

NOTICE

Bayside Local Planning Panel - Other Applications
will be held in the Rockdale Town Hall
448 Princes Highway, Rockdale
on **Tuesday 23 July 2024 at 4:30 PM**

**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 - 11 June 20242

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2024/17 - 160 King Street Mascot - Development Application7

6.2 DA-2023/89 - 1025 Botany Road, Mascot - Development Application 121

Meredith Wallace
General Manager

Bayside Local Planning Panel - Other Applications

23/07/2024

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel - Other Applications Meeting - 11 June 2024
Report by	Peter Barber, Director City Futures
File	SF23/8114

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel - Other Applications meeting held on 11 June 2024 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Richard Pearson, Chairperson
Scott Barwick, Independent Expert Member
Larissa Ozog, Independent Expert Member
Emma Kirkman, Community Representative

Also present

Luis Melim, Manager Development Services
David Smith, Manager Strategic Planning
Christopher Mackey, Coordinator Development Assessment
Angela Lazaridis, Coordinator Development Administration and Advisory
Josh Ford, Coordinator - Planning Policy
Bianca Chiu, Senior Urban Planner, Strategic Planning
Christopher Lazaro, Senior Urban Planner, Strategic Planning
Reanne Salame, Development Assessment Planner
Dawson Heperi, Customer Relationship Analyst

The Chairperson opened the meeting at 4.04pm.

1 Acknowledgement of Country

The Bayside Local Planning Panel 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 - 14 May 2024

Decision

That the Bayside Local Planning Panel noted that the Minutes of the Bayside Local Planning Panel - Other Applications meeting held on 14 May 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-2024/54 - 150 King Street, Mascot - Development Application

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

No registered speaker for this item.

Determination

- 1 That the Bayside Local Planning Panel approve Development Application DA-2023/86 for alterations and additions to the existing heritage dwelling, including additional attic space, and tree removal at 150 King Street, Mascot pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 2 That the submitter is to be notified of the Panels decision.

Name	For	Against
Richard Pearson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Larissa Ozog	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Barwick	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Emma Kirkman



Reason for Panel's Determination:

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

Panel's Comments:

The Panel deleted Condition No. 7 as it considered internalising the staircase led to increased bulk and potential overshadowing of neighbouring property.

The Panel amended the reason provided in Condition No. 9 to reflect the subject of the condition which is single occupation.

The Chairperson closed the meeting at 4.31pm.

Certified as true and correct.

Richard Pearson

Chairperson



Declaration of Interest - Bayside Local Planning Panel Meeting 11/06/2024

Item	Description	Declaration of Interest
Other Applications (Non-Public Meeting)		
5.1	Planning Proposal – Le Beach Hut, Peter Depena Reserve, Dolls Point	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
5.2	Draft Planning Proposal – Bus Shelter Advertising	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
6.1	DA-2024/54 – 150 King Street, Mascot	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
Public Meeting		
6.1	DA-2023/216 – 137A Princes Highway Rockdale	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
Richard Pearson		10 / 6 / 24
Name (please print)	Signature	Date



Declaration of Interest - Bayside Local Planning Panel Meeting 11/06/2024

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Scott Barwick		31 / 05 / 2024
Name (please print)	Signature	Date



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Larissa Ozog		10 / 6 / 24
Name (please print)	Signature	Date



Declaration of Interest - Bayside Local Planning Panel Meeting 11/06/2024

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Emma Kirkman		05 / 06 / 24
Name (please print)	Signature	Date

Bayside Local Planning Panel - Other Applications

23/07/2024

Item No	6.1
Application No	DA-2024/17
Property	160 King Street Mascot
Application Type	Development Application
Proposal	Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling and construction of a rear garage with first floor studio
Owner	Daniel Smith & Jodie Smith
Applicant	John Spiteri
Ward	Ward 2
Lodgement Date	29/01/2024
No. of Submissions	Nil (0)
Cost of Development	\$396,000.00
Reason Criteria	Sensitive development
Report by	Peter Barber, Director City Futures

Officer Recommendation

1. 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-2024/17 for Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling, and construction of a rear garage with first floor studio at 160 King Street, MASCOT NSW 2018 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Conditions of Consent [↓](#)
- 3 Architectural Plans [↓](#)
- 4 Heritage Impact Statement [↓](#)
- 5 Acoustic Report [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	DA-2024/17
Date of Receipt:	29/01/2024
Property:	160 King Street, MASCOT NSW 2018 Lot A DP 436563
Owner:	Daniel Smith
Applicant:	Mr J Spiteri
Architect:	John Spiteri design and drafting
Town Planner:	John Spiteri design and drafting
Proposal:	Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling, and construction of a rear garage with first floor studio
Recommendation:	Approval
No. of submissions:	Nil
Author:	Jay Shah – Development Assessment Planner
Date of Report:	12 June 2024

Key Issues

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

- The subject property is listed as a heritage item in schedule 5 of Bayside Local Environmental Plan 2021. The existing building is of local significance and is in the vicinity of other heritage items of similar significance. Notwithstanding, the subject site is not within a heritage conservation area.
- The dormer windows of the proposed studio do not comply with Bayside DCP controls.
- Non-compliance with private open space and carparking requirements under Bayside DCP 2022.

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

1. 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-2024/17 for Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling, and construction of a rear garage with first floor studio at 160 King Street, MASCOT NSW 2018 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

Background

History

No previous applications have been considered by Council in relation to the subject site:

The history of the subject application is summarised as follows:

- 29/01/2024 - The DA was lodged with Council.
- 09/02/2024 to 23/02/2024 – Public notification period
- 06/03/2024 – Site inspection conducted
- 22/04/2024 – RFI sent
- 14/05/2024 – Additional information received
- 25/06/2024 – Briefing to LPP

Proposal

The proposed development is summarised as follows:

Demolition/Excavation/Tree Removal

- Demolition of existing rear garage and existing rear kitchen wall.

Construction

- Construction of a new living area adjoining the kitchen at the rear of the dwelling.
- Construction of garage with nil setback facing King Lane and first floor studio contained as an attic on top of the garage.



Figure 1 North Elevation (left) and South Elevation (right) of proposed outbuilding

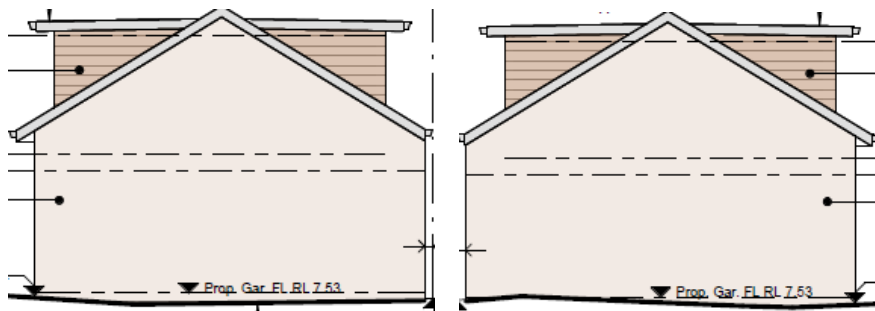


Figure 2 West Elevation (left) and East Elevation (right) of proposed outbuilding

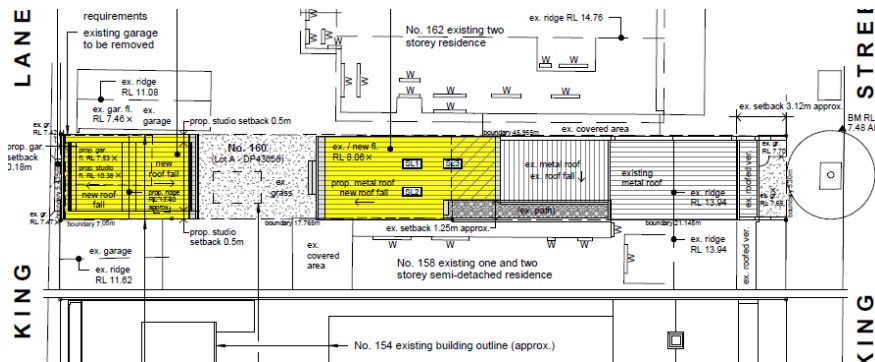


Figure 3 Site plan

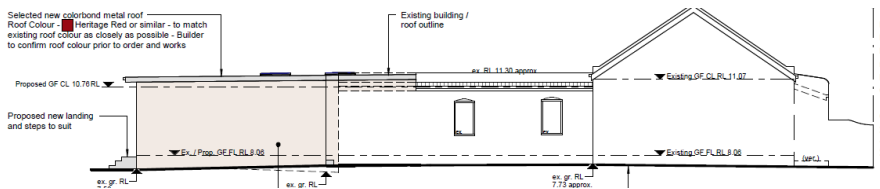


Figure 4 East elevation

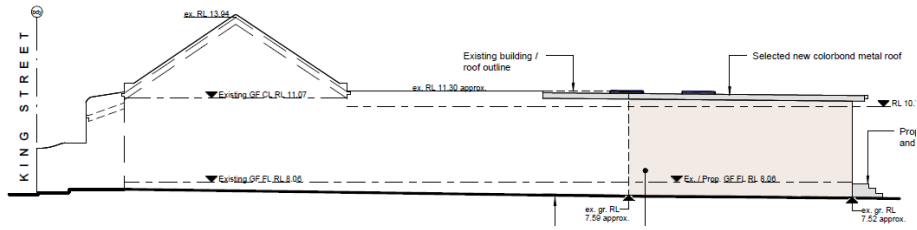


Figure 5 West elevation

Site Location and Context

The subject site is legally identified as Lot A DP 4 36563 and is known as 160 King Street, Mascot. The site is rectangular shaped with front and rear boundary widths of 5.3m. The side boundaries are 45.9 m deep. The site has frontage to King Street to the north and King Lane to the south. The total site area is 245.2 sqm. The topography of the site is relatively flat with negligible slope of approximately 0.27 m towards King Lane.

The subject site contains a one-storey dwelling and detached garage at the rear of the dwelling. The site is located on the south of King Street between Frogmore Street and Alfred Street. Adjoining development to the sides include one storey heritage listed dwelling to the east and a two-storey detached dwelling to the west. A one storey dwelling with detached outbuilding is situated on a lot oriented west to east across King Lane on the south of the subject site. There is a mix of one storey and two storey residential buildings within close proximity to the subject property. Each site facing King Street between Frogmore Street and Alfred Street contains heritage listed items except for 162 King Street.

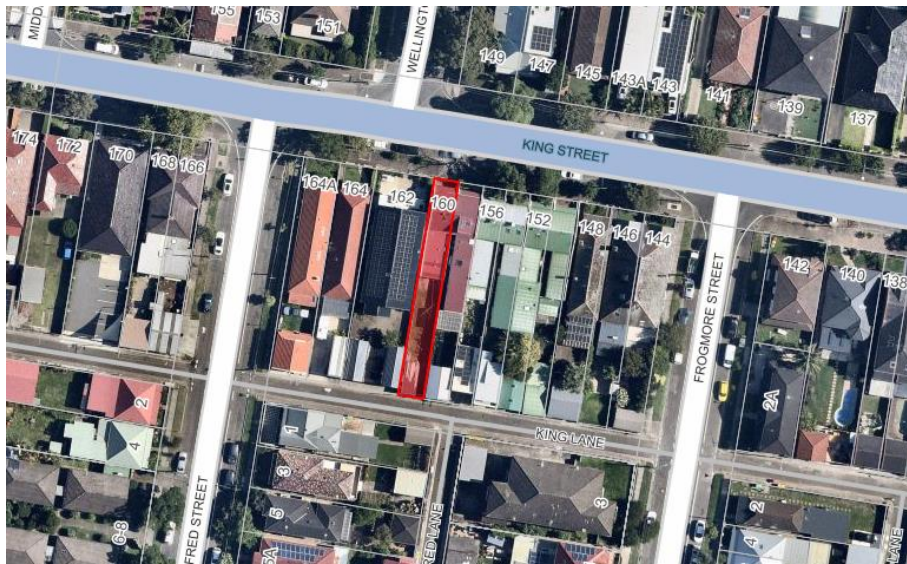


Figure 6 Site Locality

There are no trees of significance on the site. There is one tree on the public domain in front of the site. The subject site contains a heritage item of local significance. The site is impacted by aircraft noise contour ANEF 25-30 and PMF flood zone.

Statutory Considerations

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number A1378833_02.

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

Bayside Local Environmental Plan 2021

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 Clauses	Compliance with Objectives	Compliance with Standard / Provision
2.3 Zone and Zone Objectives R2	Yes see discussion	Yes see discussion
4.3 Height of buildings	Yes see discussion	Yes see discussion
4.4 Floor space ratio (“FSR”)	Yes see discussion	Yes see discussion
5.10 Heritage conservation	Yes see discussion	Yes see discussion
5.21 Flood planning	Yes see discussion	Yes 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	Yes see discussion	Yes see discussion

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
sensitive urban design		
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
6.11 Essential services	Yes see discussion	Yes see discussion

2.3 - Zone

The subject site is zoned R2 Low Density Residential under the provisions of LEP. The proposal is defined as alterations and additions to a dwelling house and a studio which constitute 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.

4.3 - Height of Buildings

A maximum height standard of 9 m applies to the subject site.

The proposal does not exceed the height of the existing development. The proposed development has a maximum height of 5.98 m (RL 13.40 m AHD) which complies with the provisions and objectives of this Clause.

4.4 – Floor Space Ratio

A maximum FSR standard of 0.55:1 (GFA of 134.8 sqm) applies to the subject site and proposal. However, the subject site falls within Area 2 according to Clause 4.4A of Bayside LEP 2021. Clause 4.4A(3) specifies that the floor space ratio is not to exceed 0.75:1 for sites that are between 200-250 sqm in area and to which this clause applies. The subject site has area of 245.2 sqm. Therefore, the maximum permissible GFA for this site is 183.9 sqm.

The proposal has a maximum GFA of 137.9 sqm and equates to an FSR of 0.56.2:1 which complies with the provisions and objectives of this clause.

5.10 – Heritage Conservation

The subject site forms part of Heritage Item I322 – Terrace group consisting of lots 150-160 King Street which is an item of local significance identified in Schedule 5 of the LEP. The subject site is located within close proximity to Heritage item I321 and I325 which is at 144-148 King Street and 164-164A King Street and identified in Schedule 5 of the LEP.

In accordance with Council's heritage registry, the statement of significance is described below.

The terraces at 150-160 King Street Mascot are significant in the history of the development of the local area. They form a substantially intact group from the early 20th century that continues to provide readily interpretable evidence of this traditional form of modest housing in the Mascot area. Mascot was established as a working-class suburb and provided accommodation for the workers at the many local industries in the area at the turn of the 20th century. Simple row houses such as this terraced group were amongst the most affordable options at the time and their retention as a cohesive group provides important evidence of this.

A Heritage Impact statement prepared by 'Heritage 21' and dated December 2023 was submitted with the application. The report concludes that the proposed development complies with pertinent heritage controls and would not engender a negative impact on the subject site, or the heritage items in the vicinity.

The report was referred to council heritage advisor who generally concurred with the findings of the heritage impact assessment. The following comments were provided:

- *Demolition of the kitchen addition will not impact the significance of the house.*
- *Demolition of the garage and rear fence will not impact the significance of the house.*
- *The proposed rear addition will not impact any fabric of significance. The addition is simple and in keeping with the modest cottage. The adjoining heritage item has already extended to the rear.*
- *The loft over the garage has one precedent in the heritage item terrace group at 154 King Street. There are no significant views from the lane to the heritage item group. The proposed balcony set back helps reduce bulk onto the lane. The adjoining heritage item has a garage with a large gable roof which will reduce the impact on the neighbouring heritage item.*
- *The proposed loft and garage will not adversely impact the heritage significance of the group.*

Council's heritage advisor concluded that the proposal is consistent with aims and objectives of relevant sections of Bayside LEP 2021 and Bayside DCP 2022.

Having regard to the above, the proposal is considered acceptable in terms of heritage impacts, subject to the imposition of conditions as recommended.

5.21 – Flood Planning

Council records indicate that the lot is subject to flooding in a PMF event. The floor levels of the development are therefore required to be to a level of RL 8.17m AHD for habitable spaces and RL 7.53m AHD for non-habitable spaces.

The proposal was reviewed by Councils Development Engineer who indicated that the floor level for the proposed extension (living room) shall be raised to required 8.17m AHD from proposed 8.03m AHD. Appropriate design amendment condition has been imposed within the recommended conditions to ensure compliance with this requirement.

The proposal will adhere to the relevant minimum flood levels and is satisfactory with respect of the provisions of this LEP Clause, subject to provided conditions of consent.

6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 4 affect the property by the LEP mapping. Development Consent is required as the proposal involves works relating to excavation BGL for building footings.

The proposal does not involve any excavation below natural ground level other than for footings. As excavation is less than 2 m in depth, an Acid Sulfate Soils Management Plan is not warranted in this instance and the proposal is acceptable in the context of the LEP Clause.

6.1 – Earthworks

The proposal involves excavation within the site to accommodate footings. The depth of excavation proposed is 0.5 m below natural ground level. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this section.

6.3 – Stormwater and WSUD

The development proposes an absorption system which is to be located within rear yard. Stormwater plans were submitted with the application and were prepared by Zimmerman Engineers and dated 09/05/2024. The application was reviewed by Councils Development Engineer who had no objections to the proposal subject to conditions which have been included in the recommended conditions.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 25 to 30 ANEF Contour, thus subject to potential adverse aircraft noise. Given this, appropriate noise attenuation measures are required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared by ANAVS-acoustic noise & vibration solutions p/l dated 12/12/2023 which concludes that the internal noise attenuation levels for the proposed development at No. 160 King Street, Mascot will satisfy the requirements of the AS 2021:2015 “Acoustics-Aircraft Noise Intrusion –Building Siting and Construction” and Bayside Council requirements provided that the recommended materials in the subject report are used in construction.

The proposal is satisfactory with respect of the requirements and objectives of this clause, subject to the recommended conditions of consent.

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
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.4 Heritage	Yes see discussion	Yes see discussion
3.5 Transport, Parking and Access	Yes see discussion	No see discussion
3.7 Landscaping, Private Open Space and Biodiversity	Yes see discussion	No see discussion
3.9 Stormwater Management and WSUD	Yes see discussion	Yes see discussion
3.10 Flood Prone Land	Yes see discussion	Yes see discussion
3.12 Waste Minimisation and Site Facilities	Yes see discussion	Yes see discussion
3.13 Areas subject to Aircraft Noise and Airport airspace	Yes see discussion	Yes see discussion
PART 5 – RESIDENTIAL AND MIXED USE DEVELOPMENTS		
5.1.2 Ancillary Uses – Additions, Garages, Secondary Dwellings and Studios	Yes see discussion	Partially see discussion
5.2.1 Low Density Residential	Yes see discussion	Partially see discussion

The following Sections elaborate on Key matters from the above table.

PART 3 – GENERAL DEVELOPMENT CONTROLS

Part 3.4 – Heritage

Heritage issues and considerations have been addressed in response to the heritage provisions of the LEP previously. The DCP provisions and considerations have been addressed and considered in the comments from Council's heritage adviser, who supports the proposal.

Part 3.5 – Transport, Parking and Access

The design and location of the parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site and the proposal.

Table 3 of the DCP stipulates the parking required, based on the proposed use. For this proposal, the proposed dwelling house use generates a requirement for 2 car spaces. Only 1

car space is provided in the rear garage, not complying with the DCP control. Notwithstanding, the existing development provides 1 car parking space. Therefore, in this instance, the application is supported due to the existing historical deficiency of 1 parking space on site. The space is compliant with the relevant Australian Standard.

The proposal satisfies the transport, access and parking objectives of the DCP which aims to provide sufficient, convenient, and safe on-site car parking.

Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management

The proposed use generates a required landscaped area of 25% (61.3 sqm) of the site area. The proposal complies with this control, with 61.72 sqm of the site being landscaped area.

Although, no changes to the landscape area in the front setback are proposed, the proposal complies with the requirement that at least 20% of the front setback is landscaped area (with 44.37% - 6.79 sqm provided) and a maximum of 20% of total landscaped area being in the side setbacks (with 19% - 11.77 sqm provided). The proposal also complies with the control that at least 75% of the landscaped area comprise planting areas, as opposed to paving/gravel (with 80.9% - 49.95 sqm provided).

Minimum required private open space area for a dwelling house is 50 sqm. The proposed development encroaches in the existing private open space area to the rear of the dwelling. The resultant private open space area is 43.16 sqm which is deficient by 13.68%.

Notwithstanding, the prevailing subdivision character of the locality contributes towards smaller lot sizes which results in non-compliance with private open space area for numerous developments in the vicinity. Additionally, the provided private open space is considered to comply with objective O3 of this section of DCP as it contributes to the local character by being consistent with private open space areas of surrounding properties. It is directly accessible from the proposed living area and therefore, is considered functional.

The proposal is satisfactory in regard to the objectives and provisions of section 3.7.1 of the DCP, subject to recommended conditions. Although compliance with the numerical provisions of section 3.7.3 is not achieved, the objective of the subject section is fulfilled.

Part 3.9 – Stormwater Management and WSUD

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

Part 3.12 – Waste Minimisation and Management

A standard Bayside Council Waste Management Plan form was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

An appropriate condition has been included in the recommended conditions.

3.13 – Development in areas subject to Aircraft Noise and Sydney Airport Operations

The proposal does not intrude into the Sydney Airport OLS and PANS-OPS. Permissible building height for airport operations is 15.23m. The proposed development has maximum height of 5.98 m (RL 13.40 m AHD). The proposal was not considered necessary to be referred to Sydney Airport Corporation in this instance.

The proposed use is sensitive to aircraft noise and is within the ANEF 20+ noise contour. This has been discussed in response to Clause 6.8 of the LEP previously.

PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS

5.1.2 - Ancillary residential uses - rear and side lane additions, detached garages, secondary dwellings and studios

5.1.2.1 – General Controls

The proposed nil boundary setback to the side and rear boundary is acceptable given this is the prevailing pattern of rear additions to the lot in the locality.

Proposed outbuilding results in non-compliance with the private open space requirements as stated above. A justification for the non-compliance is provided in previous section 3.7 & 3.8 of this report. The objective of the controls for ancillary structures is:

To minimise control the size, bulk and scale of ancillary structures and their visual impact on public spaces and minimise amenity impacts on surrounding properties.

The proposal is consistent with this objective because of the studio contained as an attic is considered to have minimal impact as observed from public spaces (King Lane) and the amenity of the surrounding properties is maintained by lack of overshadowing or overlooking impacts as demonstrated in various sections of this report.

The proposed outbuilding complies with the height standard and adopts a pitched roof form with upper floor studio contained as an attic complementing the site context. The applicable GFA for the studio is 29.9 sqm which is not more than 70sqm. Garage is non calculated in GFA area.

5.1.2.2 – Development on Side and Rear Lanes

The prevailing nil setback to a rear lane is retained. The proposed studio is clearly subservient to the principal dwelling as it is not a self-contained dwelling. A condition of consent to remove the bar fixture has been provided with the draft notice of determination to ensure the studio is not used as a separate domicile. The outbuilding has building features including garage door, studio access door, and dormer windows facing the lane that addresses the lane as primary frontage. The matters listed in control C4 are complied with as indicated in the following list:

Maximum wall height – 3.5 m

Maximum roof height – 5.98 m

Pitch of the roof – 32 degrees approximately

Dormer window – Distance between main roof line and dormer window structure – 300 mm is compliant with the DCP control. However, the width of dormer window is 2.4m, which is non-compliant (25% of roof width or 1.2m whichever is less) with the DCP control. A condition of consent is provided within the draft notice of determination to ensure compliance with control C4 of this section.

