clear
W12	2600	900	1500	3 Panel Sliding Window	Clear
W13	600	2000	400	Awning Window	Obscure
W14	1200	2000	400	Awning Window	Clear
W15	1200	2000	400	Awning Window	Obscure
W16	3800	2100	300	Fixed Window	Obscure
W17	2400	900	1500	3 Panel Sliding Window	Clear
W18	2000	800	2000	Fixed Window	Clear
W19	1500	2400	0	Fixed Window	Clear

Door Schedule					
Mark	Height	Width	Description	Finish	
D01	2400	3000	Garage Roller Door	Decowood Cladding	
D02	3000	1500	Pivot Door	Solid Timber	
D03	2400	820	Hush Door	Solid Timber	
D04	2400	820	Hush Door	Solid Timber	
D05	2400	820	Hush Door	Solid Timber	
D06	2400	820	Single Sliding Barn Door	Solid Timber	
D07	2400	820	Hush Door	Solid Timber	
D08	2400	820	Hush Door	Solid Timber	
D09	2700	5000	Bedroom Door	Aluminium Frame & Clear Glass	
D10	2400	820	Hush Door	Solid Timber	
D11	2400	820	Hush Door	Solid Timber	
D12	2500	3020	3 Panel Sliding Door	Aluminium Frame & Clear Glass	
D13	2400	820	Hush Door	Solid Timber	
D14	2400	820	Hush Door	Solid Timber	
D15	2400	820	Hush Door	Solid Timber	
D16	2400	820	Hush Door	Solid Timber	
D17	2400	820	Hush Door	Solid Timber	
D18	2400	820	Hush Door	Solid Timber	
D19	2400	740	Double Glass Door	Aluminium Frame & Clear Glass	
D20	2400	740	Double Glass Door	Aluminium Frame & Clear Glass	
Grand Total 20					

**GLAZING SCHEDULE**



- |                                                        |                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LEGEND</b>                                          | <ul style="list-style-type: none"> <li>F FIXED PANEL</li> <li>OB OBLIQUE GLASS</li> <li>LV LOUVER WINDOW</li> <li>SL SLIDING PANEL</li> <li>FL FLUSH PANEL</li> <li>AW AWNING PANEL</li> </ul> | <b>GENERAL NOTES</b> <ul style="list-style-type: none"> <li>- GLAZING &amp; FRAMING TO COMPLY WITH BCA &amp; RELEVANT AUSTRALIAN STANDARDS</li> <li>- INSTALLATION TO MANUFACTURERS RECOMMENDATIONS</li> <li>- TO BE READ IN CONJUNCTION WITH PLANS</li> <li>- COMPLYANCE CERTIFICATES TO BE PROVIDED BY WINDOWS MANUFACTURER</li> <li>- TO BE READ IN CONJUNCTION WITH BULK CERTIFICATE</li> <li>- ALL WINDOW FRAME BEEL PROFILES &amp; GLASS TYPES TO BE CONFIRMED BY THE OWNER OR BUILDER.</li> </ul> |
| <b>- CHECK ALL WINDOWS &amp; DOOR OPENINGS ON SITE</b> |                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

NO.	Date	Revision	Date	Project No.	Client	A&A
A	18/07/2023	PROPOSED ROOF TERRACE		282/2022		
B	11/10/2023	ADDITIONAL INFORMATION			Working Title	WINDOWS & DOOR SCHEDULE
C	23/01/2024	ADDITIONAL INFORMATION			Drawn	As indicated @ A2