Impacts on privacy are not anticipated due to distance of 6.2m between the proposed outbuilding and the property across King Lane. Further, the proposed windows are to be awning

windows with obscured glazing.

To achieve compliance with this control and minimise building bulk, a condition of consent is proposed requiring a reduction to the width of the dormer windows.

The objective of the controls for development on lanes is:

To ensure buildings to rear or side lanes are compatible with the principal dwelling and adjoining sites, maximise safety, ensure adequate vehicular access and minimise amenity impacts.

Subject to the condition, the proposal is consistent with this objective as it will achieve compliance with relevant controls as discussed in this section.

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

5.2.1.1 - Streetscape, Local Character and Quality of Design

No changes to the front of the dwelling and therefore to the relationship of the development with the streetscape have been proposed. The proposed development is considered compatible with the general character of development on King Lane, subject to conditions of consent provided with draft notice of determination.



Figure 7 Subject site as seen from King Street



Figure 8 Subject site as seen from King Lane



Figure 9 Property to the rear of the subject site across King Lane





Figure 10 General character of streetscape on King Lane

5.2.1.2 - Built Form Controls

The building is two storeys and 5.98m high and therefore complies with the requirements of this Clause. Also, outbuildings, secondary dwellings and battle-axe have 1 storey limit.

For two or three storey The DCP includes a provision stating:

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.

The proposed studio is contained as an attic and is not considered a separate storey. The above control is not applicable for the proposed development.

The maximum building length is compatible with that of adjoining sites. Roof pitch of approximately 32 degrees is provided. Pitched roof have overhang of 400 mm. The upper floor studio is incapable of being used as a separate dwelling and is contained wholly within roof space above ceiling line of the storey immediately below, except for dormer windows.

5.2.1.3 – Setbacks

The DCP control requires a minimum front setback of the average of dwellings on adjoining lots or 6 m, side setbacks of 900mm at ground floor and 1.5m at first and a rear setback of 5 m.

The proposal retains the existing front setback. The proposed outbuilding has a nil setback to side and rear boundaries, which is not compliant with the required 900mm setback to side boundaries.

The objectives of the setback controls are:

To ensure building setbacks are compatible with the envisaged streetscape and provide a reasonable level of amenity based on the adjacent road environment.

To ensure an appropriate level of visual and acoustic privacy between a development and its adjoining sites, as well as providing sufficient space for access, landscaping and private open space.

To positively contribute to the streetscape through building articulation and building elements that encourage engagement between the development and public domain.

To ensure an appropriate level of visual and acoustic privacy between a development and its adjoining sites as well as providing sufficient space for access, landscaping and private open space.

The proposal is consistent with the prevailing street setback and compliance with the control will result in loss of amenity of the residents due to the site constraints. The site width is approximately 5.1 m. Compliance with the side setback requirement of 900mm will leave 3.3m for the proposed addition of a living area to the dwelling. In this instance, compliance with the control will result in objective O1 not being achieved. Additionally, the development is not likely to negatively impact the visual and acoustic privacy of the adjoining dwelling as no windows have been proposed on the walls facing the adjoining properties. The objectives of section 5.2.1.3 of Bayside DCP 2022 are considered to be achieved as described in this section.

The proposal is not considered to 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 can be considered 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.

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 north to south with the frontage of the site facing the north and the rear of the site facing the south. The lot pattern of the street is such that each adjoining site also has the same orientation.

The applicant has provided existing and 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, at mid-winter, the proposal will achieve more than 2 hours of direct sunlight to its rear facing living areas and more than 50% of the private open space during different times of the day.

Given the above assessment regarding the solar access and overshadowing objectives and controls, it is reasonable to conclude the proposal is acceptable in this instance.

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 development has been designed and sited to reasonably minimise overlooking to

and from adjoining properties.

Windows of the first-floor studio has potential of overlooking private open space areas of adjoining properties despite facing within the subject property. Overlooking impacts from that window is mitigated by adding conditions of consent to provide the windows with obscure glazing and as awning windows.

The objectives of this Part of the DCP are:

To site and design development to ensure a reasonable level of acoustic and visual privacy for residents within a development and between a development and adjoining sites.

To ensure attics do not result in excessive bulk or adverse impacts to the visual privacy of adjoining sites.

The proposal is consistent with this objective as described in this section.

5.2.1.8 - Special Height Controls

The subject site falls within special height area H1. However, no relevant controls related to H1 area are found within this section.

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

There is no planning agreement applicable to the proposal.

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

In terms of provisions of the Regulation:

- The DA submission has included sufficient information to enable environmental assessment of the application (Clause 24);
- No other concurrences or other approvals are proposed or required (Clause 25);
- No approval under the Local Government Act 1993 is sought as part of this DA (Clause 31(3)); and
- Demolition works are able to meet the provisions of Australian Standard (“AS”) 2601 and this is addressed by conditions of consent (Section 61(1))

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

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed or warrant some elaborations are as follows:

Built Environmental Impacts

Construction Impacts

Temporary construction-related impacts do affect amenity and this is partially inevitable from

demolition, excavation and constructing new works. However, these are not anticipated to unduly affect surrounding residents, with some localised impacts of relatively likely short duration. These construction-related impacts are able to be addressed by standard conditions of consent, as recommended, to reasonably manage and mitigate impacts, while allowing rational and orderly construction.

Social Impacts

The social impacts of the proposal are expected to be positive or neutral, with a development of high-quality design and amenity to meet the needs of future residents, within a form compatible with the character of the area and with impacts which are not significantly adverse, and commensurate with impacts to be expected from development of the site, given the planning controls.

Economic Impacts

In terms of economic impacts, the proposal will result in positive economic impacts from the materials and labour needed for construction of the proposal.

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

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

Public Submissions

The development has been notified in accordance with the DCP, between 09/02/2024 and 23/02/2024. No submissions have been received.

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

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

The application was referred to Council's Development Contributions Planner who indicated that the proposal is not subject to development contributions under Council's Contribution Plans.

Conclusion and Reasons for Decision

The proposed development at 160 King Street, MASCOT NSW 2018 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 seeking consent for Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling, and construction of a rear garage with first floor studio, is a permissible land use within the zone with development consent. In response to the public notification, no submission was received.

The proposal is supported for the following main reasons:

- The development, subject to conditions, is consistent with the objectives of the R2 zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The proposal will not adversely impact the heritage significance of the Heritage Item I322 – Terrace group.
- The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022 and generally consistent with the relevant requirements of Bayside Development Control Plan 2022, with the exception of controls relating to parking, private open space, and development on side and rear lanes, which is justified in this instance as described in this report.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

**Development Assessment
CONDITION SET**



Development Application No:	DA-2024/17
Property:	160 King Street, MASCOT NSW 2018 Lot A DP 436563
Proposal:	Demolition of existing rear structures, alterations and additions to existing heritage listed dwelling, and construction of a rear garage with first floor studio
Assessment Planner:	Jay Shah
Content Manager No:	24/148338
Read in conjunction with Planning Assessment Report Content Manager No:	24/104217

GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Plan No.	Plan Title.	Drawn By.	Date of Plan
A01	Site Plan	John Spiteri	08 May 2024
A03	Existing & proposed Ground Floor Plan	John Spiteri	08 May 2024
A04	Proposed Garage Plan	John Spiteri	08 May 2024
A05	Proposed Attic Studio Floor Plan	John Spiteri	08 May 2024
A08	Proposed Elevations	John Spiteri	08 May 2024
A09	Proposed Elevations	John Spiteri	08 May 2024
A10	Proposed Elevations	John Spiteri	08 May 2024
A11	Sections	John Spiteri	08 May 2024
A12	Laneway Elevation	John Spiteri	08 May 2024
A19	Proposed Landscape Calculation Plan	John Spiteri	08 May 2024

Approved Documents			
Document Title.	Version No.	Prepared By.	Date of Document
BASIX Certificate	A1378833_02	John Spiteri	8 May 2024
Statement of Heritage Impact	-	Heritage21	December 2023
Acoustic Report – Aircraft Noise	-	Moussa Zaioor	12 December 2023
Waste Management Plan	-	John Spiteri	-

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 plan and a condition of this consent, the condition prevails.

REASON

To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction Certificate Required

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.

Building work is defined under the *EPA Act Part 6*.

REASON

To ensure that a Construction Certificate is obtained at the appropriate time.

3. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

REASON

EP&A Regulation Clause 69(1).

4. Single Occupancy Only

The building is approved as a single dwelling only. It shall not be used for separate residential occupation, including, but not limited to, such as a boarding house or as separate residential flats.

REASON

To ensure that the intensity of development is suitable for the site.

5. Earthworks Not Shown on Plans

No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development.

REASON

To avoid changes that may result in adverse impacts without proper assessment.

6. Approved Materials and Finishes

The finishes, materials and colour scheme approved under any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

REASON

To ensure that the development is finished in accordance with the approved plans and documentation.

7. 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.

REASON

To avoid encroachment of the development beyond the site boundaries.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of the Construction Certificate:

8. Design Amendments – Principal Certifier

Before the issue of a Construction Certificate, the Principal Certifier must ensure the approved Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:

- (a) The dormer window shall be amended to comply with controls of section 5.1.2.2 of Bayside Development Control Plan 2022. Specifically, the width of the dormer window shall be reduced to 1.2m.
- (b) The 'bar' fixture in the studio shall be removed. No plumbing features shall be installed in the studio other than within the bathroom.

REASON

To require minor amendments to the plans endorsed by the consent following assessment of the development.

9. Design Amendments - Council

Before the issue of a Construction Certificate, the floor level of the habitable area of the proposed extension (living room) shall be raised to be set at a minimum level of RL 8.17m AHD. Amended plans and sections shall be submitted to the Bayside Council Director of City Futures (or delegate) for assessment and approval.

REASON

To require minor amendments to the plans endorsed by the consent following assessment of the development.

10. Payment of Fees and Security Deposits (if applicable)

Before the commencement of any works on the site or the issue of a Construction Certificate, the Applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

Soil and Water Management Sign Fee	\$24.00
Builders Damage Deposit (Security Deposit)	\$1,290.00

The payments will be used for the cost of:

- making good any damage caused to any Council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to Council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

Note: At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.

REASON

To ensure any damage to public infrastructure is rectified and public works can be completed.

11. Long Service Levy

Before the issue of the relevant Construction Certificate, the long service levy of \$990, as calculated at the date of this consent, must be paid to the Long Service Corporation or Council under the *Building and Construction Industry Long Service Payments Act 1986*, section 34, and evidence of payment is to be provided to the principal certifier.

REASON

To ensure the long service levy is paid.

12. Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:

- (a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- (b) Provisions for public safety;
- (c) Pedestrian and vehicular site access points and construction activity zones;
- (d) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;

- ii. Estimated frequency of truck movements; and
- iii. Measures to ensure pedestrian safety near the site;
- (e) Details of any bulk earthworks to be carried out;
- (f) The location of site storage areas and sheds;
- (g) The equipment used to carry out all works;
- (h) The location of a garbage container with a tight-fitting lid;
- (i) Dust, noise and vibration control measures;
- (j) The location of temporary toilets;
- (k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i. AS 4970 - Protection of trees on development sites;
 - ii. An applicable Development Control Plan;
 - iii. An arborist's report approved as part of this consent.

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

REASON

To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

13. Sydney Water Tap-in

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap inTM online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

REASON

To ensure compliance with Sydney Water requirements.

14. Encroachment of Structures not Permitted

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway.

The vehicular access shutter must not open onto public footway. Details are to be provided on the Construction Certificate plans.

REASON

To ensure all development is contained wholly within the site and minimise impacts on surrounding land.

15. Road Traffic Noise and Vibration

The building shall be designed to minimise impacts from noise and vibration in accordance with *State Environmental Planning Policy (Transport and Infrastructure) 2021*, the relevant provisions of *Australian Standard AS 2107:2000* Recommended design sound levels and reverberation times for building interiors and the Department of Planning Interim Guideline - Development Near Rail Corridors and Busy Roads.

Appropriate measures shall be incorporated to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation - 35 dB(A) at any time between 10.00 pm and 7.00 am, and
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

Details shall be submitted to Principal Certifier prior to the release of the Construction Certificate.

REASON

To minimise adverse amenity impacts to residents within the building.

16. Erosion and Sediment Control Plan

Before the issue of a Construction Certificate, 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:

- (a) Council's relevant Development Control Plan,
- (b) the guidelines set out in the NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- (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).

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

17. Dilapidation Report

Before any site work commences, a Dilapidation Report must be prepared by a suitably qualified Engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the principal certifier.

Where access has not been granted to any adjoining properties to prepare the Dilapidation Report, the Report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifier, that all reasonable steps were taken to obtain access to the adjoining properties.

REASON

To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the Dilapidation Report.

18. Waste Management Plan – an approved document of this Consent

Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Principal Certifier.

REASON

To ensure resource recovery is promoted and local amenity protected during construction.

19. Detailed Design Stormwater Management Plan

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are 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. Bayside Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Bayside Technical Specification Stormwater Management.

The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by Zimmerman Engineers, project number 3031, dated 09/05/2024, issue C along with the revisions/requirements detailed below:

- a) A new 125*75*5mm RHS stormwater kerb outlet at King Lane is required to discharge the overflow from the absorption trench.
- b) A stormwater roof drainage plan is to be provided indicating the downpipe sizes. Typical details for the proposed roof gutters to be provided. The roof gutters to be designed as per AS3500.3.
- c) Typical details of the roof gutter are to be provided.
- d) A sediment and erosion control plan to be provided showing all erosion measures including the surface pits.
- e) A minimum of two grate pits (600 mm*600 mm) located at each end of the infiltration system shall be provided to enable access for cleaning to the infiltration trench.
- f) A stormwater catchment plan is required showing the impervious areas (roof and hardstand) and pervious area draining into the absorption system. Also show the bypass area.

REASON

To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.

20. Structural Certification for Flood Prone Land

Prior to the issue of the Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris, and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood event, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood level.

REASON

To ensure the development meets flood planning requirements.

21. Flow Through Building Foundation

The proposed building floors shall be designed to be suspended on pier and beam foundation with a void below up to at least the 1% AEP flood level. Horizontal louvers with minimum 80mm gap shall be provided around the suspended floor to avoid pet animal/children being trapped under the building. No fill is permitted below the suspended floors and, the existing natural ground level is to remain unchanged below the suspended floors. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.

REASON

To ensure the development meets flood planning requirements.

22. Flooding Requirements

Prior to the issue of the Construction Certificate, details are to be submitted to the Principal Certifier demonstrating compliance with the following:

- a) No Fill Permitted Outside of Building Footprint
The existing natural ground levels outside the building and driveway footprint are to remain at existing levels as part of the development.
- b) No Fill Permitted
The existing natural ground levels on the entire site are to remain at existing levels as part of the development.

REASON

To ensure the development meets flood planning requirements and minimise risk to property.

23. Determination of Infiltration / Absorption Rate

Prior to the issue of any Construction Certificate, a Geotechnical Engineer shall determine the soil absorption rate (in litres / m² / second) and the depth of the groundwater table for the site prior to the design of the drainage system. The geotechnical engineer shall provide a report to the Principal Certifier and stormwater engineer which includes the details required above. A copy of the report shall be forwarded to Bayside Council prior to the issue of the Construction Certificate.

REASON

To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.

24. Traffic and Parking Requirements

Prior to issue of the Construction Certificate:

- a) A longitudinal driveway profile prepared by a suitably qualified civil engineer shall be submitted to the Principal Certifier for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with AS/NZS 2890.1. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths. The existing

boundary levels shall be clearly shown on the profile. Any change to the existing boundary levels requires approval from Bayside Council.

REASON

To ensure the development meets the relevant standards and to reduce impacts to on-street parking.

25. Driveway Application

An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) shall be made to Council's Customer Service Centre prior to the issue of the Construction Certificate. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges. All boundary frontage works, egress paths, driveways and fences shall comply with the approval.

REASON

To ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.

26. Absorption/Infiltration Systems Inspection

All absorption systems must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of Principal Certifier. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes, to ensure the effective performance of the system during construction, and the long term viability of the system.

REASON

To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.

27. Surveyor's Certificate for Finished Floor Level (Flooding)

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor shall be provided to the Principal Certifier, certifying that the habitable floor levels are constructed a minimum of 500 mm above the 1% Annual Exceedance Probability (AEP) Flood Level and that the non-habitable/garage floor level is constructed at or above the 1% AEP Flood Level.

REASON

To ensure that floor levels are built in accordance with required flood planning levels.

28. Roads Act / Public Domain Works

Prior to the issue of any Occupation Certificate, the following works will be required to be undertaken in the road reserve at the applicant's expense:

- i. Construction of a new fully constructed concrete vehicular entrance/s;
- ii. Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks and other damaged public domain improvements which will no longer be required;

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed to the satisfaction of Bayside Council at the applicant's expense. Inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifier attesting that this condition has been appropriately satisfied prior to the issue of any Occupation Certificate.

REASON

To ensure that required public domain outcomes are achieved.

PRIOR TO THE COMMENCEMENT OF ANY WORK (including demolition and excavation)

The following conditions must be completed prior to the commencement of works:

29. Erosion and Sediment Controls in Place

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 the *NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate'* (the Blue Book) (as amended from time to time).

REASON

To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

30. Signs on site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifier for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside work hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

REASON

Prescribed condition EP&A Regulation, Section 70 (2) and (3).

31. Compliance with Home Building Act (if applicable)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that

such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

REASON

Prescribed condition EP&A Regulation, Section 69(2).

32. Home Building Act requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information –

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

REASON

Prescribed condition EP&A Regulation, Section 71(1), (2) and (3).

33. Notice regarding Dilapidation Report

Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the Dilapidation Report for their property(ies) no less than 7 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.

REASON

To advise neighbours and Council of any Dilapidation Report.

34. Demolition Management Plan

Before demolition work commences, a demolition management plan must be prepared by a suitably qualified person.

The demolition management plan must be prepared in accordance with *Australian Standard 2601 – the Demolition of Structures*, the *Code of Practice – Demolition Work*, Bayside Development Control Plan 2022 and must include the following matters:

- (a) The proposed demolition methods.

- (b) The materials for and location of protective fencing and any hoardings to the perimeter of the site.
- (c) Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones.
- (d) Details of construction traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with AS 1742.3 *Traffic Control for Works on Roads* and parking of vehicles.
- (e) Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with AS 4970-2009 *Protection of Trees on Development Sites* and Bayside Development Control Plan 2022.
- (f) Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways.
- (g) Dust, noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent.
- (h) Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines.
- (i) Details of any bulk earthworks to be carried out.
- (j) Details of re-use and disposal of demolition waste material in accordance with Bayside Development Control Plan.
- (k) Location of any reusable demolition waste materials to be stored on-site (pending future use).
- (l) Location and type of temporary toilets on-site.
- (m) A garbage container with a tight-fitting lid.

REASON

To provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.

35. Disconnection of Services before Demolition Work

Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.

REASON

To protect life, infrastructure and services.

36. Notice of Commencement for Demolition

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:

- (a) Name;
- (b) Address;
- (c) Contact telephone number;

- (d) Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor;
- (e) The contact telephone number of Council; and
- (f) The contact telephone number of SafeWork NSW (PH 4921 2900).

REASON

To advise neighbours about the commencement of demolition work and provide contact details for enquiries.

37. Hazardous Material Survey before Demolition

Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to Council at least one week before demolition commences.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

- (a) The location of all hazardous material throughout the site.
- (b) A description of the hazardous material.
- (c) The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust.
- (d) An estimation of the quantity of each hazardous material by volume, number, surface area or weight.
- (e) A brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials.
- (f) Identification of the disposal sites to which the hazardous materials will be taken.

REASON

To require a plan for safely managing hazardous materials.

38. Site Preparation

Before demolition work commences the following requirements, as specified in the approved demolition management plan, must be in place until the demolition work and demolition waste removal are completed:

- (a) Protective fencing and any hoardings to the perimeter on the site.
- (b) Access to and from the site.
- (c) Construction traffic management measures.
- (d) Protective measures for on-site tree preservation and trees in adjoining public domain.
- (e) On-site temporary toilets.
- (f) A garbage container with a tight-fitting lid.

REASON

To protect workers, the public and the environment.

39. Handling of Asbestos during Demolition

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- (a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and of any asbestos material;
- (b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- (c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

REASON

To ensure that the removal of asbestos is undertaken safely and professionally.

40. Waste Disposal Verification Statement

On completion of demolition work:

- (a) A signed statement must be submitted to Council verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- (b) If the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to Council within 14 days of completion of the demolition work.

REASON

To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

41. Dilapidation Report - Public Domain

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.

REASON

To advise Council of, and provide Council with, the required dilapidation report.

DURING ANY WORKS (including Demolition, Excavation and Construction)

The following conditions must be complied with during demolition, excavation and/or construction:

42. Approved Plans kept on Site

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.

REASON

To ensure relevant information is available on site.

43. Noise during Construction

The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the *Protection of the Environment Operations Act 1997*.

b) Level Restrictions

Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

c) Out of hours work

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.

An Out of Hours Application must be submitted for each separate event to Council a minimum of one month prior to the planned activity being undertaken.

d) Silencing

All possible steps should be taken to silence construction site equipment.

REASON

To protect the amenity of the neighbourhood.

44. Hours of Work

Site work must only be carried out between the following times:

For building work, demolition or vegetation removal from 7:00am to 5:00pm on Monday to Saturday. No works to be carried out on Sunday and public holidays.

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.

REASON

To protect the amenity of the surrounding area.

45. Deliveries

While site work is being carried out, deliveries of material and equipment must only be carried out between –

7:00am to 5:00pm on Monday to Saturday. No deliveries to be carried out on Sunday and public holidays.

REASON

To protect the amenity of neighbouring properties.

46. Procedure for Critical Stage Inspections

While building work is being carried out, the work must not continue after each critical stage inspection unless the Principal Certifier is satisfied the work may proceed in accordance with this consent and the relevant Construction Certificate.

REASON

To require approval to proceed with building work following each critical stage inspection.

47. Implementation of the Site Management Plans

While site work is being carried out:

- (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
- (b) a copy of these plans must be kept on site at all times and made available to Council officers upon request.

REASON

To ensure site management measures are implemented during the carrying out of site work.

48. Implementation of BASIX Commitments

While building work is being carried out, the Applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificates(s) approved by this consent, for the development to which the consent applies.

REASON

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation).

49. Site Management - Principal Certifier Inspections

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:

- a) Sediment control measures, and
- b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and
- c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

REASON

To protect public safety and water quality around building sites.

50. Surveys by a Registered Surveyor

While building work is being carried out, the positions of the following must be measured and marked by a registered Surveyor and provided to the Principal Certifier:

- a) All footings / foundations in relation to the site boundaries and any registered and proposed easements.
- b) At other stages of construction – any marks that are required by the Principal Certifier.

REASON

To ensure buildings are sited and positioned in the approved location.

51. Noise and Vibration Requirements

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 any lot boundary of the site.

REASON

To protect the amenity of the neighbourhood during construction.

52. Responsibility for changes to Public Infrastructure

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 providers pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

REASON

To ensure payment of approved changes to public infrastructure.

53. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense –

- a) Protect and support the building, structure or work from possible damage from the excavation, and

- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

REASON

Prescribed condition – EP&A Regulation, Section 74.

54. Implementation of Soil and Water Management Plan

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.

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.

REASON

To ensure no substance other than rainwater enters the stormwater system and waterways.

55. Toilet Facilities

- 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
- b) Each toilet must:
- i. Be a standard flushing toilet connected to a public sewer, or
 - ii. Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - iii. Be a temporary chemical closet approved under the *Local Government Act 1993*.

REASON

To ensure compliance with the Local Government Act 1993.

56. Construction Activities – Minimise Pollution

The following conditions are necessary to ensure minimal impacts during construction:

- 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

- 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
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and
- 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
- 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 watercourse, kerb or road surface, and
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i. spraying water in dry windy weather, and
 - ii. cover stockpiles, and
 - iii. fabric fences.
- 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
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and
- 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
- 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

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.

REASON

To protect neighbourhood amenity and the quality of the waterways.

57. Protection of Council's Property

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.

REASON

To ensure public safety at all times and to protect the function and integrity of public infrastructure.

58. Site Fencing

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.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

59. Demolition Requirements During Works

Demolition is to be carried out in the accordance with the following:

- a) The approved Safe Work Method Statement required by this consent, and
- b) Demolition is to be carried out in accordance with *Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW)* and the requirements of the NSW WorkCover Authority, and
- c) Vibration monitors must be placed at the footings of the nearest residential and/or commercial property(s) boundaries prior to any demolition commencing; and
- d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and
- e) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and
- f) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and
- g) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and

- h) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and
- i) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and
- j) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the Applicant's expense. *Dial Before You Dig* website: www.1100.com.au should be contacted prior to works commencing, and
- k) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and
- l) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operation (Waste) Regulation* and *Waste Classification Guidelines 2014* prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

REASON

To protect the amenity of the neighbourhood and ensure public safety.

60. Demolition Requirements

All demolition work shall be carried out in accordance with AS2601 – 2001. The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

REASON

To comply with relevant Australian Standard and Work Cover requirements.

61. Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land

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 *Roads Act 1993* and *Local Government Act 1993*. 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:

- 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.

- 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.
- 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.
- 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 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.
- 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 & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- 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.
- 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.
- 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.
- 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.
- 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*.

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.

REASON

To ensure appropriate permits are applied for and comply with the Roads Act 1993.

62. Waste Management

While site work is being carried out:

- (a) all waste management must be undertaken in accordance with the Waste Management Plan, and
- (b) upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier, detailing the following:
 - (i) The contact details of the person(s) who removed the waste.
 - (ii) The waste carrier vehicle registration.
 - (iii) The date and time of waste collection.
 - (iv) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill.
 - (v) The address of the disposal location(s) where the waste was taken.
 - (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.

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.

REASON

To require records to be provided, during site work, documenting the lawful disposal of waste.

63. Soil Management

While site work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavation material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the Principal Certifier.
- (b) All fill material imported to the site must be:
 - (i) Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or

- (ii) a material identified as being subject to a resource recovery exemption by the NSW EPA, or
- (iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA.

REASON

To ensure soil removal from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

64. Uncovering Relics or Aboriginal Objects

While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:

- (a) the work in the area of the discovery must cease immediately;
- (b) the following must be notified:
 - (i) for a relic – the Heritage Council; or
 - (ii) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

Site work may recommence at a time confirmed in writing by:

- (a) for a relic – the Heritage Council; or
- (b) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

REASON

To ensure the protection of objects of potential significance during works.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be complied with prior to issue of the Occupation Certificate:

65. Preservation of Survey Marks

Before the issue of an Occupation Certificate, documentation must be submitted by a registered Surveyor to the principal certifier, which demonstrates that:

- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- (b) any survey mark(s) that were damaged, destroyed, obliterated or defaced have been re-established in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

REASON

To protect the State's survey infrastructure.

66. Occupation Certificate

The Occupation Certificate must be obtained prior to any use or occupation of the building/development or part thereof. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

REASON

To ensure that an Occupation Certificate is obtained.

67. Repair of Infrastructure

Before the issue of an Occupation Certificate:

- (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
- (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 consent.

REASON

To ensure any damage to public infrastructure is rectified.

68. Release of Securities

When Council receives an Occupation Certificate, an application may be lodged to release the securities held in accordance with Council's fees and charges for development.

REASON

To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

69. Certification of New Stormwater System

Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) must certify that the stormwater system has been constructed in accordance with the approved plans and as required by Bayside Technical Specification Stormwater Management. The constructed stormwater drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications.

REASON

To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.

70. Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility

services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the Principal Certifier.

REASON

To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

71. Removal of Waste Upon Completion

Before the issue of an Occupation Certificate:

- (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
- (b) written evidence of the waste removal must be provided to the satisfaction of the principal certifier.

REASON

To ensure waste material is appropriately disposed or satisfactorily stored.

OPERATIONAL CONDITIONS

72. Maintenance of Wastewater and Stormwater Treatment Device

During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).

REASON

To protect sewerage and stormwater systems.

73. Maintenance of Stormwater Drainage System

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.

REASON

To protect waterways and minimise adverse impacts to the environment.

74. Noise from Air-Conditioning Units

Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise

from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

Reason:

To manage noise from air-conditioning units so that adverse impacts to the locality are minimised.

DEVELOPMENT CONSENT ADVICE

a. Lapsing of Consent

This consent will lapse five (5) years from the date of consent, unless the building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse.

b. Consult with Utility Provider

You are advised to consult with your utility providers (i.e. Ausgrid, Telstra, etc.) in order to fully understand their requirements before commencement of any work.

c. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact *Dial Before You Dig* at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

d. Dividing Fences Act 1991

This approval is not to be construed as a permission to erect any structure on or near a boundary contrary to the provisions of the *Dividing Fences Act 1991*.

e. Hazardous Waste

Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Protection of the Environment Operations (Waste) Regulation 2005*.

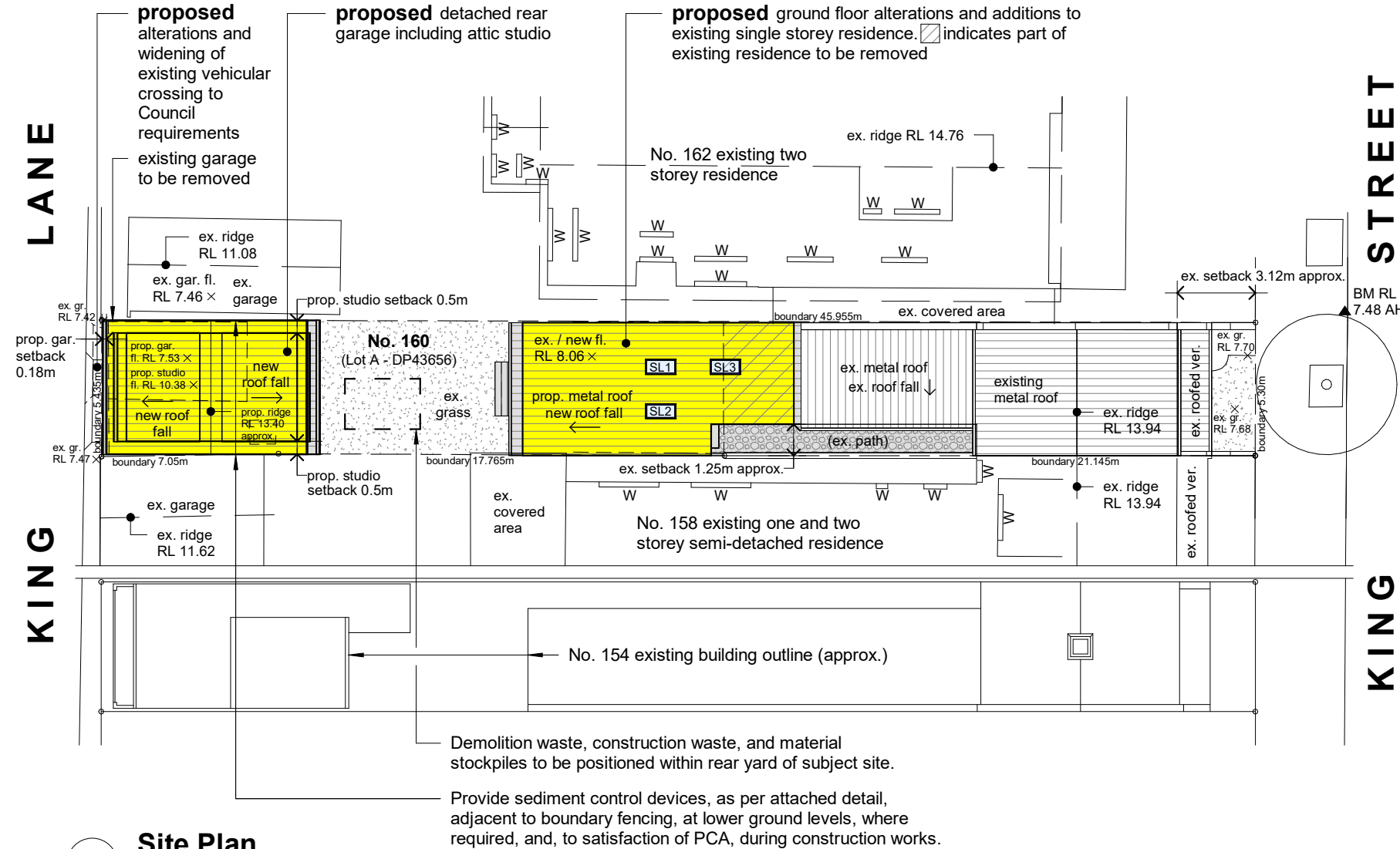
f. Noise Minimisation during Demolition and Construction

Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

Noise reduction measures shall include, but are not limited to, the following strategies:

- a) choosing quiet equipment, and
- b) choosing alternatives to noisy activities, and
- c) relocating noise sources away from affected neighbours, and
- d) educating staff and contractors about quiet work practices, and
- e) informing neighbours of potentially noise activities in advance, and
- f) equipment such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8.00 pm and 7.00 am, or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences.

Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary, at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.



1 Site Plan
1 : 200

Amendments:

Issue A (08.05.2024) - Alterations to detached garage and first floor studio design, layout and building form / provision of Permeable Landscape Calculation Plan

Site Calculations:

- Site Area; 245.2m²
- Existing total floor area; 72.57m² approx.
- Proposed studio floor area; 26.45m² approx.
- Proposed total floor area; 135.54m² approx.
- Proposed floor space ratio; 0.55 to 1 approx.
- Proposed site coverage; 69.8% of site area approx. (existing site coverage; 40.9% of site area approx.)
- Proposed permeable landscape area; 25.2% of site area approx. (existing permeable area; 46.8% approx.)

General Notes:

- All dimensions are in millimetres unless stated otherwise, dimensions take preference to scale.
- All dimensions and levels to be confirmed, prior to tender and construction, by builder.
- Notes continued see attachment.

General Housing Specification NSW Note:

Architectural plans are to be read in conjunction with relevant General Housing Specification - NSW. See attachment.

Building Setout Note:

All new approved building work positioning (including new structures / footings / walls / floor levels and building heights / wall to boundary setbacks or as required to comply with Council DA Approved plans and conditions) is to be measured and marked by a Registered Surveyor prior to commencement of works to confirm compliance, to the satisfaction of the PCA.

Construction Notes (incl. BASIX Cert. Commitments):

- All new work to be carried out in accordance with BCA 2022 - Housing Provisions, EPA Act 1979, as amended, Local Government Act 1993, regulations under the Acts, Council requirements and Sydney Water requirements.
- All structural components of proposed construction to engineer's details.
- This plan is to be read in conjunction with BASIX certificate No; A1378833_02.
- The required commitments listed and identified in the BASIX certificate are to be incorporated with new works.
- 3 star water rated taps, showerheads and toilets shall be provided as part of new works as listed and identified as commitments in BASIX Certificate.
- Provide R1.5 external wall insulation and R3.0 roof insulation as part of the new works
- Selected new doors and windows and shading devices, if required, to comply with construction specifications and glazing requirements listed and identified as commitments in BASIX Certificate No.; A1378833_02.
- 40% of new or altered light fixtures to be installed in the development as part of new works, are to be fitted with fluorescent, compact fluorescent on lightemitting-diode (LED) lamps.
- Notes continued on pages A01-A08...

Construction Site Management Notes:

1. Protective fencing, 1.8m high cyclone metal fence, to be provided along boundaries, where open and required, and, to satisfaction of PCA. Existing boundary fencing and gates to act as protective fencing elsewhere during construction, if adequate, to satisfaction of PCA.
2. Provide sediment control devices, as per attached detail, adjacent to boundary fencing, at lower ground levels, where required, and, to satisfaction of PCA, during construction works.
3. Demolition waste, construction waste, and material stockpiles to be positioned within rear yard of subject site. Demolition and construction waste to be removed by a licensed contractor to an approved waste depot.
4. Provide temporary sanitary facilities on site during construction.

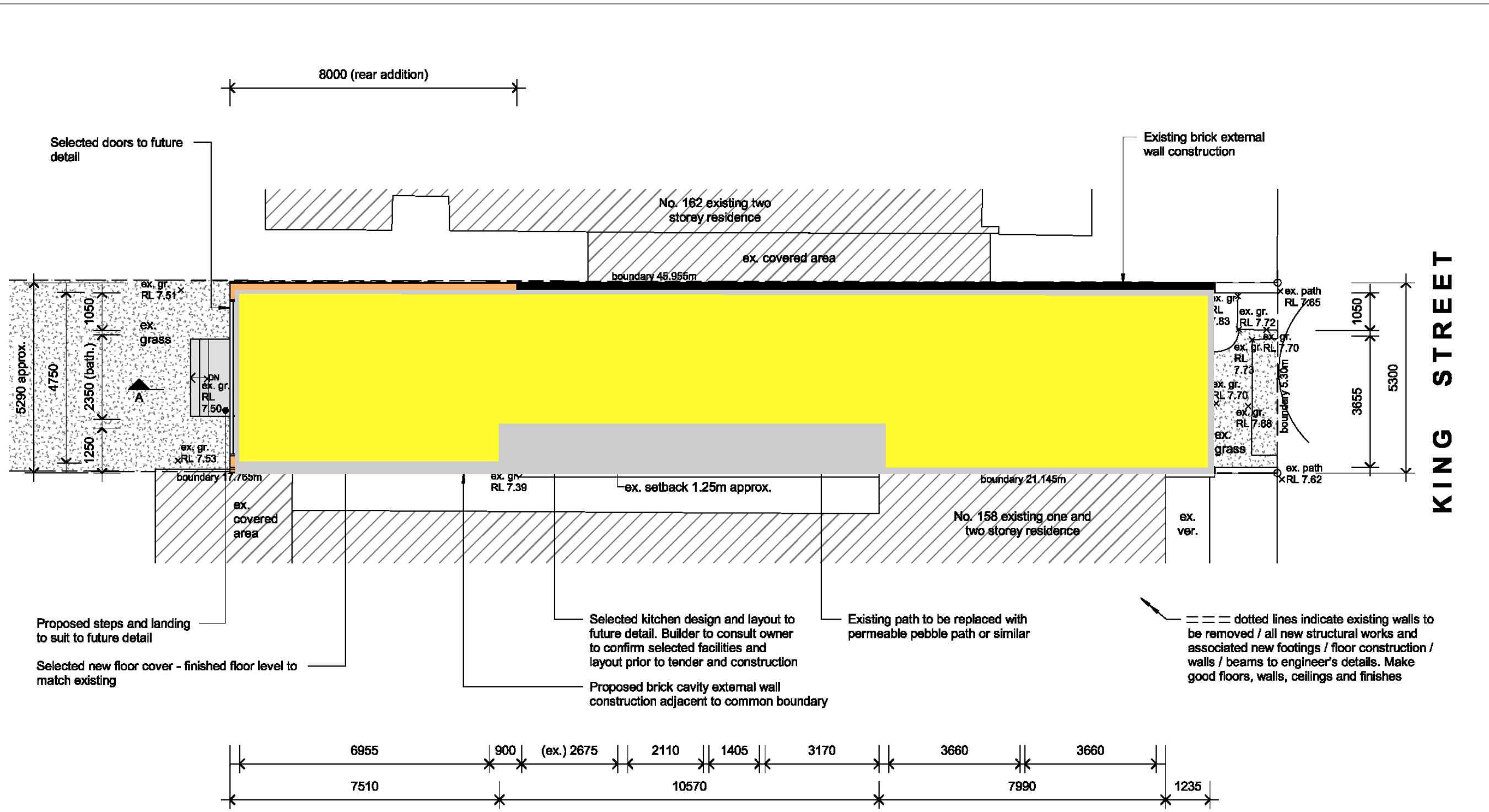
Acoustic Control Measure Construction Notes:

Architectural plans are to be read in conjunction with Aircraft Noise Assessment / Acoustic Report prepared by Acoustic Noise and Vibration Solutions Pty Ltd, reference no; TBA. Acoustic control measures and construction detailed in the report are to be incorporated with new works (ie. window construction and glazing requirements/roof and ceiling wall construction).

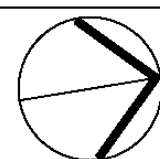
Demolition Notes:

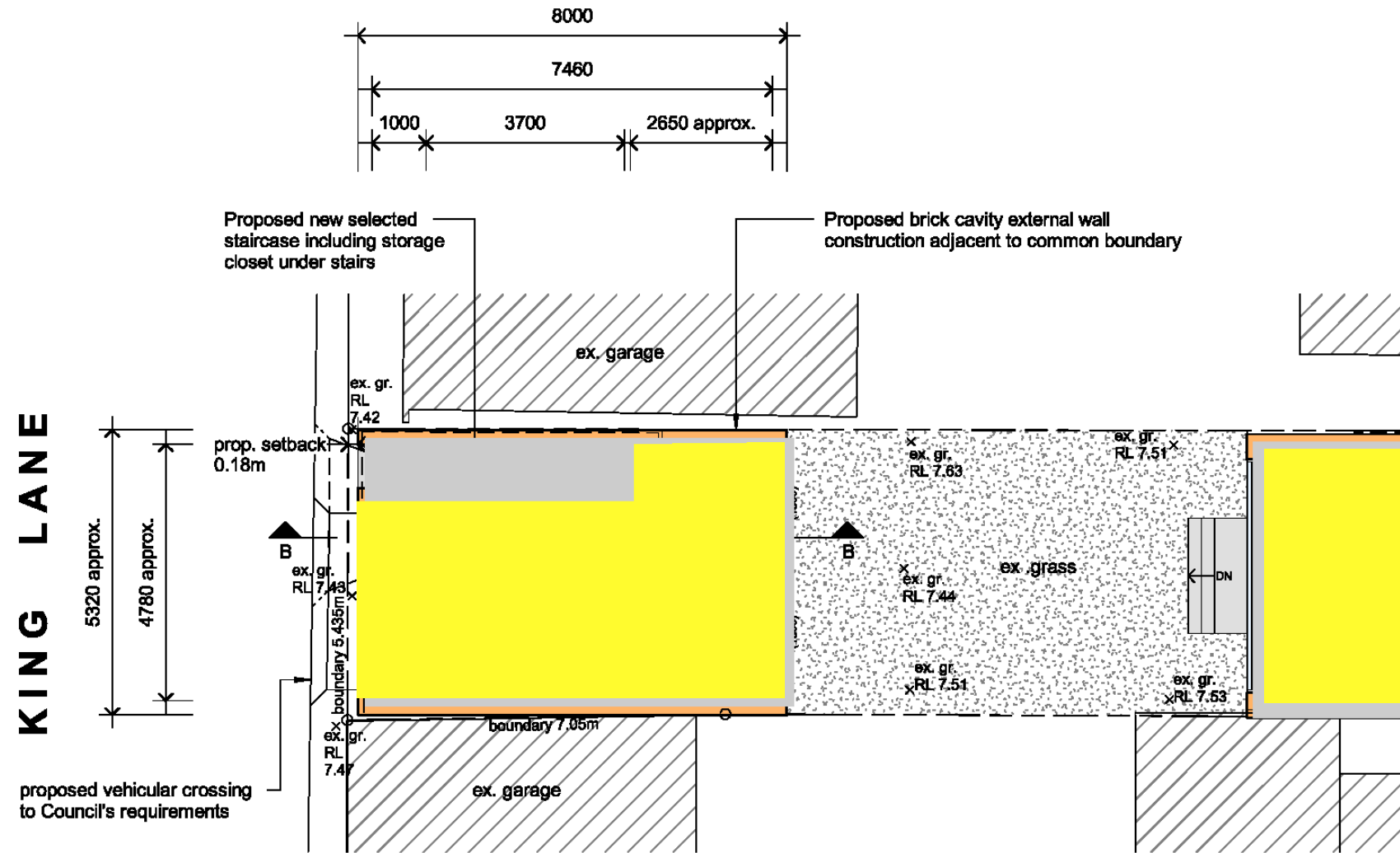
Demolition is to be carried out and stored in accordance with AS2601-2001 and Workcover NSW Code of Practice for the Safe Removal of Asbestos and Council conditions. If required, fibro sheets to be removed with minimal breakage and placed in a plastic lined bin and covered with plastic. Demolition waste is to be removed by a license contractor to an approved waste depot.