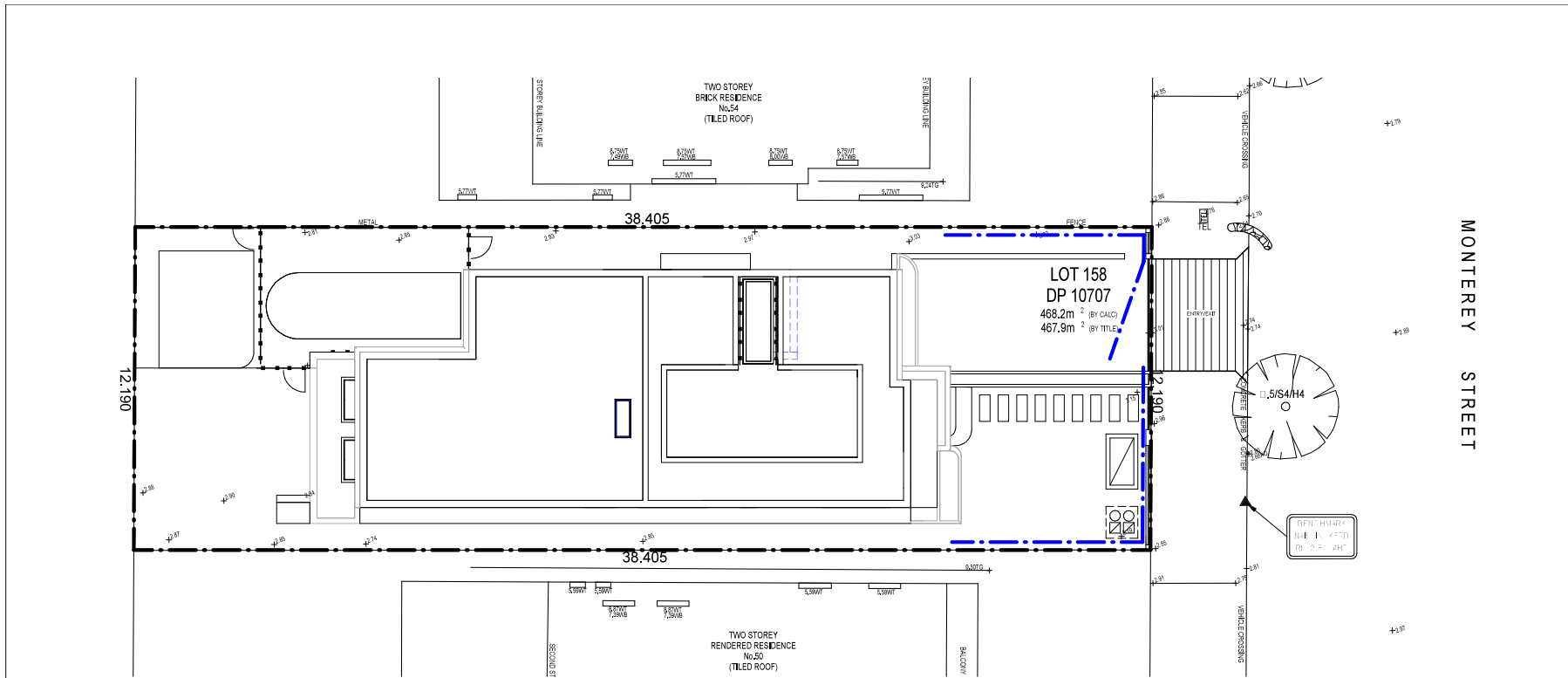


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Civil Architect  
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PROPOSED ROOF TERRACE  
52 MONTEREY STREET, MONTEREY NSW 2217

01096



**1 Sediment Control & Waste**  
1 : 100

The sediment controls need to be in place prior to the commencement of building works. Remember that the sediment controls will need to be altered as construction occurs and the sites drainage patterns change.

**DUST MANAGEMENT**  
Good sediment management can alleviate most of the dust problem. Some of the steps that can be taken to minimise dust include:  
Maintain as much vegetation as possible  
Cover materials and stockpiles  
Ensure that all equipment has dust suppressors fitted. Dampen the site slightly during excavation or when dust is being raised. Be careful not to wet it to the point of creating polluted runoff.  
Ensure that vehicles only leave via the stabilised site access.  
Minimise the amount of the site that is disturbed at any one time.

**WASTE MANAGEMENT CONTROL**  
Skip bins for wastes and recycling should be covered to prevent wind blowing waste off-site but also prevent rain water from entering and being contaminated by the wastes. Cover the skip any time the site is unattended, over night, at weekends and when it is wet or windy. Provide continuous dust protection for any chutes and conveyors used to load the skip from roof or upper storeys. If skip bins are stored in public areas, notify neighbours and Council Inspectors and ask for their help in stopping illegal use.

**VEGETATION CONTROL**  
Install the 'no go' areas by fencing off these zones. Place red tape or other bright materials around trees and plants to be kept. Ensure staff and subcontractors know not to enter. As you finish earthworks in one part of the site, revegetate it or plant temporary crops like rye to prevent erosion.

Revegetation should not be expected to provide complete erosion protection for a soil that is not stable due to its structure, texture or excessive slope. Erosion control matting should be used for revegetation areas on excessive slopes to provide interim protection until the vegetation cover can be fully established.

**STOCK PILES**  
Locate stockpiles away from stormwater flow paths, roads and hazard areas - ideally at least 5m away.  
Place on a level area as a low, flat, abradged mound.  
Where there is sufficient area topsoil stockpiles shall be less than 2m in height. Construct an earth bank on the upslope side to divert run off around the stockpile and a sediment fence 1 to 2 m down slope of the stockpile or sand bag, gravel, geotextile.  
Stockpiles should be covered during windy conditions, rain or unattended site periods.  
Once the roof has been installed on the frame, move stockpiles inside.

**WASH BAY**  
The wash down area should have sediment controls around it and be large enough to hold all waste water generated. It should be clearly signposted to alert subcontractors and staff of their responsibilities. Minimise the amount of waste water generated by:  
Sweeping excess dirt and mud off equipment prior to washing.  
With Paint wastes - Spin the rollers and brushes to remove excess paint and return as much as possible to the original container for reuse.  
For water based paints - wash brushes in small amounts of water over newspapers. This will let the water soak through into the ground and keep the paint residue on the paper. The paper can then be placed in a solid waste bin or taken to a licensed solid waste transfer station. It is illegal to let paint and other liquid wastes contaminate the soil.  
For oil based paints - wash equipment in a series of solvent baths until clean. The solvent can be reused until it becomes saturated with paint. Solvent should be stored in air tight bins to prevent evaporation and disposed of to a licensed solid waste transfer station. It can not be placed in the bin or on the ground.

- LEGEND**
- GEOTEXTILE FABRIC FILLED WITH GRAVEL
  - SEDIMENT CONTROL & SAFETY SILT FENCE
  - DRIVEWAY HARDWOOD CROSSING
  - SKIP BIN
  - STOCKPILES



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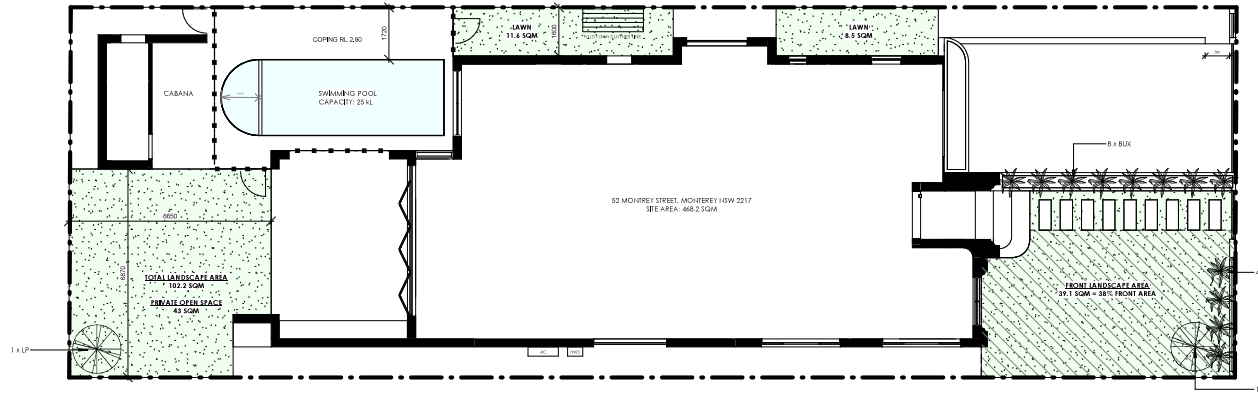
Approved By A.S. Birt  
S. Gwynne/Architect  
E00445223