<p>JOHN SPITERI DESIGN AND DRAFTING ABN: 12546 685 338 EMAIL: johnspiteridrafting@gmail.com BUS PH/FAX: 02 9349 6422 MOBILE: 0419 412 299 (C)</p>		<p>PROJECT NAME: proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio</p> <p>SITE: No. 160 King Street, Mascot (Lot A - DP43656)</p>	<p><input type="checkbox"/> S4.55 () APPLICATION <input checked="" type="checkbox"/> DEVELOPMENT APPLICATION <input type="checkbox"/> CONSTRUCTION CERTIFICATE <input type="checkbox"/> COMPLYING DEV. CERTIFICATE</p>	<p>SCALE: 1 : 200</p>	<p>DRAWING NUMBER 23.115 A</p>
				<p>DATE: 08/05/2024</p> <p>DRAWN BY: LS</p> <p>SHEET NAME: Site Plan</p>	<p>SHEET NUMBER A01</p>



3 Existing & Proposed Ground Floor Plan
 1:100
 SL indicates selected skylight

JOHN SPITERI DESIGN AND DRAFTING ABN: 12546 685 338 EMAIL: johnspiteridrafting@gmail.com BUS PH/FAX: 02 9349 6422 MOBILE: 0419 412 299 (C)	 true north approx.	PROJECT NAME: proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio SITE: No. 160 King Street, Mascot (Lot A - DP43656)	<input type="checkbox"/> S4.55 () APPLICATION	SCALE: 1:100	DRAWING NUMBER 23.115 A
			<input checked="" type="checkbox"/> DEVELOPMENT APPLICATION	DATE: 08/05/2024	DRAWN BY: LS
			<input type="checkbox"/> CONSTRUCTION CERTIFICATE	SHEET NAME: Ex. & Prop. GF Plan	
			<input type="checkbox"/> COMPLYING DEV. CERTIFICATE		



4 Proposed Garage Plan
1 : 100

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PROJECT NAME:
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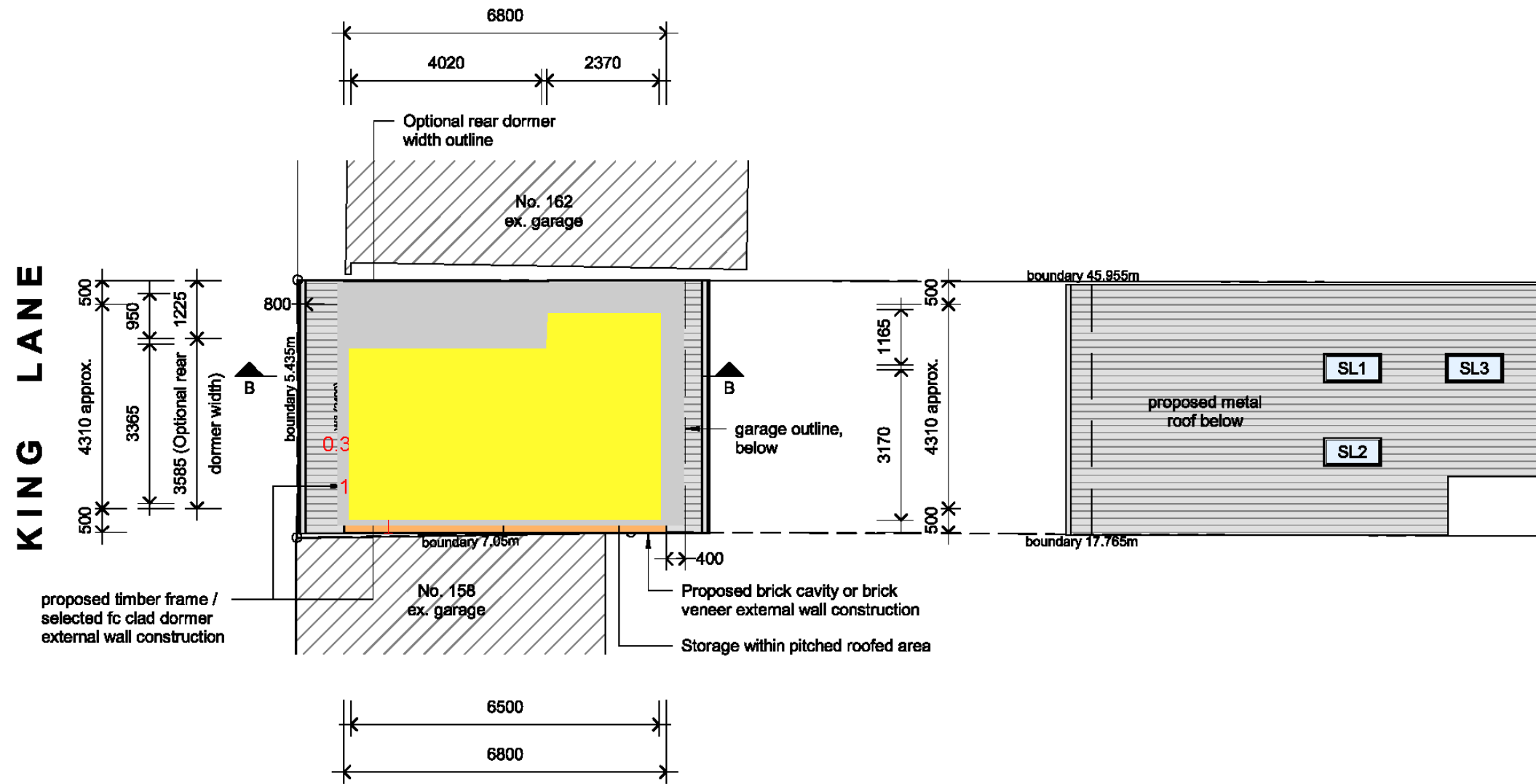
SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
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SHEET NAME: Prop. Gar. Plan

DRAWING NUMBER
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SHEET NUMBER
A04



5 Proposed Attic Studio Floor Plan
1 : 100

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PROJECT NAME:
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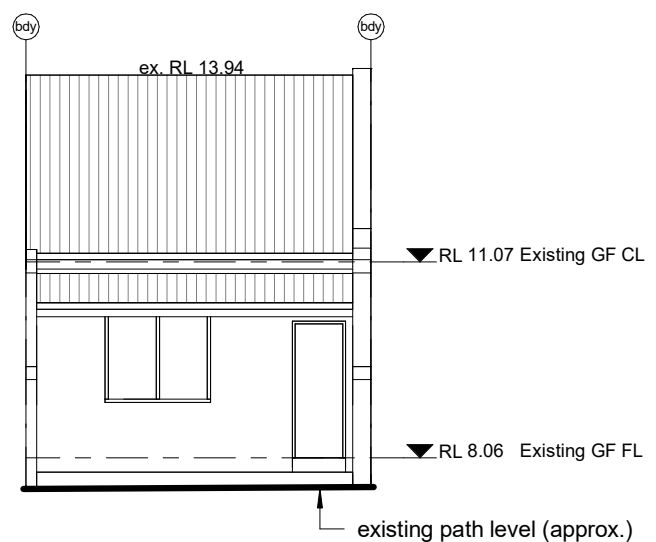
SITE: No. 160 King Street, Mascot (Lot A - DP43656)

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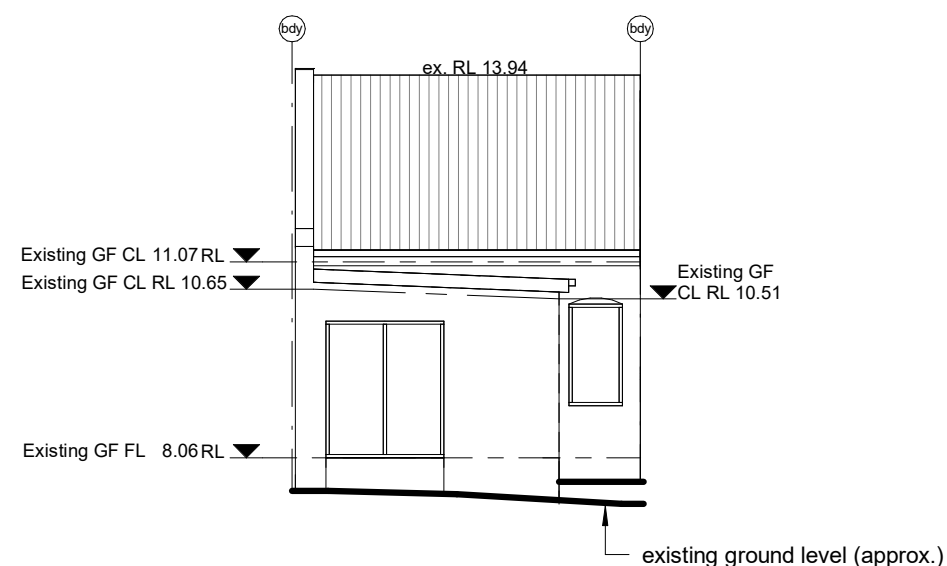
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DRAWING NUMBER
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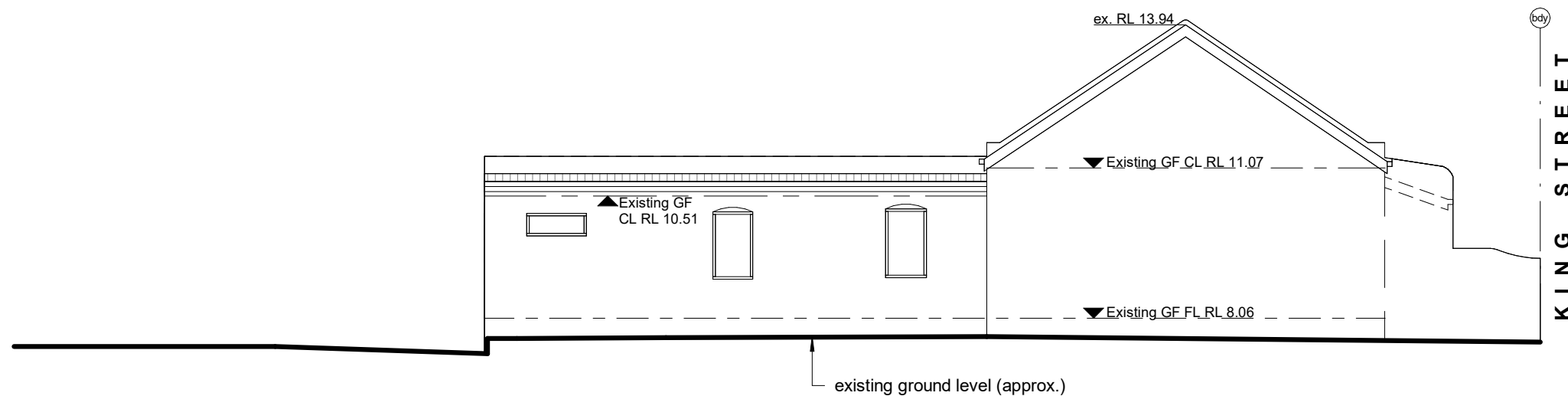
SHEET NUMBER
A05



6 North Elevation (Existing)
1 : 100

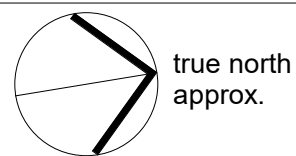


7 South Elevation (Existing)
1 : 100



8 East Elevation (Existing)
1 : 100

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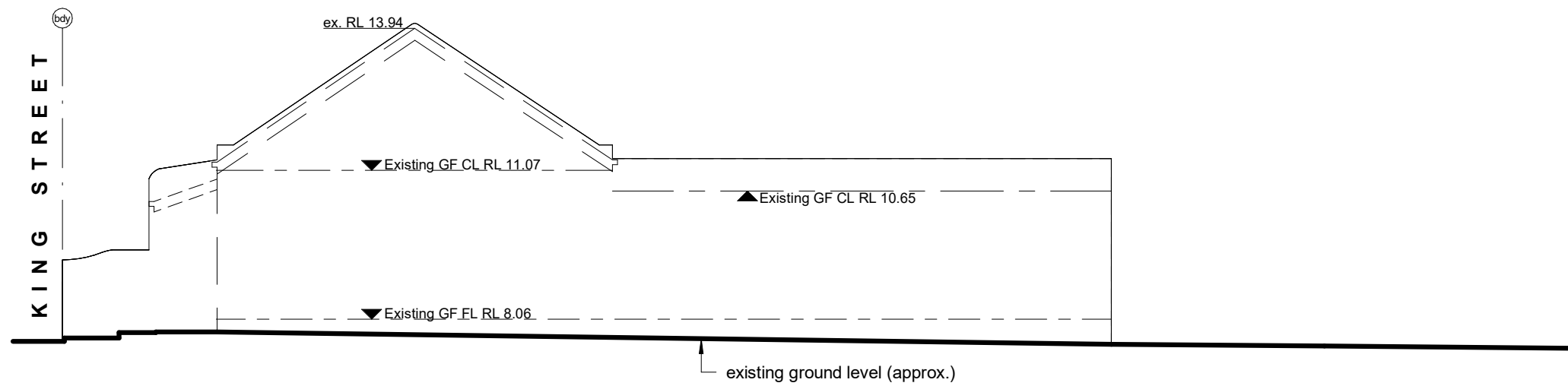
PROJECT NAME:
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SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
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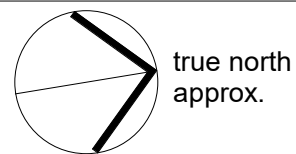
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DATE: 08/05/2024
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SHEET NUMBER
 A06



9 West Elevation (Existing)
1 : 100

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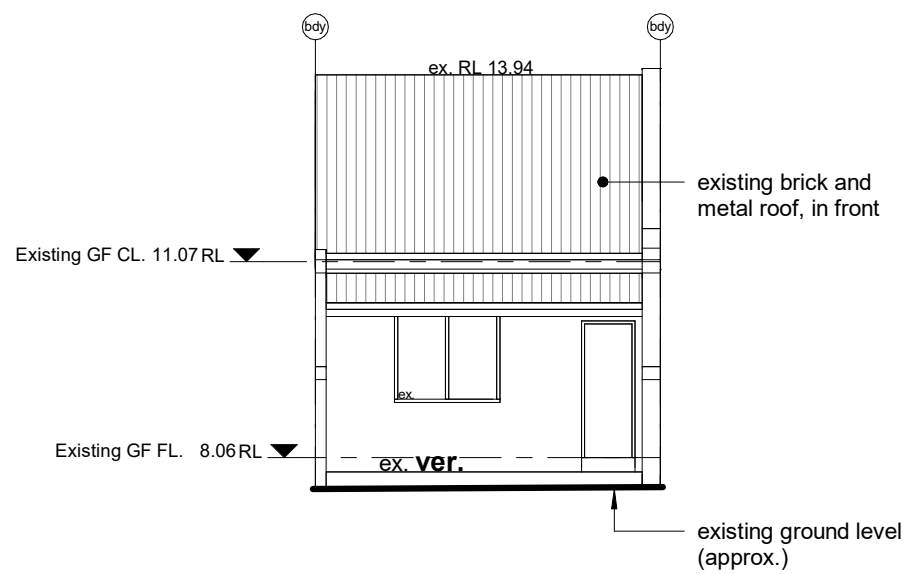
PROJECT NAME:
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SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
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- CONSTRUCTION CERTIFICATE
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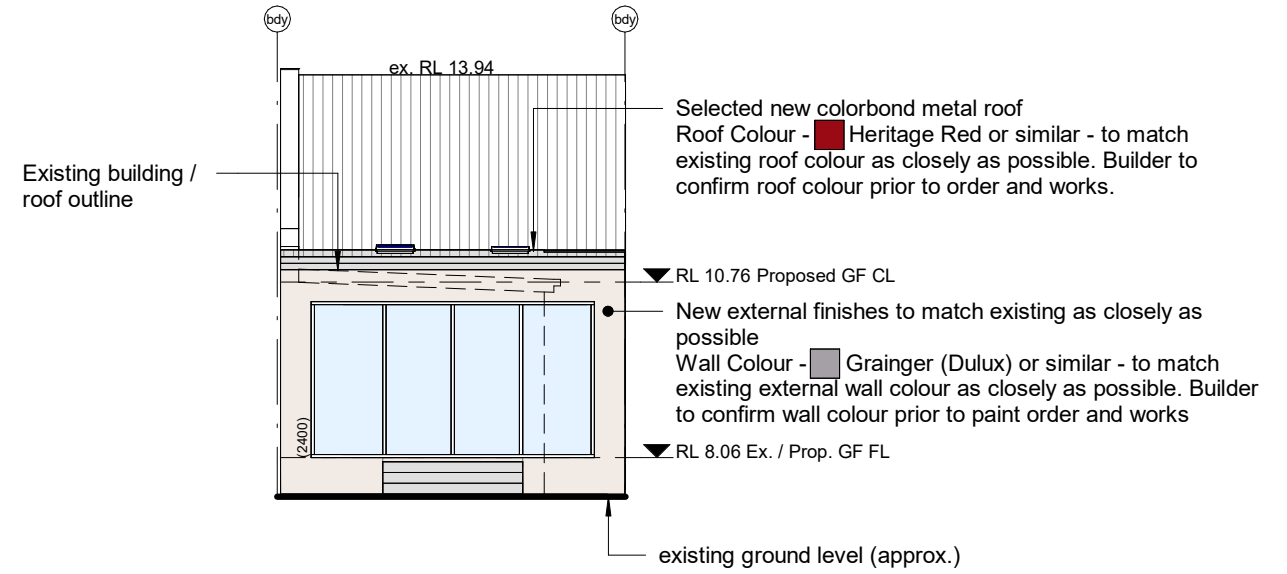
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DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: Ex. Elevations

DRAWING NUMBER
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SHEET NUMBER
 A07



10 North Elevation (Proposed)

1 : 100

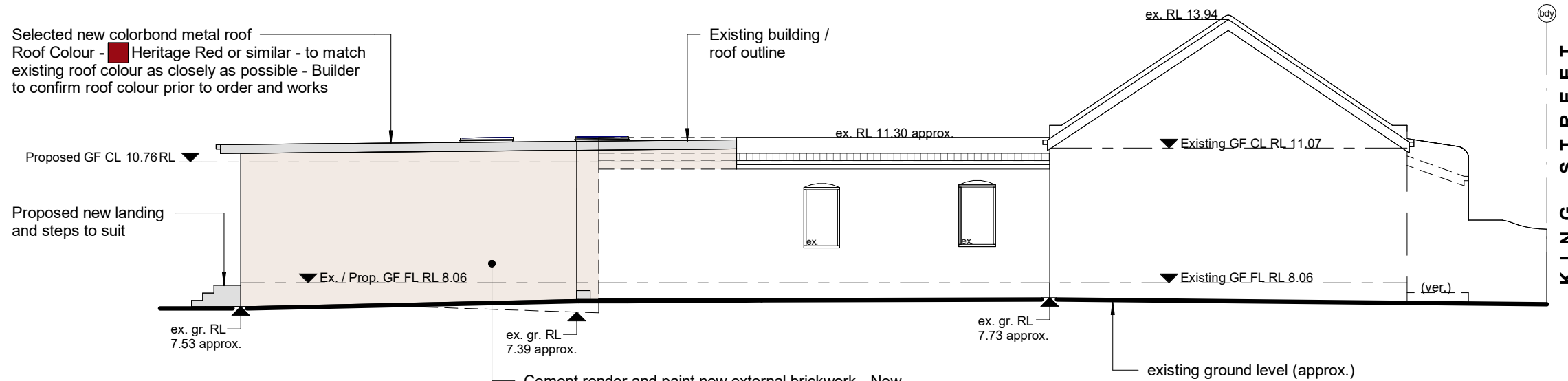


11 South Elevation (Proposed)

1 : 100

Window Design and Construction Notes:

- Selected new aluminium frame windows and doors to comply with BASIX Certificate commitments for construction and glazing requirements. Window and door frame colour - █ Black or Monument (Dulux) or similar - to future detail.
- All new first floor windows design and construction to comply with Part 11.3.7 of NCC / BCA 2022 - Housing Provisions. Window must have a minimum sill height of 865mm and the window cannot open further than 125mm.
- See Acoustic Control Measure Construction Notes on Sheet A01 & A11 for windows and door construction details.

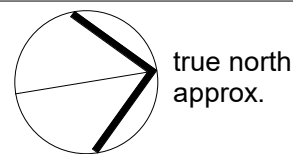


12 East Elevation (Proposed)

1 : 100

Cement render and paint new external brickwork - New external finishes to match existing as closely as possible. Wall Colour - (Dulux) or similar - to match existing external wall colour as closely as possible. Builder to confirm wall colour prior to paint order and works.

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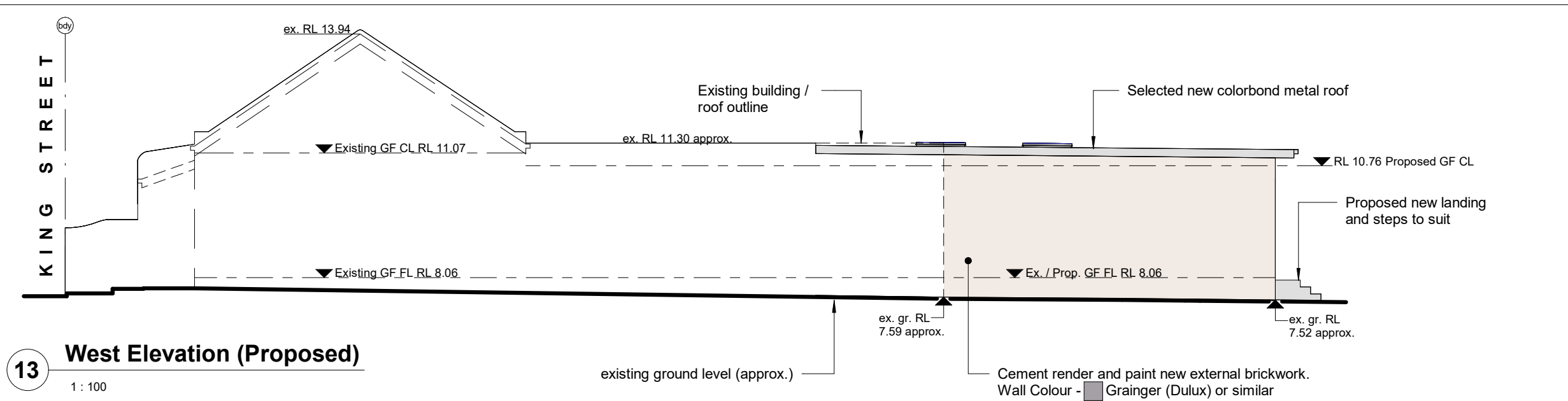
PROJECT NAME:
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SCALE: 1 : 100
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: Prop. Elevations

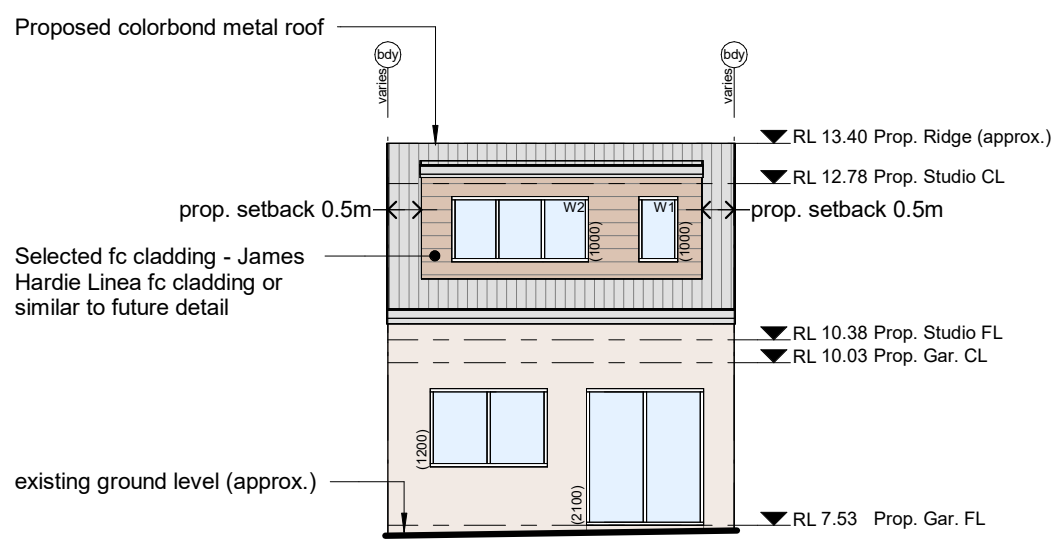
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SHEET NUMBER
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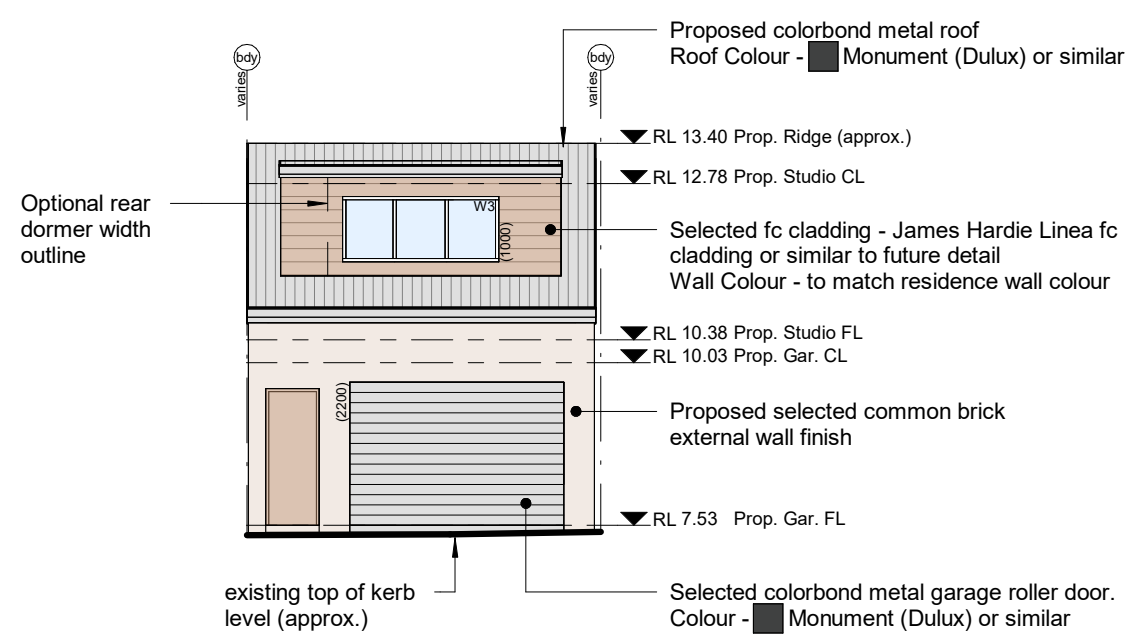
13 West Elevation (Proposed)
1 : 100

Window Design and Construction Notes:

Selected new aluminium frame windows and doors to comply with BASIX Certificate commitments for construction and glazing requirements. Window and door frame colour - Black or Monument (Dulux) or similar - to future detail.
 • All new first floor windows design and construction to comply with Part 11.3.7 of NCC / BCA 2022 - Housing Provisions. Window must have a minimum sill height of 865mm and the window cannot open further than 125mm.
 • See Acoustic Control Measure Construction Notes on Sheet A01 & A11 for windows and door construction details.