NO.	Date	Revision
A	16/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	23/03/2024	ADDITIONAL INFORMATION

Date: 01 JANUARY 2024 Project no: 232222  
Revision no: Checked by: AB  
Drawing title: SEDIMENT CONTROL PLAN  
Drawing no: As indicated @ A2  
Client: ABHA

**PROPOSED ROOF TERRACE**  
52 MONTEREY STREET, MONTEREY NSW 2217

01397



1 Landscape Plan  
1:100

SYMBOL	BOTANIC NAME	COMMON NAME	WIDTH -m	HIGHT -m	POSTHOLE -mm	NUMBER	COLOUR
BUX	BUXUS	BUXUS	0.5m	0.5m	300mm	12	N/A
LP	ACMENA SMITHI	LILLY PILLY	6 m	8-10m	75 L	2	MX

**PROPOSED TREE:**  
All tree planting holes are to be excavated 200mm wider and of least 200mm deeper than the rootball size. All trees are to be double staked and secured with tension ties in figure eight arrangement.

Apply 150mm layer of topsoil to all turfled areas laid over deep soil. Prior to laying turf, contractor to ensure all topsoiled area are smoothly graded with no surface depressions or other irregularities. Large stones or building debris not used for this site shall be cultivated. Unless specified otherwise, turf shall be laid flush with adjacent finished surface level.

**PLANT MATERIAL:**  
All plants to be healthy and well developed without being root bound and disease free.

**GARDEN BED/MULCH:**  
The topsoil to all garden bed areas shall be 1 part site topsoil and 2 parts organic compost thoroughly mixed together prior to placing into position. Where the site topsoil is not suitable imported topsoil meeting the requirements of AS4419:1998 shall be used. Topsoil depth to all garden bed areas to be garden no. 300mm deep.

Mulch consisting of pine bark to be spread over all planter beds to a depth of 100mm. Reduce depth of mulch around base of plants to form watering dais to facilitate watering.

**MAINTENANCE:**  
Maintain all landscape areas to ensure plant health and occupant safety for a period of 12 months beginning from date of practical completion to the satisfaction of council. Maintenance will include but not limited to the following activities: mowing, edging, pruning and top dressing of turf areas also all plants to be fed low release fertilizer according to manufacturer's recommendations; regular ongoing observation and maintenance is required.

**IRIGATION:**  
Provide one hosecock in the front and rear landscape of each unit or the installation of automatic/manual water system as owner chooses.

**USE EITHER DAMPPROOF OR PLASTIC WATER PROOFING LINERS AS A WATER PROOFING ALSO USE ABOVE WHERE GARDEN BED COME IN CONTACT WITH BRICKWORK:**

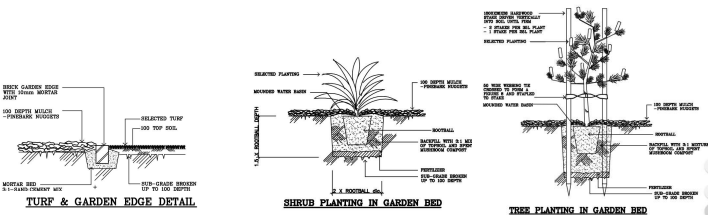
**GARDEN BED EDGING:**  
No chemically treated timber edging to be used.

**PAVING:**  
All pavement areas including driveways and pathways are to have a finished concrete finish. All pavement surfaces to comply with the requirements of AS/NZ 3601.1 1993 slip resistance of pedestrian surfaces.

**DISCREPANCIES:**  
Should there be any discrepancies on the drawings and/or on site, landscaping contractor to notify the superintendent for resolution prior to the commencement of the works. Where the situation is not readily resolved on site, the superintendent is to notify the landscape planner immediately for correction.

**STANDARDS:**  
All materials and standards of workmanship used on this project is to comply with the latest revision of the relevant Australian Standards.

**EXCAVATIONS:**  
Any services drawn on the plan have been inductively located. Further services may be present prior to any construction or excavation on site. The relevant authorities should be contacted for possible location of further ground services and details of all services.



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Approved By A.S. Bivitt  
Landscape Architecture & Construction  
14/ 6431 848 000  
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NO.	Date	Revision
A	18/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	23/03/2024	ADDITIONAL INFORMATION

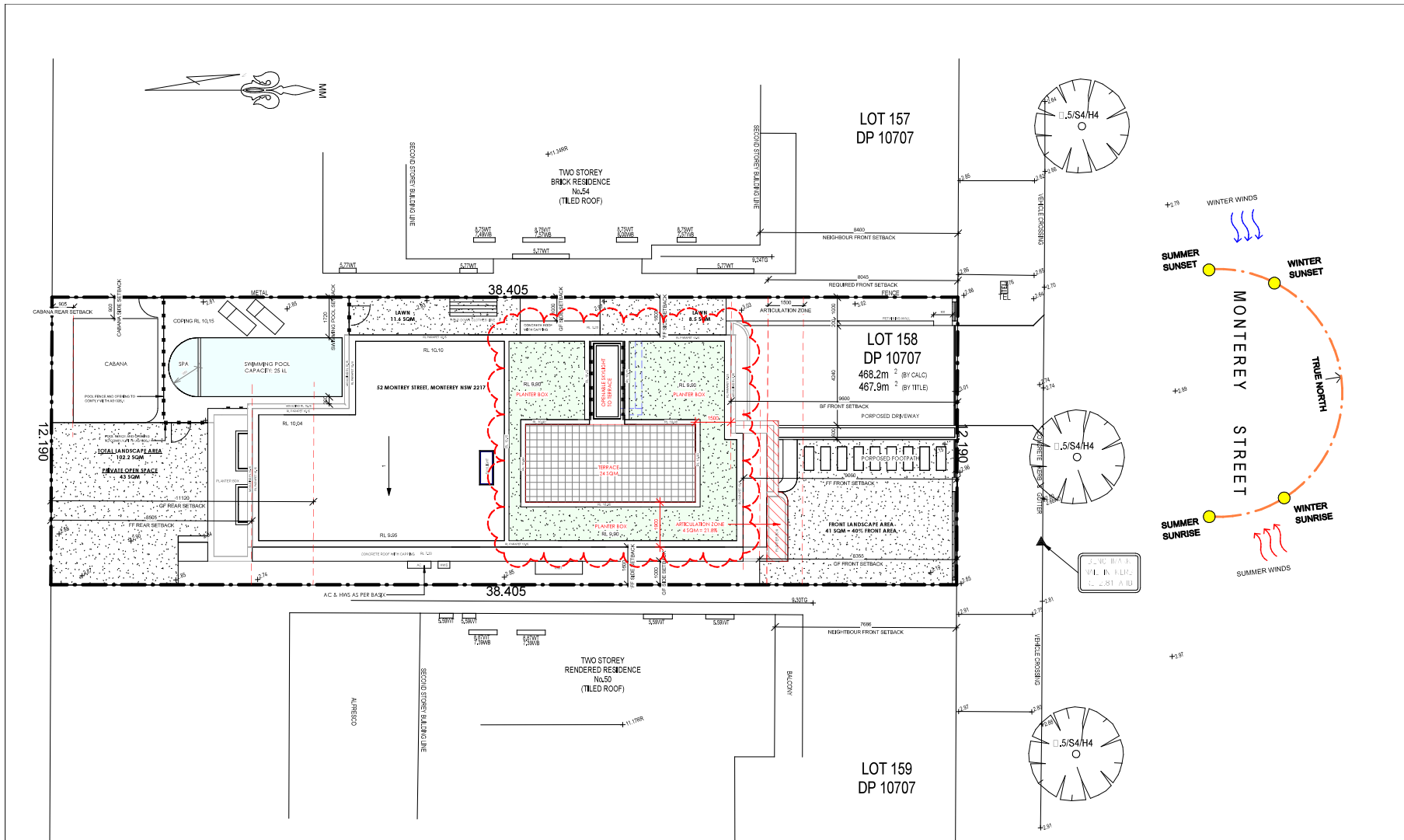
Date: 31 JANUARY 2024 Project No: 2302022 Client: A&M/A

Revision No: Checked by: Drawing No: LANDSCAPE CALCULATIONS

By: AS Title: As indicated @ A2

Proposed by: Drawing no:

**PROPOSED ROOF TERRACE**  
52 MONTEREY STREET, MONTEREY NSW 2217



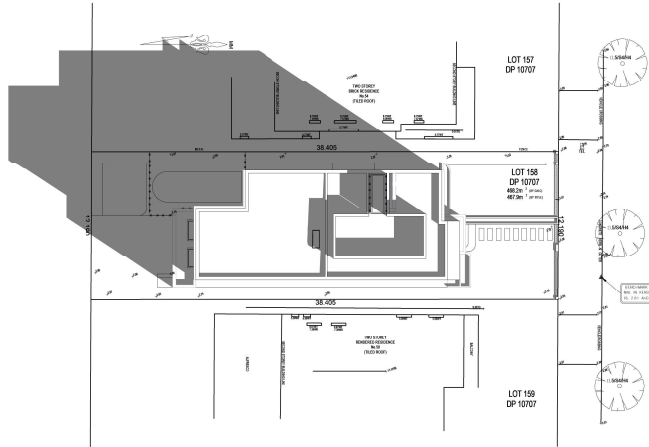
1 Site Analysis  
1:100



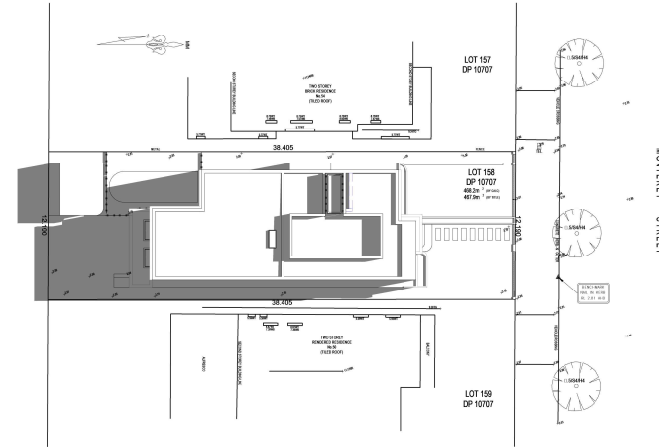
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 16/03/2024  
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 20/03/2024

Rev.	Date	Revision
A	16/03/2024	PROPOSED ROOF TERRACE
B	17/03/2024	ADDITIONAL INFORMATION
C	20/03/2024	ADDITIONAL INFORMATION

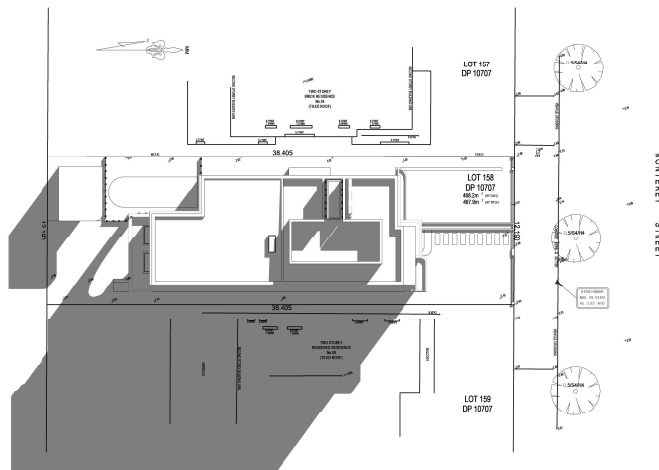
Date	Project no.	Client	ASNA
01 JANUARY 2024	282022	48314	
Revision no.	Checked by	Drawn by	Site Analysis Plan
C	AB	AB	
PROPOSED ROOF TERRACE			
52 MONTEREY STREET, MONTEREY NSW 2217			