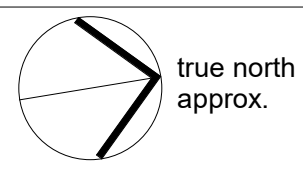


14 North Elevation (Prop. Gar. & Studio)
1 : 100



15 South Elevation (Prop. Gar. & Studio)
1 : 100

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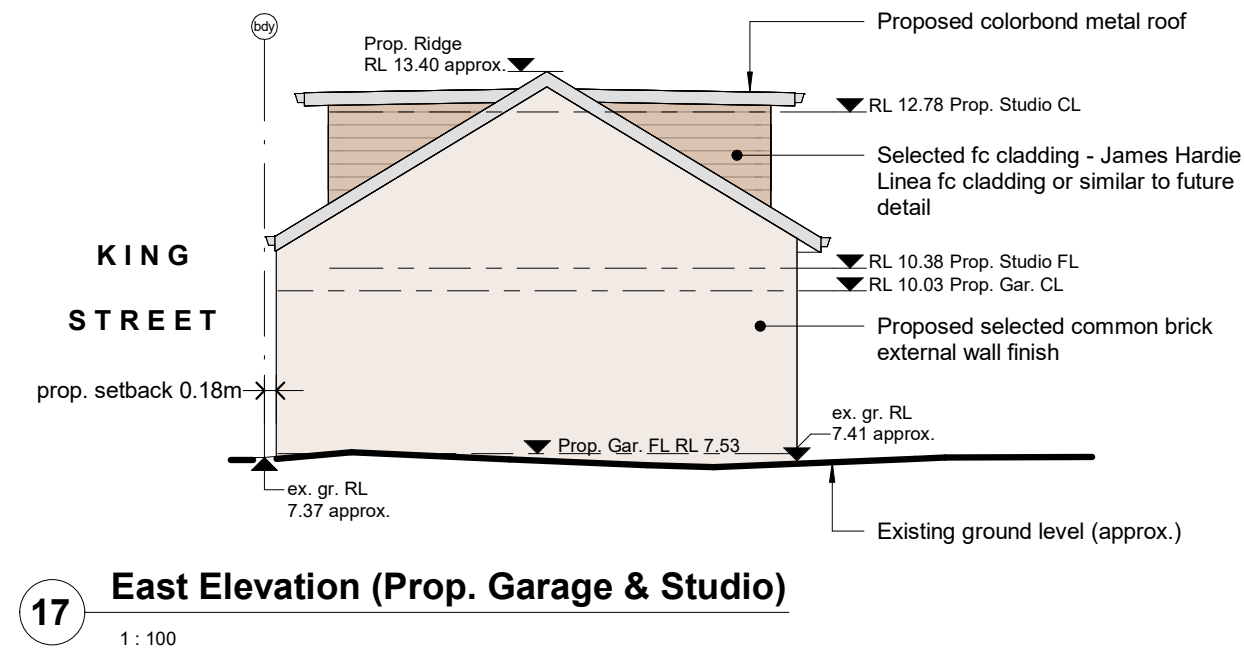
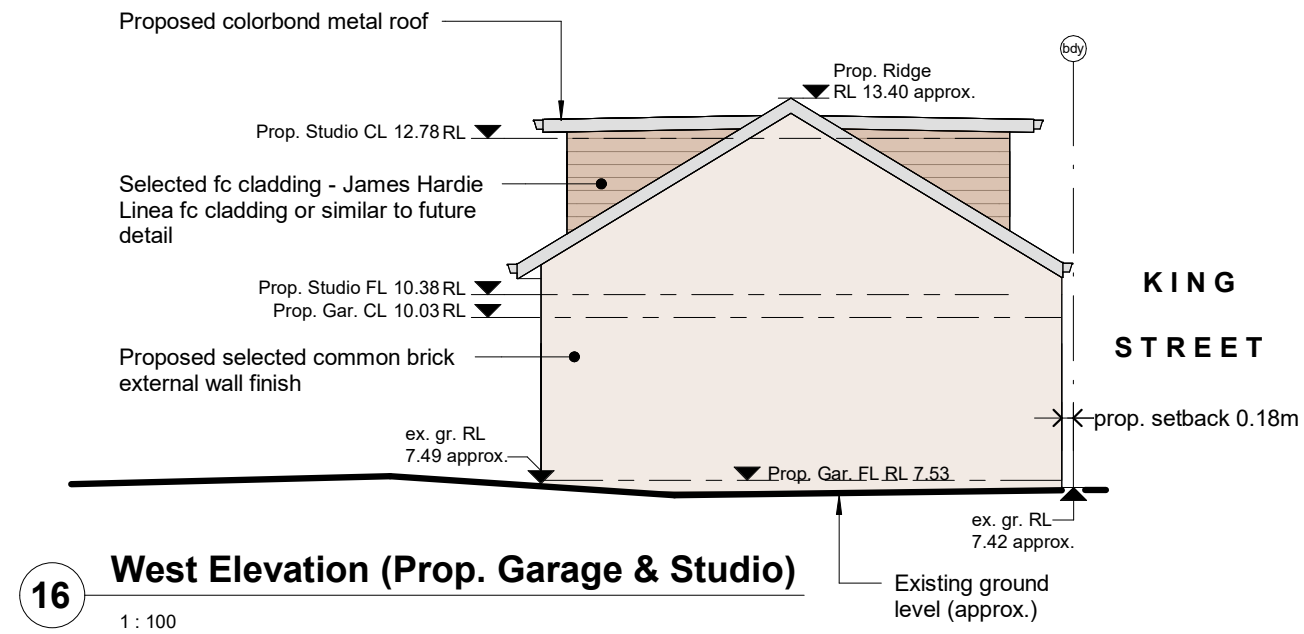
SITE: No. 160 King Street, Mascot (Lot A - DP43656)

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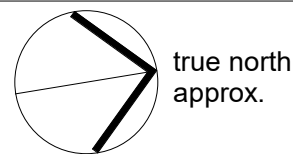
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PROJECT NAME:
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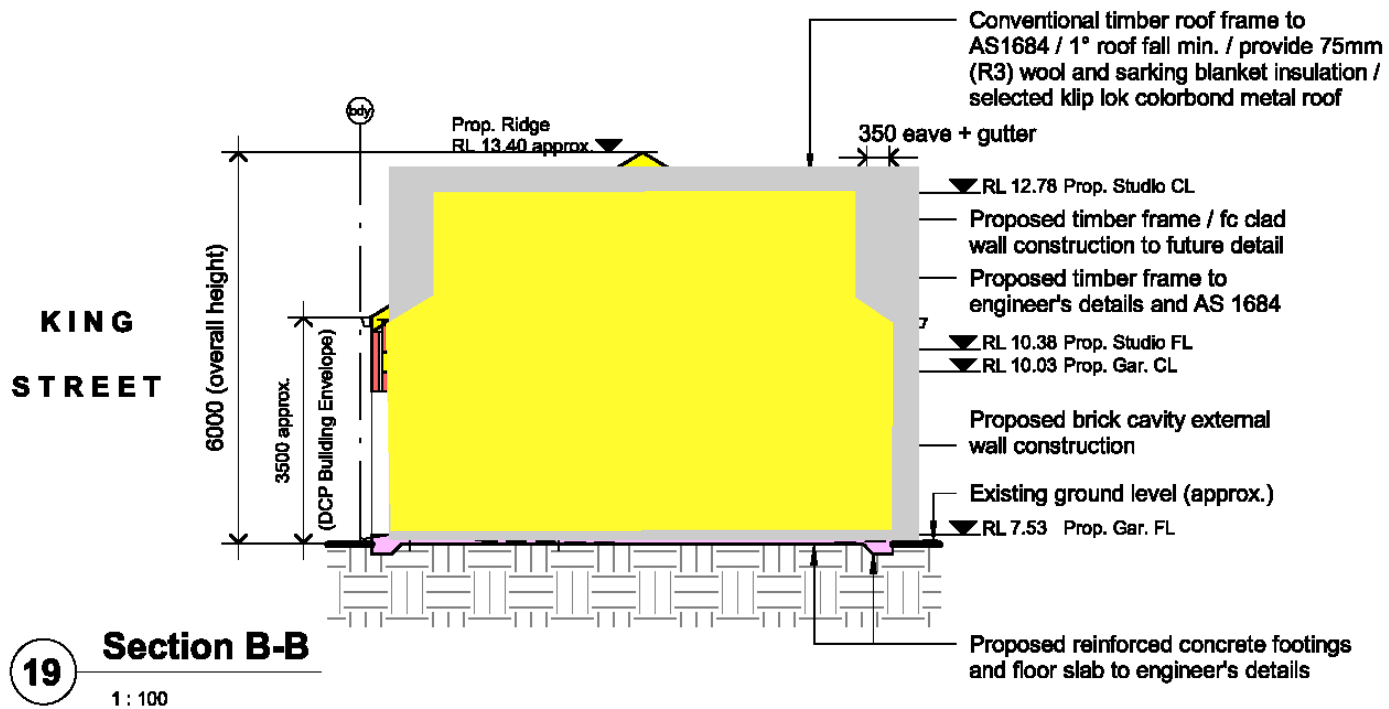
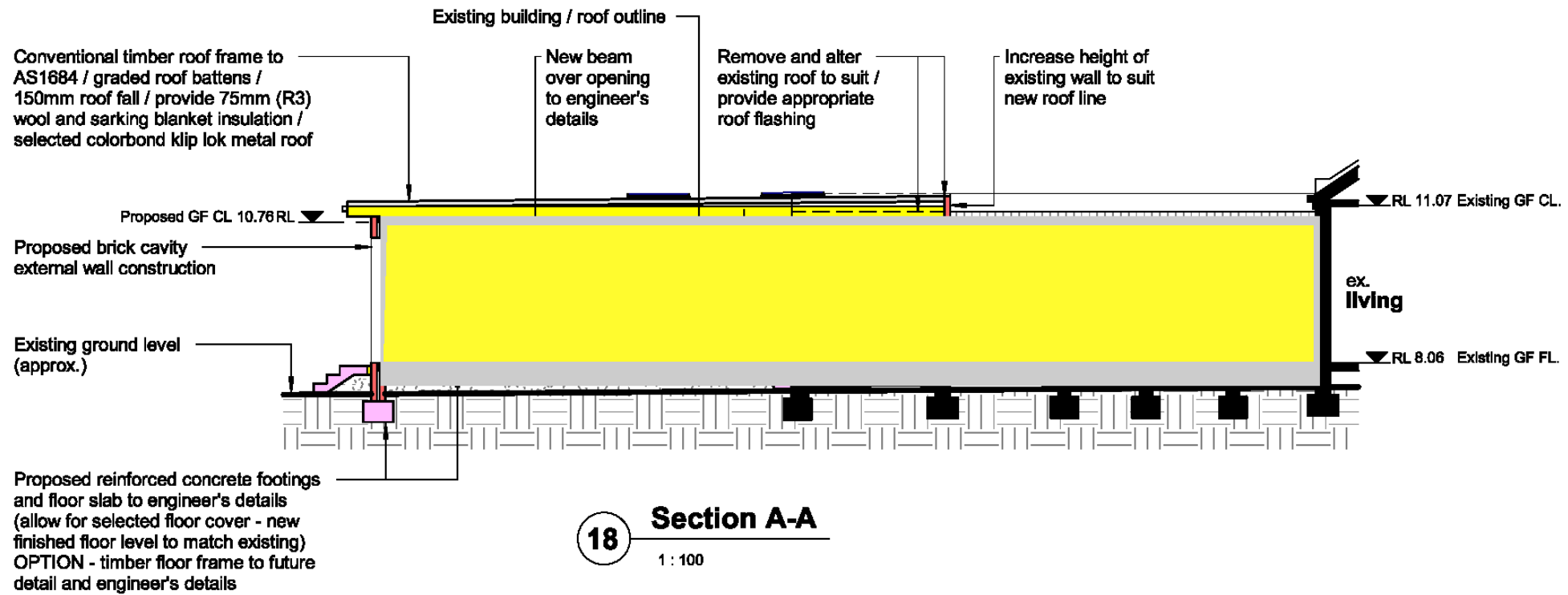
SITE: No. 160 King Street, Mascot (Lot A - DP43656)

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SHEET NUMBER
A10



Stormwater Management Note:

Stormwater (SW) or roof runoff from the new development to be drained to a new Stormwater Infiltration Pit - design and positioning to future engineer's details. Connect new downpipes and SW pipes to new SW drainage system. All new stormwater drainage works to be constructed, in accordance with AS3500, BCA requirements, engineer's details and Council requirements.

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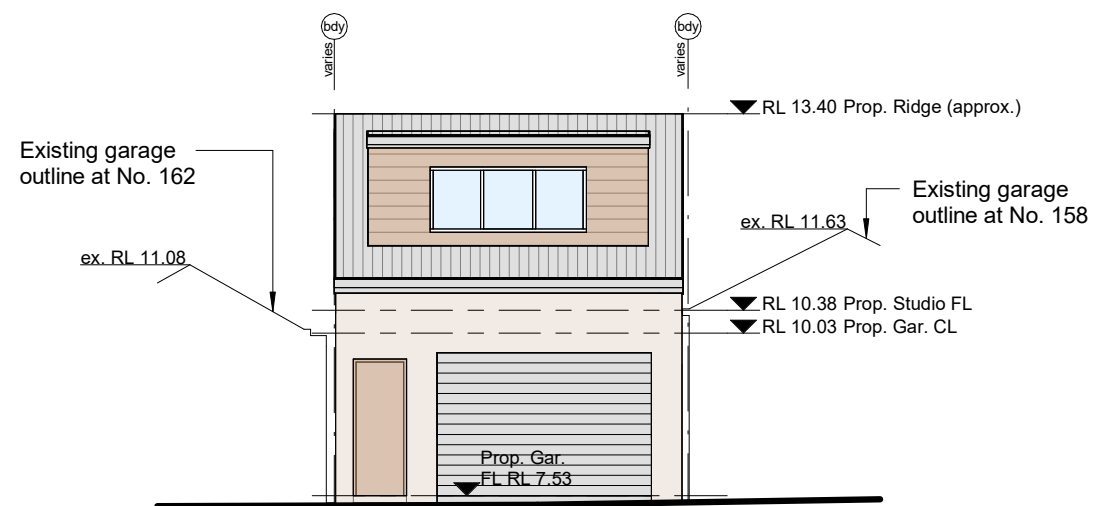
PROJECT NAME:
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SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
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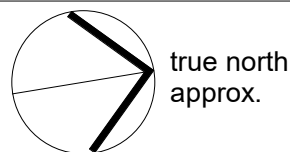
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DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: Sections

DRAWING NUMBER
 23.115 A
SHEET NUMBER
 A11



20 Laneway Elevation
1 : 100

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PROJECT NAME:
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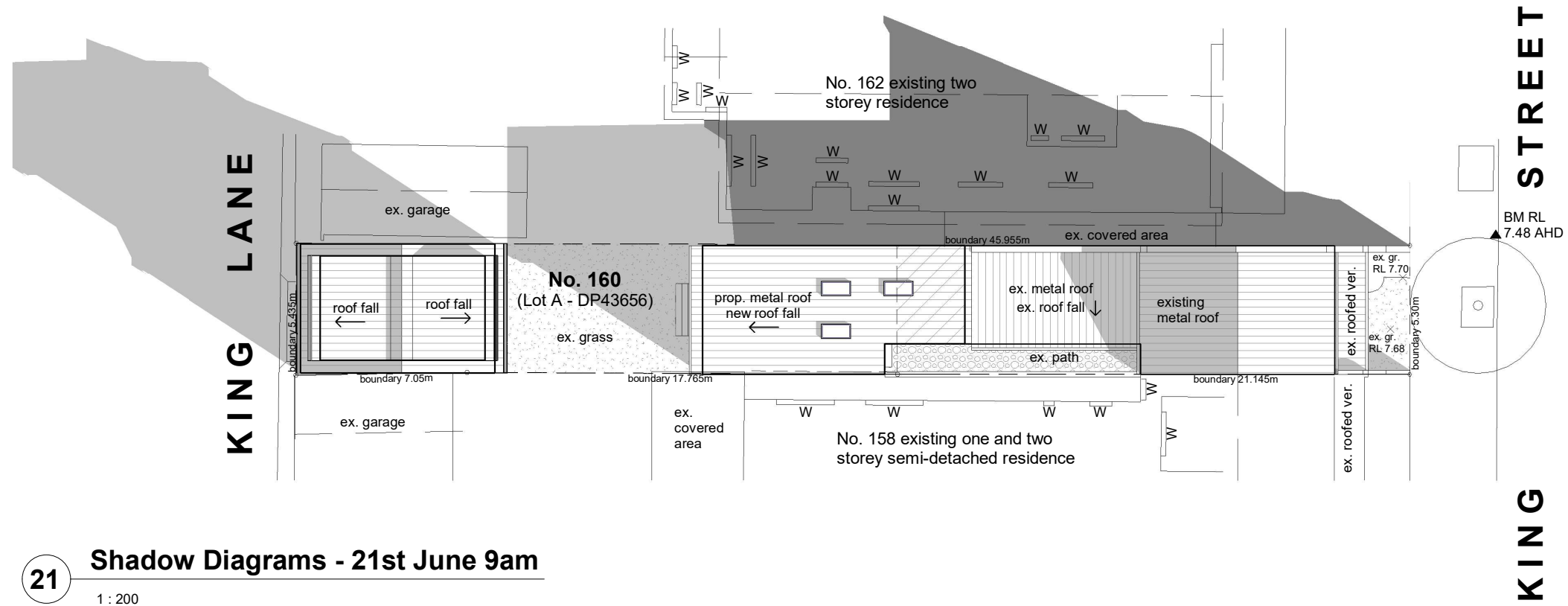
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SCALE: 1 : 100
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: Laneway Elevation

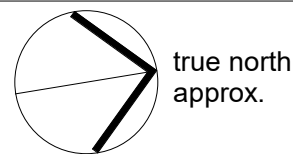
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SHEET NUMBER
A12



21 Shadow Diagrams - 21st June 9am
 1 : 200
 ■ denotes existing shadow outline
 □ denotes proposed shadow outline

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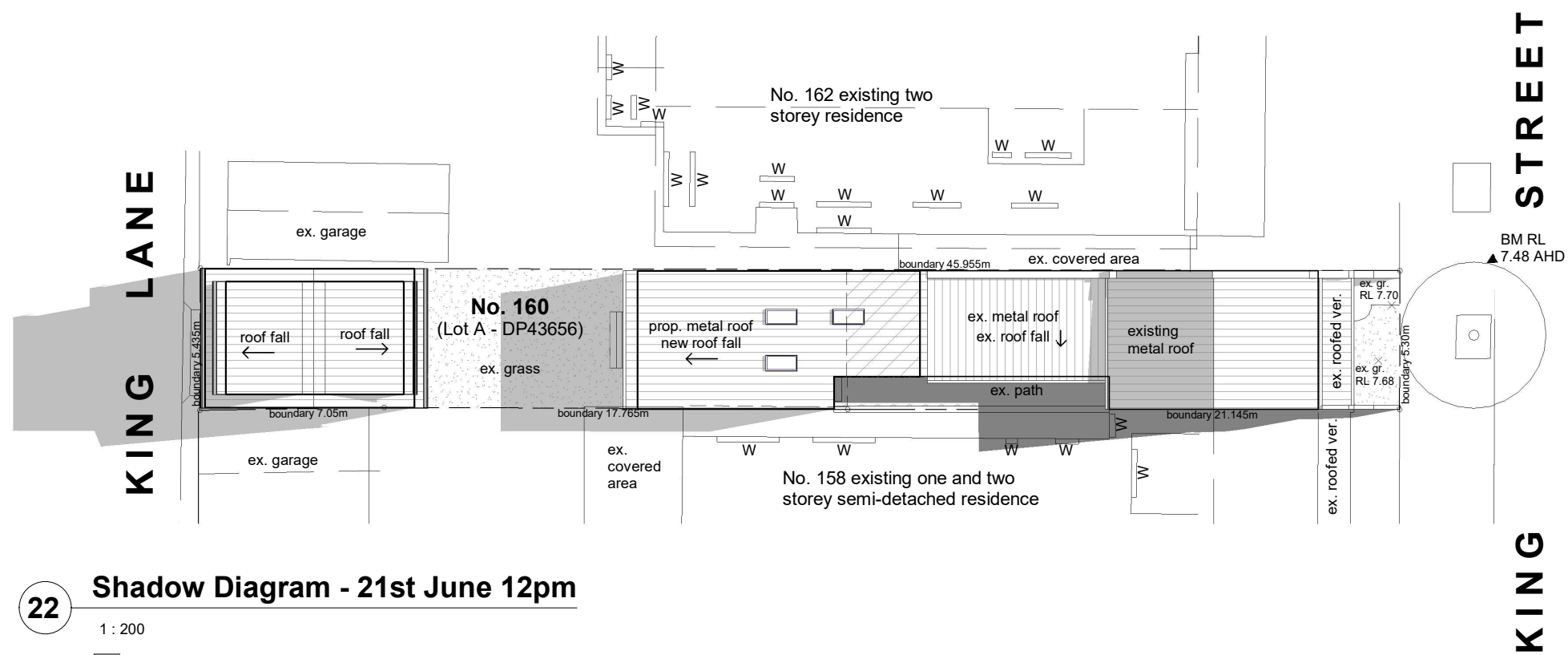
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- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