1 Winter Shadow 21st June @ 9 AM  
1 : 250



2 Winter Shadow 21st June @ 12 PM  
1 : 250



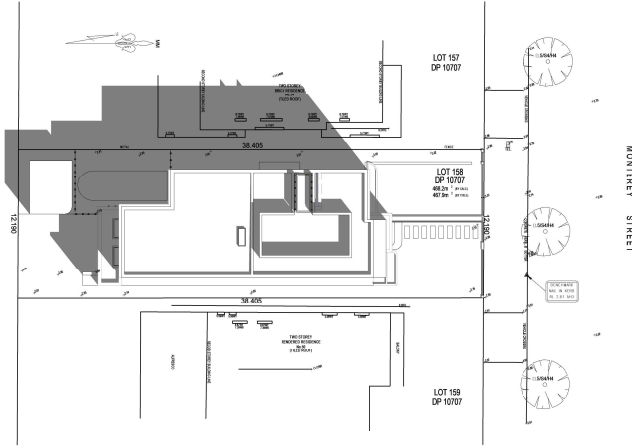
3 Winter Shadow 21st June @ 3 PM  
1 : 250

APPROVED DWELLING IS CURRENTLY UNDER CONSTRUCTION

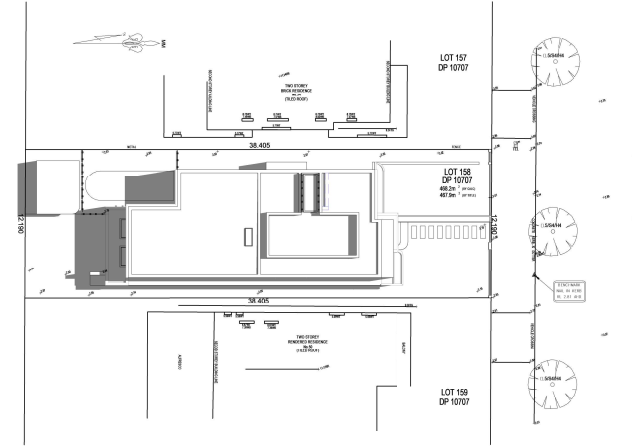


			Date: 31 JANUARY 2024 Project no: 2182022		Client: ABEVA	
No. 6431 848 000 175/210 King Street www.dezcon.com.au			Approved By: A. S. Bevan Director/Architect BSA04 6323		Drawing Title: WINTER SHADOW DIAGRAM Scale: 1 : 250 @ A2	
Revision no. 3 Checked by: AB Date: 31/01/2024			Revision no. 2 Checked by: AB Date: 31/01/2024		Drawing no. 017	
PROPOSED ROOF TERRACE			52 MONTEREY STREET, MONTEREY NSW 2217			

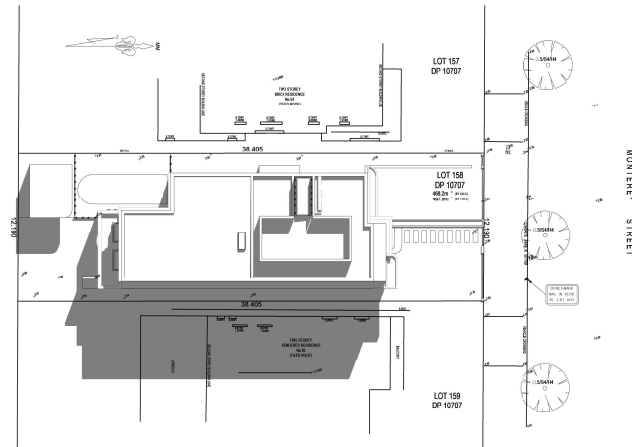




1 Autumn Shadow 22nd March @ 9 AM  
1 : 250



2 Autumn Shadow 22nd March @ 12 PM  
1 : 250



3 Autumn Shadow 22nd March @ 3 PM  
1 : 250

APPROVED DWELLING IS CURRENTLY UNDER CONSTRUCTION



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NO.	Date	Revision
A	18/07/2023	PROPOSED ROOF TERRACE
B	11/11/2023	ADDITIONAL INFORMATION
C	23/07/2024	ADDITIONAL INFORMATION

Date	Project No.	Client	ABNA
31 JANUARY 2024	232/2022		
Revision no.	Checked by	Drawing title	
C	AB	AUTUMN SHADOW DIAGRAM	
PROPOSED ROOF TERRACE			Drawing no.
52 MONTEREY STREET, MONTEREY NSW 2217			018