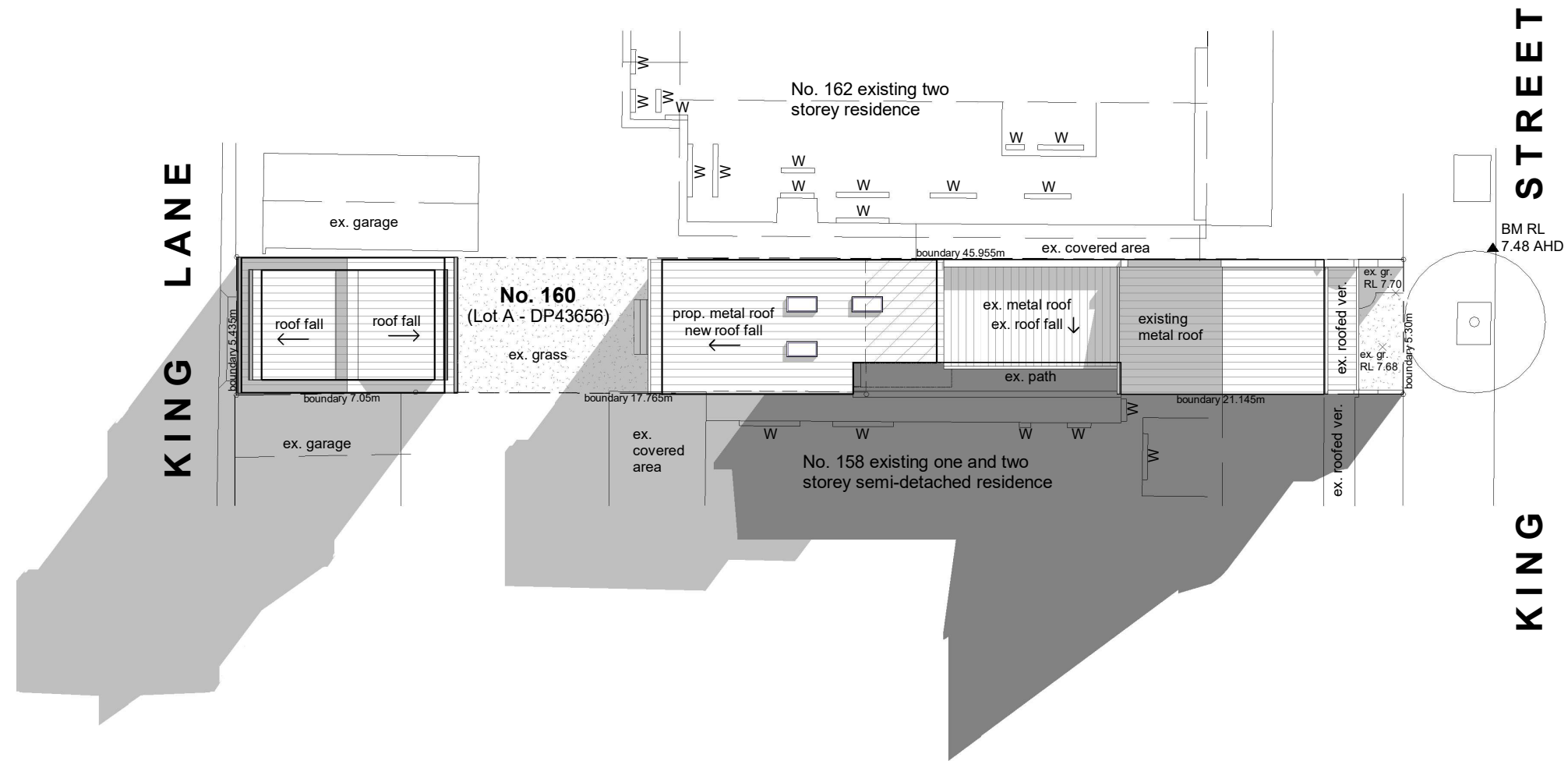
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DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: 21st June 9am

DRAWING NUMBER
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SHEET NUMBER
 A13



22 Shadow Diagram - 21st June 12pm
 1 : 200
 ■ denotes existing shadow outline
 ■ denotes proposed shadow outline

JOHN SPITERI DESIGN AND DRAFTING ABN: 12546 685 338 EMAIL: johnspiteridrafting@gmail.com BUS PH/FAX: 02 9349 6422 MOBILE: 0419 412 299 (C)	true north approx.	PROJECT NAME: proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio	<input type="checkbox"/> S4.55 () APPLICATION <input checked="" type="checkbox"/> DEVELOPMENT APPLICATION <input type="checkbox"/> CONSTRUCTION CERTIFICATE <input type="checkbox"/> COMPLYING DEV. CERTIFICATE	SCALE: 1 : 200 DATE: 08/05/2024 DRAWN BY: LS SHEET NAME: 21st June 12pm	DRAWING NUMBER 23.115 A SHEET NUMBER A14
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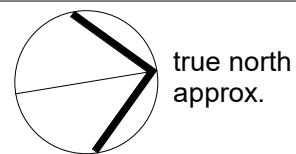


23 Shadow Diagram - 21st June 3pm

1 : 200

- denotes existing shadow outline
- denotes proposed shadow outline

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 ABN: 12546 685 338
 EMAIL: johnspiteridrafting@gmail.com
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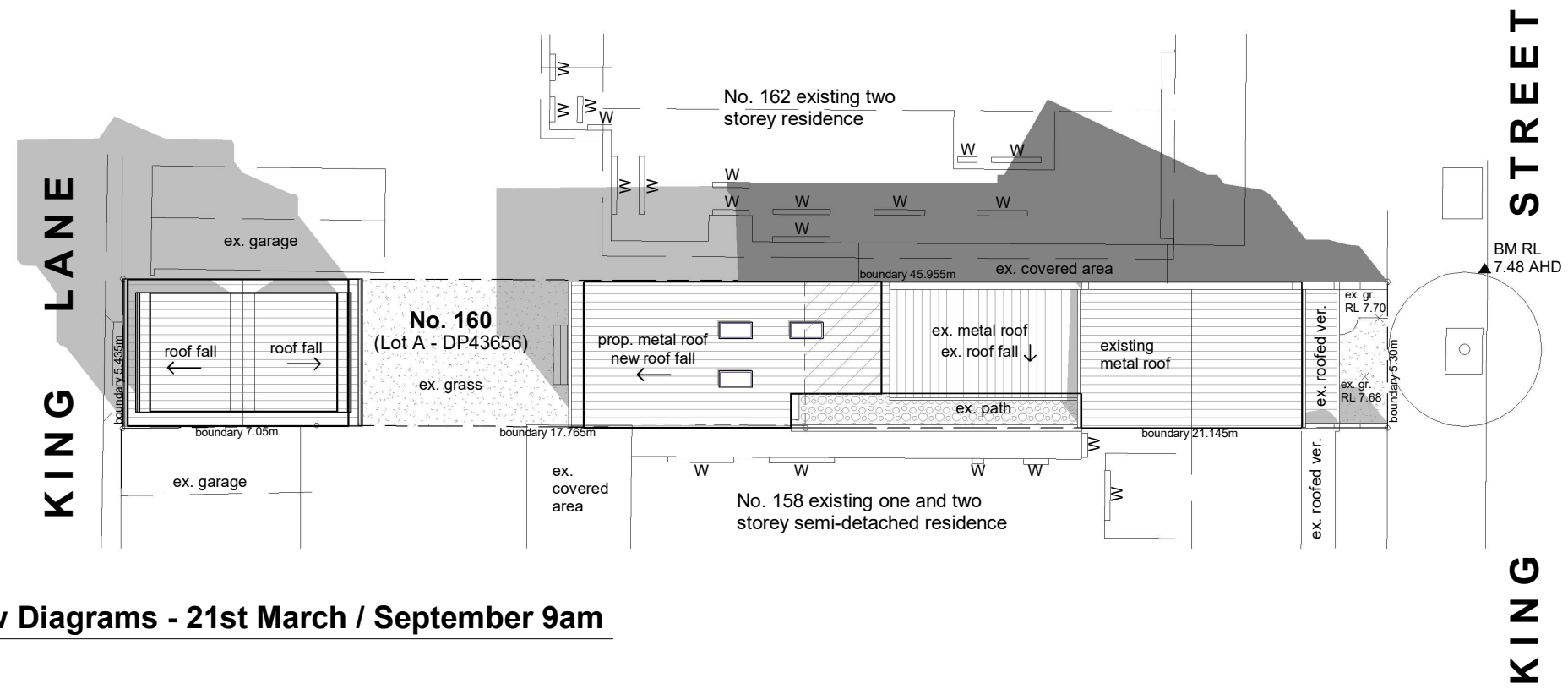
PROJECT NAME:
 proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio

SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
- DEVELOPMENT APPLICATION
- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

SCALE: 1 : 200
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: 21st June 3pm

DRAWING NUMBER
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SHEET NUMBER
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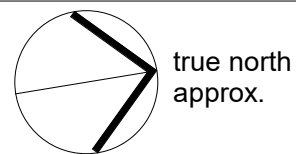


24 Shadow Diagrams - 21st March / September 9am

1 : 200

- denotes existing shadow outline
- denotes proposed shadow outline

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 ABN: 12546 685 338
 EMAIL: johnspiteridrafting@gmail.com
 BUS PH/FAX: 02 9349 6422
 MOBILE: 0419 412 299
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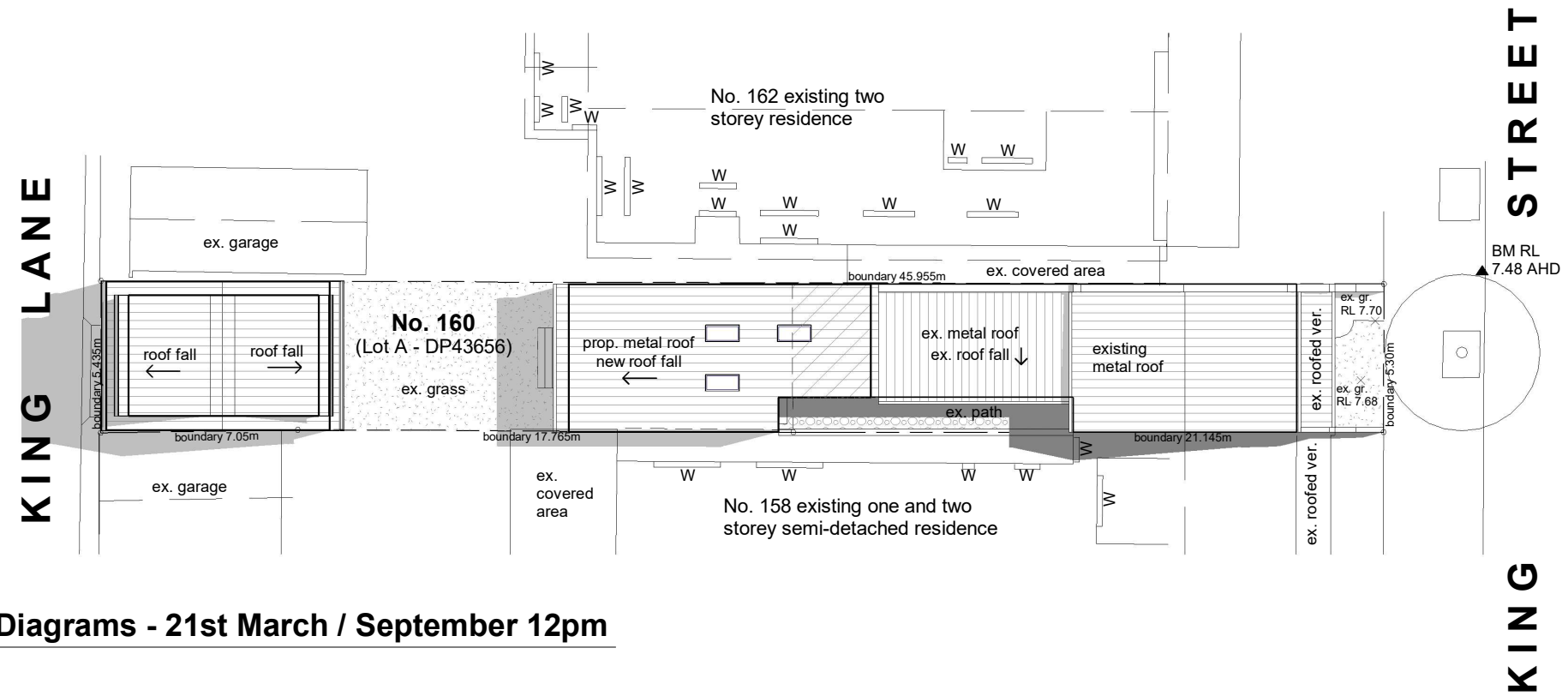
PROJECT NAME:
 proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio

SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
- DEVELOPMENT APPLICATION
- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

SCALE: 1 : 200
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: 21st Mar./Sept. 9am

DRAWING NUMBER
 23.115 A
SHEET NUMBER
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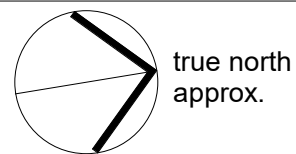


25 Shadow Diagrams - 21st March / September 12pm

1 : 200

- denotes existing shadow outline
- denotes proposed shadow outline

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 ABN: 12546 685 338
 EMAIL: johnspiteridrafting@gmail.com
 BUS PH/FAX: 02 9349 6422
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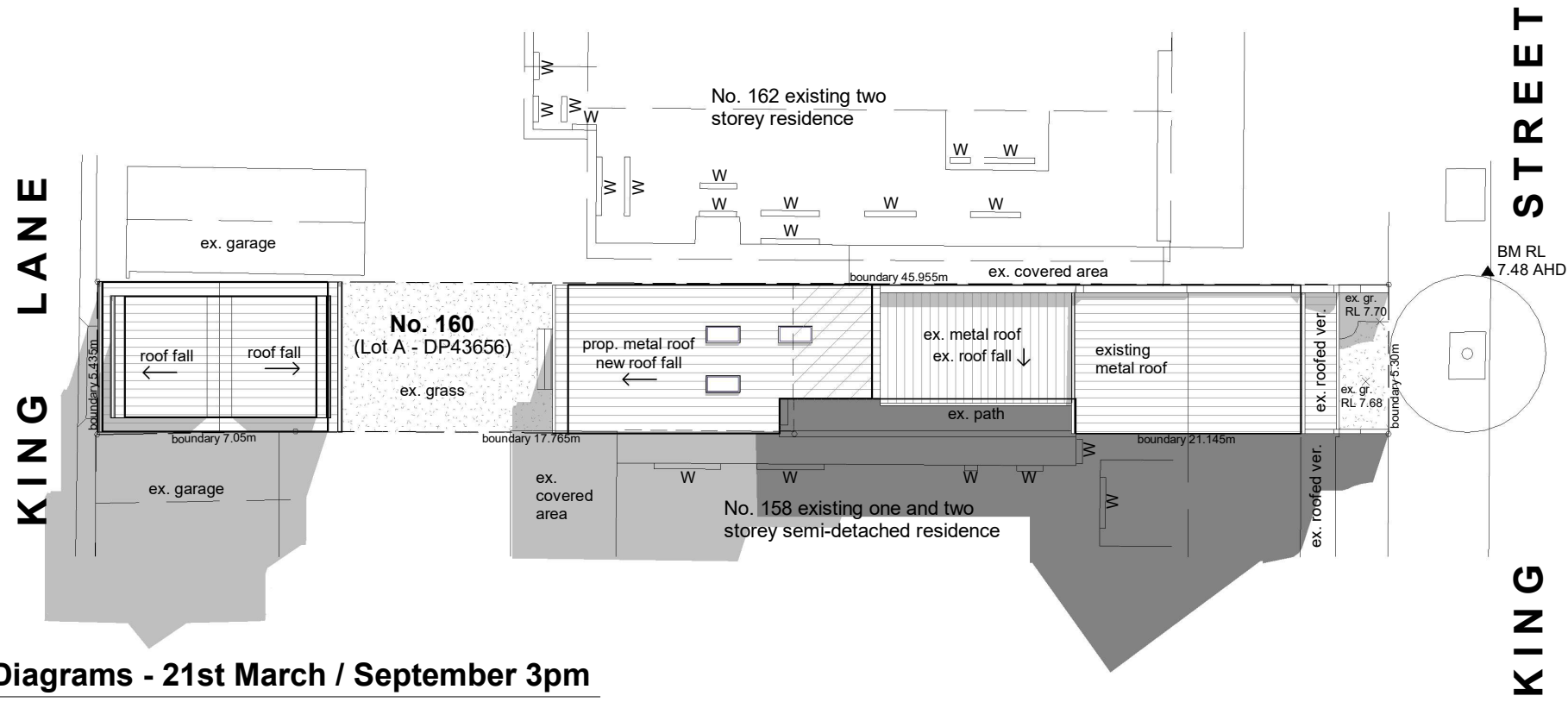
PROJECT NAME:
 proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio

SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
- DEVELOPMENT APPLICATION
- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

SCALE: 1 : 200
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: 21st Mar./Sept. 12pm

DRAWING NUMBER
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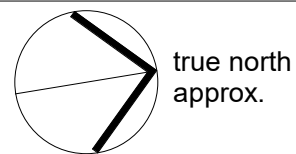


26 Shadow Diagrams - 21st March / September 3pm

1 : 200

- denotes existing shadow outline
- denotes proposed shadow outline

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 ABN: 12546 685 338
 EMAIL: johnspiteridrafting@gmail.com
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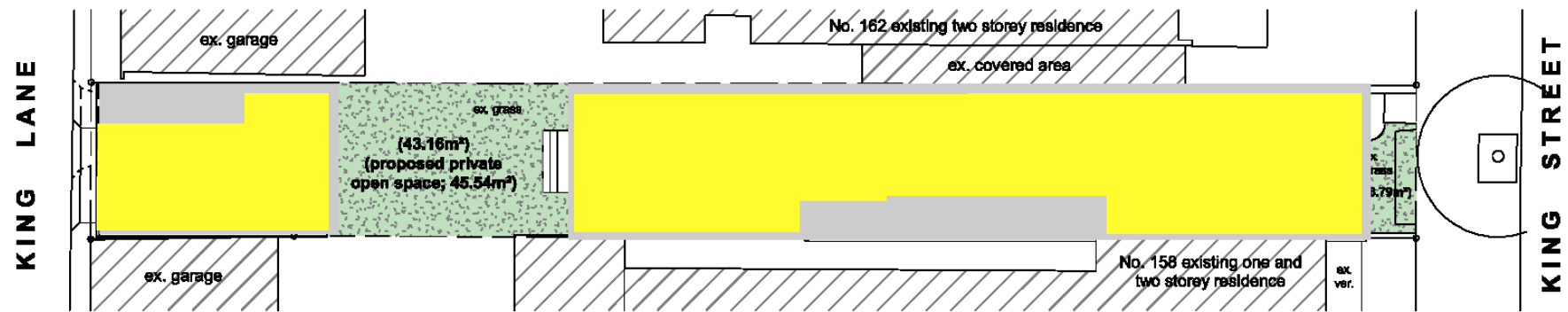
PROJECT NAME:
 proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio

SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
- DEVELOPMENT APPLICATION
- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

SCALE: 1 : 200
DATE: 08/05/2024
DRAWN BY: LS
SHEET NAME: 21st Mar./Sept. 3pm

DRAWING NUMBER
 23.115 A
SHEET NUMBER
 A18



27 Proposed Permeable Landscape Calculation Plan

1 : 200

 denotes permeable landscape area

JOHN SPITERI DESIGN AND DRAFTING
 ABN: 12546 685 338
 EMAIL: johnspiteridrafting@gmail.com
 BUS PH/FAX: 02 9349 6422
 MOBILE: 0419 412 299
 (C)



PROJECT NAME:
 proposed ground floor alterations and additions to existing attached terrace dwelling, as well as, construction of a new rear garage with attic studio

SITE: No. 160 King Street, Mascot (Lot A - DP43656)

- S4.55 () APPLICATION
- DEVELOPMENT APPLICATION
- CONSTRUCTION CERTIFICATE
- COMPLYING DEV. CERTIFICATE

SCALE: 1 : 200

DATE: 08/05/2024

DRAWN BY: LS

SHEET NAME: Prop. Perm. Landsc. Calcs.

DRAWING NUMBER
23.115 A

SHEET NUMBER
A19

STATEMENT OF HERITAGE IMPACT

Proposed Development at
160 King Street
Mascot



Job No. 10150
December 2023

Heritage21
CULTURAL BUILT HERITAGE IN THE 21ST CENTURY

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Statement of Heritage Impact 160 King Street, Mascot

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Statement of Heritage Impact 160 King Street, Mascot

Acknowledgement of Country

Heritage 21 wishes to acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and community. We pay our respects to them and their cultures and to elders both past and present.

Statement of Heritage Impact 160 King Street, Mascot

Name of the heritage item:

Terrace Group, item I322 listed under Schedule 5 of the Bayside Local Environmental Plan 2021.

Address and location:

160 King Street, Mascot

Statement of heritage impact for:

Proposed alterations and additions to 160 King Street, Mascot, which is part of a heritage-listed terrace group.

Prepared by:

Divya Joseph, MUrbanism, B.Arch.

Overseen by:

Paul Rappoport MURP BArch AIA M.ICOMOS SAHANZ IHBC IPHS
NSW Registered Architect No. 5741

Heritage 21

48/20-28 Maddox St, Alexandria NSW 2015

(02) 9519 2521

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Prepared for:

John Spiteri Drafting

Cover image: Subject site at 160 King Street, Mascot, facing south on King Street looking towards the primary facade.
(Source: Heritage 21, 23 November 2023)

The following table forms part of the quality management control undertaken by Heritage 21 regarding the monitoring of its intellectual property as issued.

Issue	Description	Date	Written by	Issued by
1	Draft report (D1) issued for comment.	14.12.2023	DJ	DJ
2	Report Issued (RI) for DA submission.	18.12.2023	DJ	DJ

Statement of Heritage Impact 160 King Street, Mascot

1.0 INTRODUCTION

1.1 Background

This Statement of Heritage Impact (“SOHI” or “report”) has been prepared on behalf of John Spiteri Drafting in the context of a new Development Application for the proposed alterations and additions to 160 King Street, Mascot (the “site” or the “subject site”).

1.2 Site Identification

The subject site at 160 King Street, Mascot, falls within the boundaries of the Bayside Council Local Government Area and comprises Lot A, DP 436563. It contains a single-storey terrace, constructed in the early 20th century and is part of a heritage-listed terrace group. The site is located on a block bound by Frogmore Street to the east, Alfred Street to the west and King Lane to the south.



Figure 1. Aerial view of the subject site and its immediate surroundings. The subject site is outlined in red (Source: NSW Spatial Services, ‘Spatial Information Exchange’ or “SIX Maps”, accessed on 01 December 2023, annotated by Heritage 21).

1.3 Heritage Context

1.3.1 Heritage Listings

The subject site is part of an item of environmental heritage listed under Schedule 5 of the *Bayside Local Environmental Plan 2021* (“BLEP 2021”). It is not listed on the NSW State Heritage Register, the

Statement of Heritage Impact 160 King Street, Mascot

National Heritage List, the Commonwealth Heritage List, the National Trust Register (NSW), or the former Register of the National Estate.¹ The details of the listings follow:

Statutory List – Legislative Requirements				
List	Item Name	Address	Significance	Item No.
Bayside Local Environmental Plan 2021	Terrace Group	150-160 King Street	Local	I322

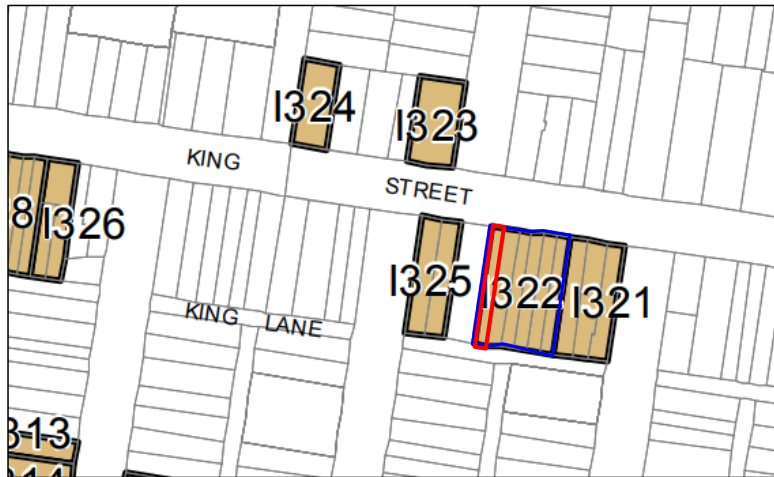


Figure 2. Detail from Heritage Map HER_008; the subject site is outlined in red; the listed terrace group which the subject site is part of is outlined in blue; and heritage items are marked brown. (Source: NSW Planning Portal, *Bayside Local Environmental Plan 2021*, <https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/bayside-local-environmental-plan-2021>, annotated by Heritage 21).

The subject site is **not** located within the boundaries of a Heritage Conservation Area under the BLEP 2021.

1.3.2 Heritage Items in the Vicinity

As depicted in Figure 2 above, the subject site is situated within the general vicinity of the following heritage items listed under Schedule 5 of the BLEP 2021. The details of the listings follow:

Item Name	Address	Significance	Item Number
House group	144–148 King Street	Local	I321
House group	164–164A King Street	Local	I325
House	151 King Street	Local	I323
House	159 King Street	Local	I324

¹ The Register of the National Estate ceased as a statutory heritage list in 2007, but it continues to exist as an inventory of Australian heritage places.

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The subject site is within the visual catchment of all the above-listed heritage items located in the vicinity.

The proposed area of development within the site is not located within the visual catchment of heritage items I323 (151 King Street) and I324 (159 King Street) nor is it considered to be sufficiently proximate to those places to warrant discussion in the Heritage Impact Assessment contained in Section 6.0 of this SOHI. Accordingly, the discussion in Section 6.0 of this SOHI of the potential heritage impact of the proposal on heritage items in the vicinity is limited to I321 (144–148 King Street) and I325 (164–164A King Street).

1.4 Purpose

The subject site is a heritage item and is located in the vicinity of other heritage items, all of which are/which is listed under Schedule 5 of the BLEP 2021. Sections 5.10(4) and 5.10(5) of the BLEP 2021 require Bayside Council to assess the potential heritage impact of non-exempt development, such as the proposed works (refer to Section 5.0), on the heritage significance of the abovementioned heritage items and, also, to assess the extent (whether negative, neutral or positive) to which the proposal would impact the heritage significance of those heritage items. This assessment is carried out in Section 6.0 below.

Accordingly, this SOHI provides the necessary information for Council to make an assessment of the proposal on heritage grounds.

1.5 Methodology

The methodology used in this SOHI is consistent with *Guidelines for preparing a statement of heritage impact* (2023) and *Assessing heritage significance* (2023) published by the NSW Department of Planning and Environment, and has been prepared in accordance with the principles contained in the 2013 edition of *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*.

1.6 Limitations

- This SOHI is based upon an assessment of the heritage issues only and does not purport 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 Council's planning 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 SOHI essentially relies on secondary sources. Primary research has not necessarily been included in this report, other than the general assessment of the physical evidence on site.
- Heritage 21 has not inspected the internal areas of the subject site, as access was not gained into the subject building. However, Heritage 21 has carried out a visual inspection of the external areas and fabric. The internal photograph of the existing kitchen has been provided

Statement of Heritage Impact 160 King Street, Mascot

by John Spiteri Drafting. Noting that the proposal is limited only to the alteration of the rear, non-original kitchen, Heritage 21 was able to carry out the required assessment.

- 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.
- It is beyond the scope of this report to assess items of movable heritage.
- Any specifics regarding views should be assessed by a view expert. Heritage 21 does not consider itself to be a view expert and any comments in this report are opinion based.
- Heritage 21 has only assessed aspects of the subject site that were visually apparent and not blocked or closed or to which access was not given or was barred, obstructed or unsafe on the day of the arranged inspection.

1.7 Copyright

Heritage 21 holds copyright for this report. Any reference to or copying of the report or information contained in it must be referenced and acknowledged, stating the full name and date of the report as well as Heritage 21's authorship.

2.0 HISTORICAL CONTEXT

The following history of the heritage-listed terrace group is extracted from the NSW State Heritage Inventory:²

The property is located within Henry Hollinshed's 53 acre grant issued on 27 July 1839. This grant was purchased as Lot 30 (later known as Lot 10) of the Crown subdivision of the area between Gardeners Road and the Botany Swamps. Hollinshed and his family lived on the property, which he named Frogmore Hollow, and farmed the land until his death in 1866, after which it was purchased in its entirety by John Hardie (1873). The 1883 Water Board Detail Sheets for the area show that it remained in agricultural use, with two cottages and several sheds, plus drainage channels and fences, but no evidence of any more intensive land uses. In 1886 an application was made under the Real Property Act to convert the property to Torrens Title (app.6656) and it was subdivided into 265 residential allotments in 10 sections in 1887 (DP1873). The subdivision was released for residential development as "Hollinshed's South Waterloo" subdivision on 27 November 1886 with the southernmost lots being released first, soon followed by the balance. In 1892, the residue of unsold allotments in the estate were registered on Certificate of Title Volume 1046 Folio 18 in the name of John Hardie. The 1893 Water Board Detail Sheet (which includes revisions made in 1910) shows that development had been steady, with approximately half the lots occupied. This steady pace of settlement continued and by 1943 the pattern of development was almost complete, with few vacant lots remaining.

The group was first listed in the Sands Directory in 1903. The listings in the Directory were often up to one year behind, suggesting that the house was constructed 1902. The Sands Directories reveal a complex and fluid pattern of occupancy in the group and street.

The Sands Directory lists the following residents in the group between 1903 and 1933: (Note that the years marked with an asterisk indicate an inconclusive listing)

*No.150
1903 - 1912: Christopher Wilson
1913 - 1930: James Wing
1931: John Ross
1932/33: Alfred McKinan*

No.152

² Heritage NSW, State Heritage Inventory, "Terrace Group", Heritage item ID: 1210148, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210148>

Statement of Heritage Impact 160 King Street, Mascot

1903 - 1906: * (possibly John Robinson or William S. Andrew)

1907 - 1908: * (possibly Harry Wilson)

1909 - 1912: James Bennett

1913 - John Murray

1914 - 1923: John A. Bell

1924: Robert Harris

1925 - 1927: Alfred Cleeson

1928 - 1933: Edward Wilson, junr.

No.154

1903 - 1907: * (possibly William Charles/William S. Andrew/Harry Wilson)

1909: Peter Riley

1910: Edis Byron Pidding

1911: James Lees

1912: A.T. Bennett

1913 - 1915: Matthew Douglas

1916 - 1933: Edward L. Wilson

No.156

1903 - 1904: * (possibly William Johnson/Charles R. Culley)

1905 - 1915: John T. Butterfield (Butterfield owned Butterfield's Chemist located at the south-western corner of King Street and Botany Road from 1909 to 1935. The site was purchased by Mr F.M.Davidson who continued the pharmaceutical use, however the 1909 building was demolished to make way for the widening of Botany Road in the 1960s.)

1916: Thomas Harrison

1917: James Field

1918 - 1926: Henry Flood

1927 - 1933: Harold Flood

No.158

1903 - 1905: * (possibly William Johnson/Charles R. Culley)

1906: John Jordan

1907 - 1908: David McDonald

1909: not listed

1910: William White

1911 - 1912: Ernest Liversidge

1913 - 1915: Henry Douglas

1916: Charles J. Douglas

1917: Arthur Wilkinson

1918 - 1919: Arthur Asquith

1920 - 1929: Charles F. Dowe/Dowse

Statement of Heritage Impact 160 King Street, Mascot

1930: 'Matchet'

1931 - 1933: Alexander Johnston

No.160

1903 - 1904: * (possibly William Johnson/Charles R. Culley)

1905: not listed

1906 - 1908: William E. Davies

1909 - 1913: Stephen Taylor

1914 - 1919: Percy Hahn

1920 - 1921: Thomas J. McClner (spelling unclear)

1922 - 1924: Leslie Mead

1925 - 1933: Herbert Bennett

A comparison of historical aerial images available on the NSW Spatial Services website shows the major the external alterations that have been made to the rear of subject site between 1945 – 2005. As seen in the 1943 aerial image (refer to Figure 3) the terrace group exhibits a uniform rear line with chimneys to the rear portion of the dwelling. An outbuilding is also noted near the south-eastern corner. By 1955, the building is extended to the rear. No other alterations are noted to the built form in 1955 (refer to Figure 4). By the 1980s the rear portion of the dwelling has undergone further alterations, and the rear chimney is demolished. The roof was replaced, and a garage is added along King Lane (refer to Figure 5). No other major alterations are noted to the 2005 aerial image. The contemporary aerial shows further alterations to the rear of the primary dwelling, where the c.1955 extension is demolished and the new kitchen is added, extending the footprint of the building.

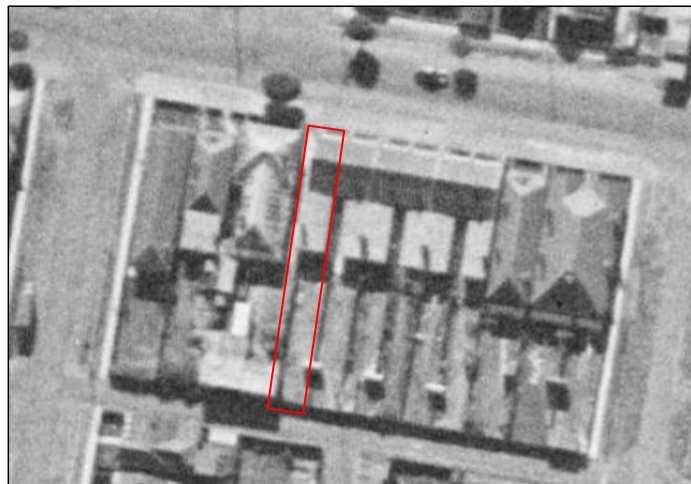


Figure 3. 1943 aerial image of the site, which is outlined in red. Note the extent of the building (Source: SIX Maps, annotated by Heritage 21).

Statement of Heritage Impact 160 King Street, Mascot



Figure 4. 1955 aerial image of the site, which is outlined in red. Note the addition to the rear of the building indicated by the yellow arrow (Source: NSW Spatial Services, Historical Imagery Viewer, accessed 11 December 2023, annotated by Heritage 21).



Figure 5. 1986 aerial image of the site, which is outlined in red. Note the alterations to the rear – demolition of the chimney and new roof; garage added along King Lane (Source: NSW Spatial Services, Historical Imagery Viewer, accessed 11 December 2023, annotated by Heritage 21).

Statement of Heritage Impact 160 King Street, Mascot



Figure 6. 2005 aerial image of the site, which is outlined in red. No other major alterations are noted (Source: NSW Spatial Services, Historical Imagery Viewer, accessed 11 December 2023, annotated by Heritage 21).



Figure 7. Contemporary aerial view of the site, which is outlined in red. The rear addition to the primary building has been demolished and the building has extended further to the south (Source: Source: SIX Maps, annotated by Heritage 21).

3.0 PHYSICAL EVIDENCE

3.1 The Setting

The site is located at 160 King Street, Mascot. The suburb of Mascot is located approximately 7 kilometres south of the Sydney Central Business District. King Street demonstrates a suburban character with low rise residential dwellings, which are predominantly single storey, mansion style developments. Architectural character along the street is varied with Late Victorian style terraces, Federation and Inter War dwellings and a few contemporary additions. Uniform, fine grain development with low front boundary walls and gardens add to the character of the streetscape. Street trees are common and add to the garden setting of the developments.

3.2 Physical Description

The following history of the heritage-listed terrace group is extracted from the NSW State Heritage Inventory:³

A six-bay, single story terrace in the Victorian Italianate style which is grouped into three symmetrical pairs which are marked by the firewalls that extend above the roof plane and extend to divide the front gardens, creating a strongly expressed and intact streetscape rhythm. The central pair has retained their original ridge-top chimneys, further enhancing the quality of views over the terrace. None have retained their original roof cladding, all roofs now being colourbond or similar sheeting.

The facades of the individual terraces vary in their level of intactness, no.152 retaining much of its original fabric; with windows, mouldings, door, tiling, palisade fence and bullnosed profile to the verandah roof intact. The two adjacent terraces (150 and 154) have also retained a high level of fabric integrity. The others in the group have undergone less sympathetic alterations to their street elevations, but still make an important contribution to the streetscape value of the group through the integrity of their overall form. Two have lace decorative fringes to their verandahs.

Rear elevations are characteristic of their type and provide evidence of individual approaches to the need for additional space by different users over the years. Most have retained their original 'tunnel back' footprint. The terrace backs onto King Lane but legibility of the group from the lane is largely obscured by the row of garages that line this elevation.

Modifications

³ Heritage NSW, State Heritage Inventory, "Terrace Group", Heritage item ID: 1210148, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210148>

Statement of Heritage Impact 160 King Street, Mascot

160: window removed and replaced by aluminium-framed horizontal sliding window; fence replaced by low rendered masonry wall with decorative panel and matching gate; new paving; verandah detailing removed (?)

The subject site at 160 King Street is single storey terrace, constructed in the Victorian Italianate style and is located at the western end of the listed terrace group. Originally constructed as a pair – 158 and 160 King Street – the primary façade of the subject building has been altered and much of the original, matching features have been lost. The curved awning is replaced by a flat, skillion and is a highly distinctive difference. Other alterations to the primary façades of the pair in comparison to the more intact terraces of the group (150 and 152 King Street) include the alterations to the front boundary fence, windows and the demolition of the chimneys presenting to King Street.

The rear portion of the site exhibits a long and narrow yard. The c.1980s garage is a narrow, single storey structure with a skillion roof and is currently used as a storage shed. No significant trees or landscaping elements are noted within the rear yard.

3.3 Images

The following photographs have been taken by Heritage 21 at the site inspection undertaken on 23 November 2023, unless stated otherwise.

Note: Heritage 21 has not inspected the internal areas of the subject dwelling as access was not available. It is also to be noted that the proposal is limited only to the rear, c.2000 extension of the dwelling, and an interior photograph of this area has been provided by John Spiteri Drafting.



Figure 8. External view to the primary elevation of the subject site, facing south on King Street.



Figure 9. External view to the rear elevation of the subject site, facing south on King Lane.

Statement of Heritage Impact 160 King Street, Mascot



Figure 10. External view looking towards the rear portion of the subject dwelling, facing north from within the subject site.



Figure 11. External view looking towards the garage and rear fence, facing south from within the subject site.



Figure 12. External view looking towards the rear wall of the c.2000 extension, facing north from within the site.

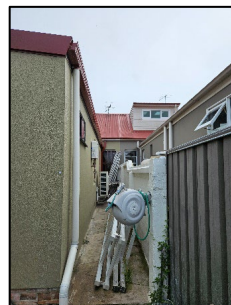


Figure 13. External view looking towards the eastern setback area, facing north from within the site.



Figure 14. External view to the rear portion of 162 King Street, located to the west of the subject site, facing north-west from within the site.



Figure 15. External view to the rear portion of 158 King Street, located to the east of the subject site, facing north-east from within the site. Note the contemporary extensions to the rear of the terrace pair.

Statement of Heritage Impact 160 King Street, Mascot

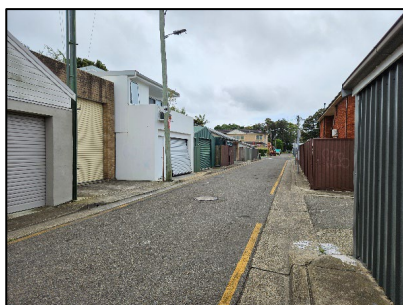


Figure 16. Streetscape view along King Lane, facing east.

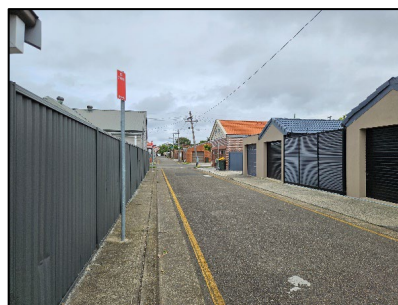


Figure 17. Streetscape view along King Lane, facing west.



Figure 18. Internal view of the c.2000 extension, which accommodates the exiting kitchen. Note the contemporary fabric (Source: John Spiteri Drafting, received by Heritage 21 on 05.12.2023).

4.0 HERITAGE SIGNIFICANCE

In order to assess the impact of the proposed works on the heritage significance of the subject site and heritage items in the vicinity of the site, it is necessary to first ascertain the heritage significance of these places. Accordingly, Statements of Significance for the subject site (refer to Section 4.1.1), item I321 (144–148 King Street) and I325 (164–164A King Street) are provided in Section 4.1.2 and Section 4.1.3 below. The significance of these places will form part of our considerations in the assessment of heritage impact, undertaken in Section 6.0 below.

4.1 Established Significance

4.1.1 The Subject Site (Item I322)

The following Statement of Significance is available for the site on the State Heritage Inventory:⁴

The terrace at 150-160 King Street Mascot is significant in the history of the development of the local area. It forms a substantially intact group from the early 20th century that continues to provide readily interpretable evidence of this traditional form of modest housing in the Mascot area. The group is aesthetically significant for its very good streetscape quality within the context of development in the Mascot area, including the distinctive attributes of its single-storey roof form with prominent and intact chimney stacks to the central pair and a high level of integrity to its streetscape rhythms to both front and rear elevations. It has retained a high degree of consistency as a group, with each property contributing to the heritage significance of the whole, despite alterations and additions to individual properties. The properties have retained their spatial and aesthetic integrity as a medium density suburban cultural landscape, with narrow setbacks to the street boundary and planted rear garden spaces contributing to the heritage values of the group. The group also provides physical evidence of the practice of small-scale land speculation and development in Mascot at the turn of the 20th century.

4.1.2 I321 (144–148 King Street)

The following Statement of Significance for item I321 – *House group* – is available on the State Heritage Inventory:⁵

The properties 144-148 King Street Mascot form a group that is significant in the history of the development of the area as a collection of well-built and substantially intact but modestly scaled Federation houses in their original settings that provide evidence of the pattern of development in Mascot in the early 20th century. The properties have retained their spatial and aesthetic integrity as a medium density suburban cultural landscape, with narrow but planted setbacks to

⁴ Heritage NSW, State Heritage Inventory, "Terrace group," Heritage Item ID: 1210148, accessed 11 December 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210148>.

⁵ Heritage NSW, State Heritage Inventory, "House group," Heritage Item ID: 1210147, accessed 11 December 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210147>

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the street boundary and planted rear garden spaces contributing to the heritage values of the group.

The group is also aesthetically significant to the local area as a very good group of substantially intact Federation cottages which make an important contribution to the streetscapes of King and Frogmore Streets.

The individual properties, which include a pair of semi-detached cottages and a detached house demonstrates a very strong familial reference and high quality detailing in a well-resolved composition that is both representative of the domestic Federation style and also rare in the context of the local area.

4.1.3 I325 (164–164A King Street)

The following Statement of Significance for item I321 is available on the State Heritage Inventory:⁶

The group item, which includes 164 and 164A King Street, Mascot (both the houses and their curtilage) is significant in the history of the development of the area as good and substantially intact cottages from the early decades of the 20th century built following the 1886 subdivision of Henry Hollinshed's South Waterloo Estate. Both properties are substantially intact to the King Street elevation and sensitively altered to the rear; although some fabric to 164A has been replaced. The two properties provide readily interpretable evidence of the traditional pattern of residential development in Mascot. The properties are also aesthetically significant for the integrity of original form, fabric and detailing, including original doors, windows, chimney and architectural elements and the distinctive front fence across the two properties. The item has retained its spatial and aesthetic integrity as a suburban cultural landscape, with planted front and rear garden spaces contributing to the heritage values of the property. Exterior alterations and additions have been modest and have not impacted on the overall heritage significance of the Group. The properties make a significant contribution to the streetscapes of King and Alfred Streets.

4.2 The Proposed Work Area

The proposed works, described below in Section 5.0, would be confined to the rear portions of the site, with alterations to the c.1980s garage, c.2000 extension and the rear yard and fence. The statement of significance for the subject site available on the State Heritage Inventory does not mention the particular significance of this element. Accordingly, an assessment of the gradings of significance of the various elements of the subject site is conducted in the sub-section below.

⁶ Heritage NSW, State Heritage Inventory, "House group," Heritage Item ID: 1210151, accessed 11 December 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=1210151>

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4.2.1 Grading of Significance

Different components of a place may make a different relative contribution to its heritage value. Loss of integrity or condition may diminish significance. In some cases, it may be useful to specify the relative contribution of an item or its components.

To demonstrate how the c.1980s garage, c.2000 extension, the rear yard and fence contribute to the overall significance of the site, Heritage 21 has prepared the following diagram of the relative significance of the site’s various rooms.

The gradings are those adopted by the NSW Department of Planning and Environment in their guidelines for assessing heritage significance.

GRADING	JUSTIFICATION
Exceptional	Rare or outstanding item of Local or State significance. High degree of intactness. Item can be interpreted relatively easily.
High	High degree of original fabric. Demonstrates a key element of the item’s significance. Alterations do not detract from significance.
Moderate	Altered or modified elements. Elements with little heritage value, but which contribute to the overall significance of the item.
Little	Alterations detract from significance. Difficult to interpret.
Intrusive	Damaging to the item’s heritage significance.

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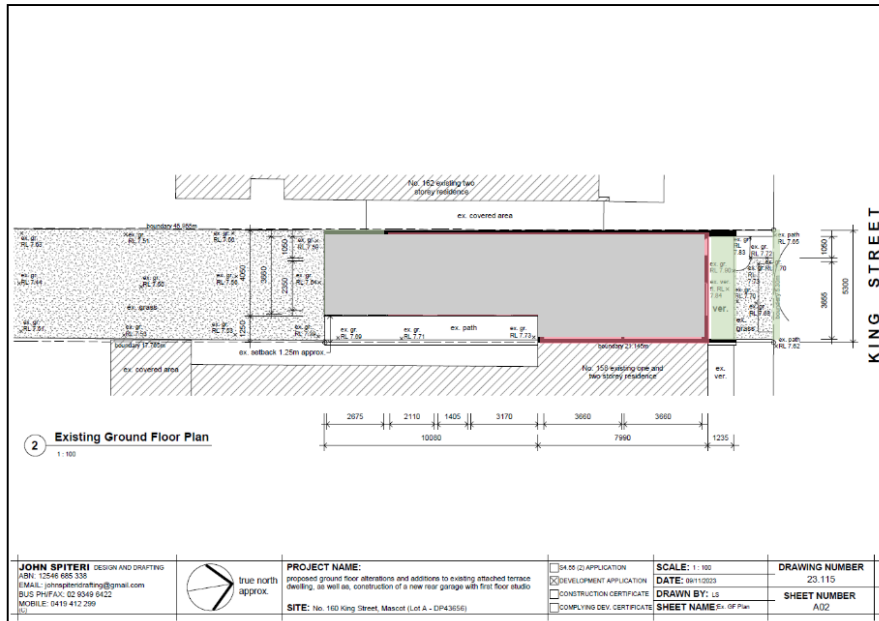


Figure 19. Grading of significance for the subject dwelling and site (Source: John Spiteri Drafting, annotated by Heritage 21)

5.0 WORKS PROPOSED

5.1 Proposal Description

The proposed development would include:

Demolition

- Demolition of the c.2000 rear extension, accommodating the existing kitchen; and
- Demolition of c.1980s garage and adjoining metal fence presenting to King Lane.

Proposed Additions

- Extension of the primary dwelling towards the south to accommodate the new kitchen and living areas;
- New steps and landing to the rear yard;
- New garage presenting to King lane; and
- New studio to be constructed above the proposed garage.

5.2 Drawings

Our assessment of the proposal is based on the following drawings by John Spiteri Drafting dated 09 November 2023 and received by Heritage 21 on 09 and received by Heritage 21 on 06 December 2023. These are reproduced below for reference only; the full set of drawings accompanying the development application should be referred to for any details.

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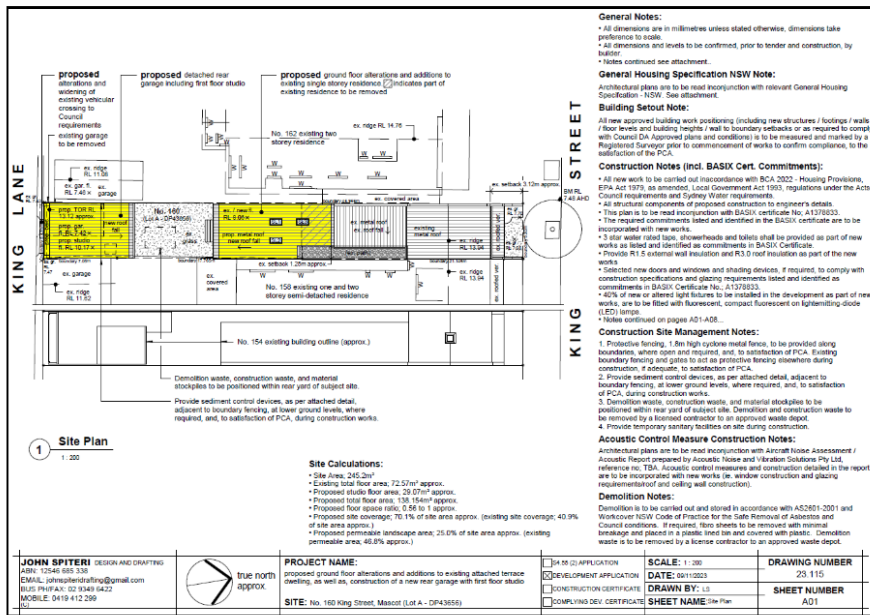


Figure 20. Proposed site plan.

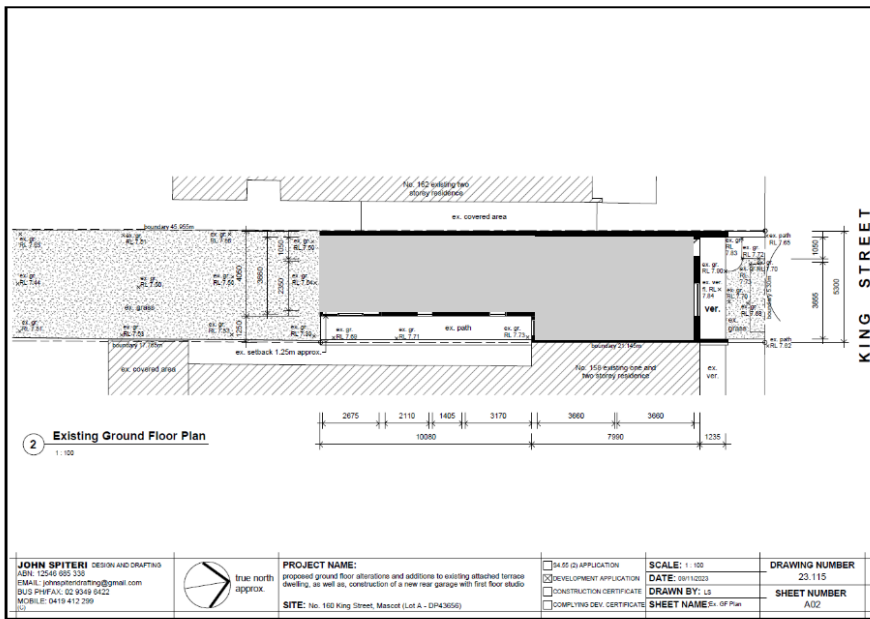


Figure 21. Existing floor plan.

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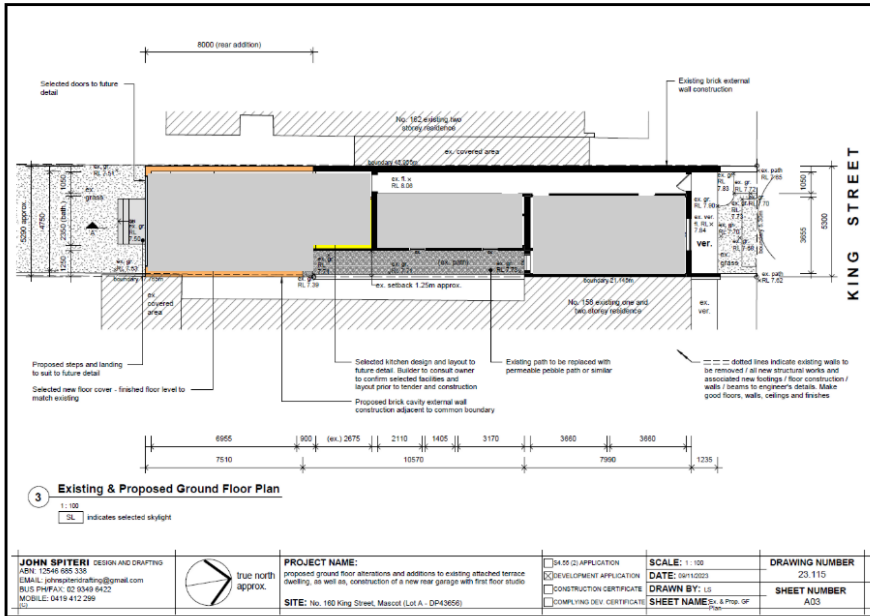


Figure 22. Proposed floor plan.

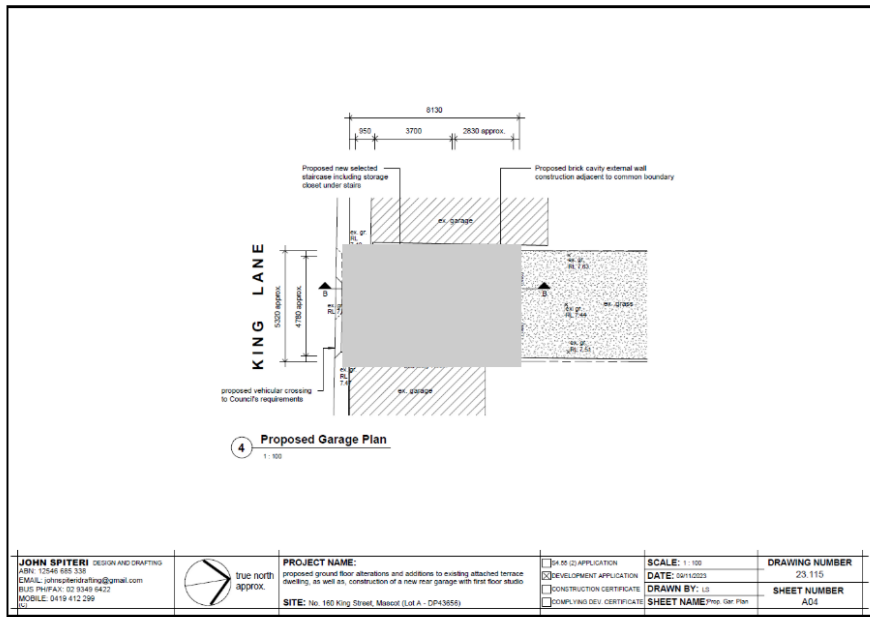


Figure 23. Proposed garage plan.

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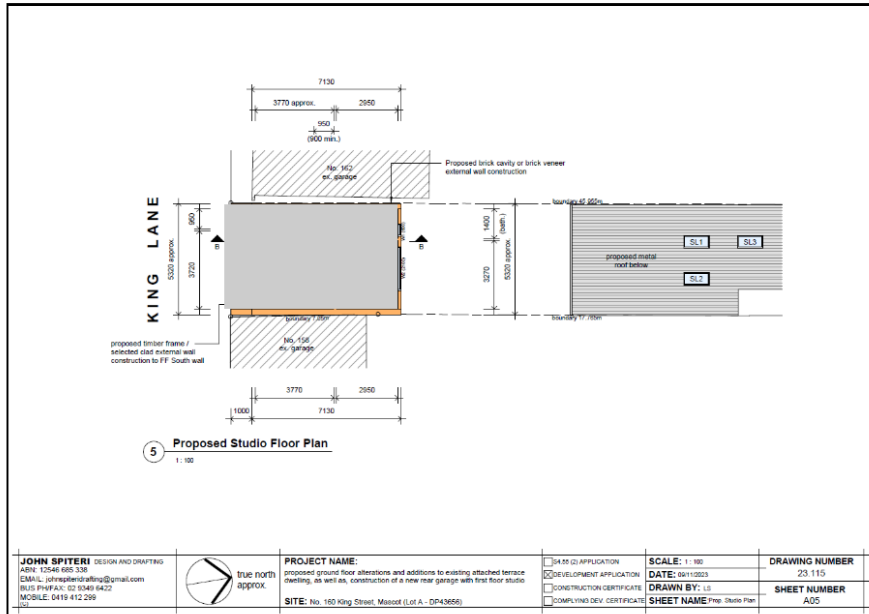


Figure 24. Proposed studio floor plan.

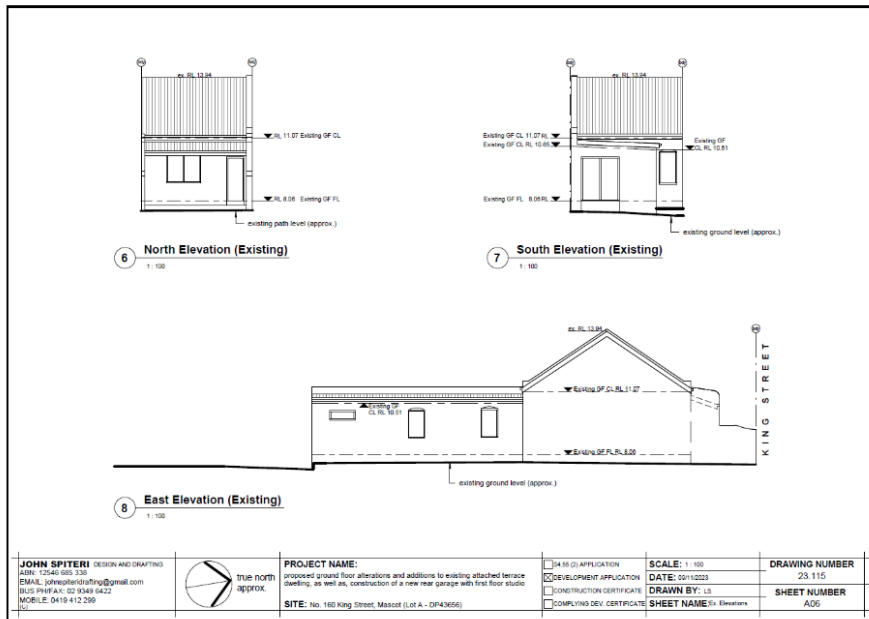


Figure 25. Existing elevations.

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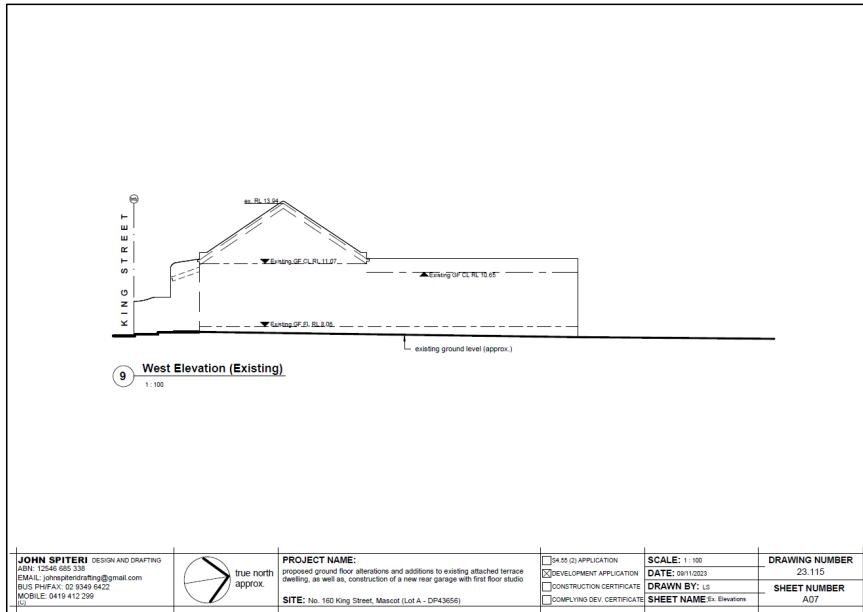


Figure 26. Existing elevations.

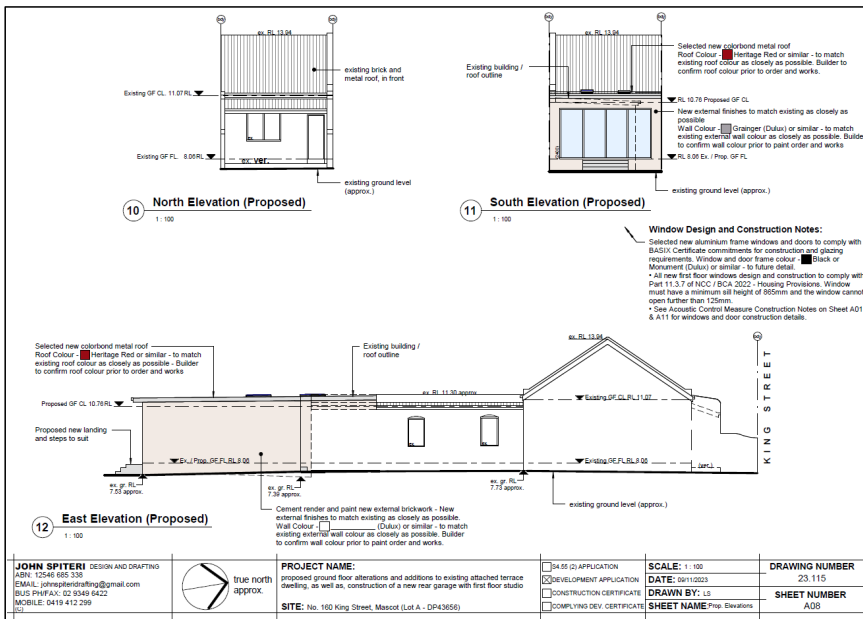


Figure 27. Proposed elevations.

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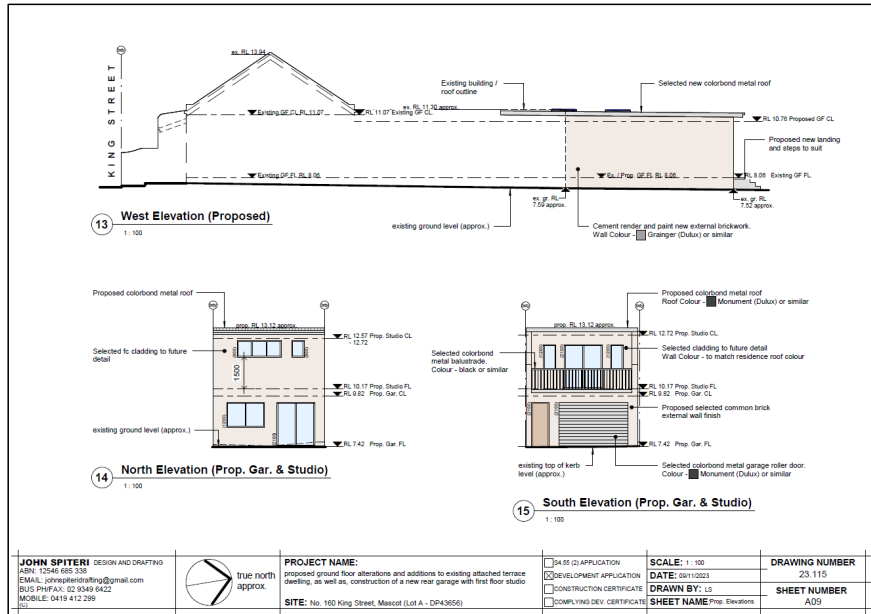


Figure 28. Proposed elevations.

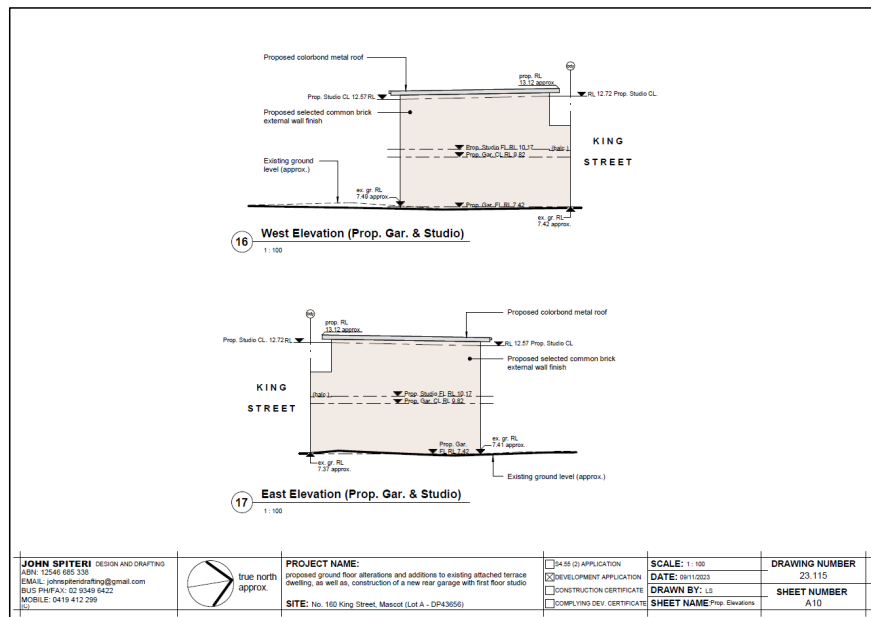


Figure 29. Proposed elevations.

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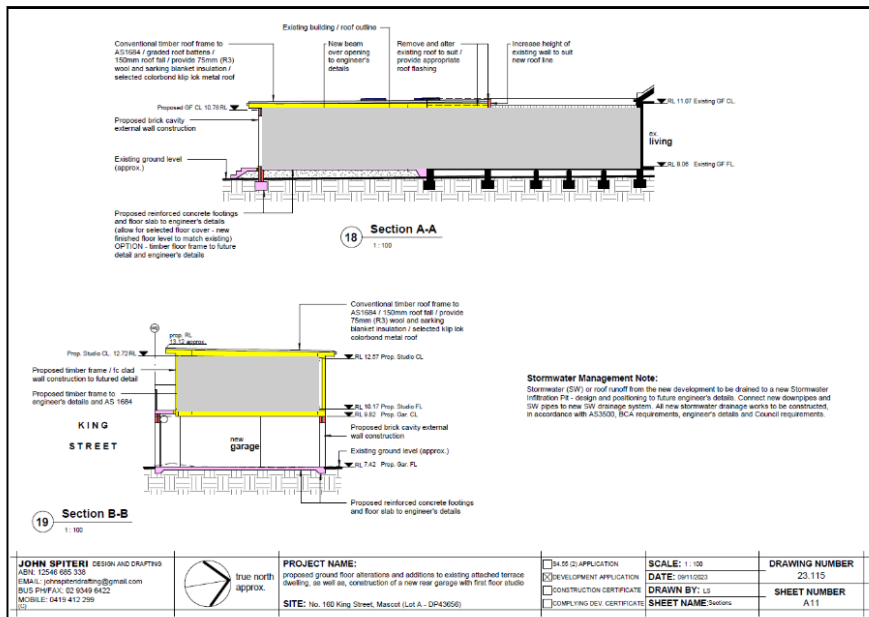


Figure 30. Proposed sections.

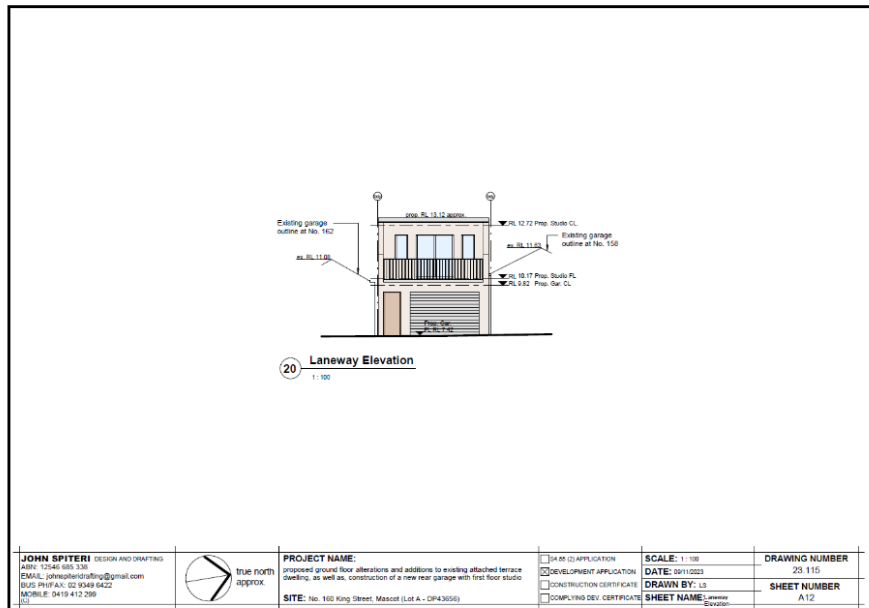


Figure 31. Proposed laneway elevation.

6.0 ASSESSMENT OF HERITAGE IMPACT

6.1 Heritage Management Framework

Below we outline the heritage-related statutory and non-statutory constraints applicable to the subject site including the objectives, controls and considerations which are relevant to the proposed development as described in Section 5.0 above. These constraints and requirements form the basis of this Heritage Impact Assessment.

6.1.1 Bayside Local Environmental Plan 2021

The statutory heritage conservation requirements contained in Section 5.10 of the *Bayside Local Environmental Plan 2021* ("BLEP 2021") are pertinent to any heritage impact assessment for future development on the subject site. The relevant clauses for the site and proposal are outlined below:

- (1) Objectives
- (2) Requirement for consent
- (4) Effect of proposed development on heritage significance
- (5) Heritage assessment

6.1.2 Bayside Development Control Plan 2022

Our assessment of heritage impact also considers the heritage-related sections of the Bayide Development Control Plan 2022 ("BDCP 2022") that are pertinent to the subject site and proposed development. These include:

3. General Development Provisions

3.4 Heritage

3.4.4 European Heritage Items

6.1.3 NSW Department of Planning and Environment Guidelines

In its guidelines for the preparation of Statements of Heritage Impact, the NSW Department of Planning and Environment provides a list of considerations in the form of questions aiming at directing and triggering heritage impact assessments.⁷ These are divided into sections to match the different types of proposals that may occur on a heritage item, item in a heritage conservation area or in the vicinity of heritage. Below are listed the considerations which are most relevant to the proposed development as outlined in Section 5.0 of this report.

⁷ Department of Planning and Environment, *Guidelines for preparing a statement of heritage impact* (Paramatta: Department of Planning and Environment, NSW Government, 2023), <https://www.environment.nsw.gov.au/research-and-publications/publications-search/statements-of-heritage-impact>.

Partial demolition of a heritage item (including internal elements)

- *Is the partial demolition essential for the heritage item to function?*
- *If partial demolition is proposed because of the condition of the fabric, can the fabric be repaired?*
- *Are important features and elements of the heritage item affected by the proposed partial demolition (e.g. fireplaces in buildings)?*
- *Will the proposed partial demolition have a detrimental effect or pose a risk to the heritage item and its significance? If yes, what measures are proposed to avoid/mitigate the impact?*
- *Identify and include advice about how significant elements, if removed by the proposal, will be salvaged and reused.*

Alterations and additions

- *Do the proposed works comply with Article 22 of The Burra Charter, specifically Practice note article 22 — new work (Australia ICOMOS 2013b)?*
- *Are the proposed alterations/additions sympathetic to the heritage item? In what way (e.g. form, proportion, scale, design, materials)?*
- *Will the proposed works impact on the significant fabric, design or layout, significant garden setting, landscape and trees or on the heritage item's setting or any significant views?*
- *How have the impact of the alterations/additions on the heritage item been minimised?*
- *Are the additions sited on any known or potentially significant archaeological relics? If yes, has specialist advice from archaeologists been sought? How will the impact be avoided or mitigated?*

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6.2 Heritage Impact Assessment

Below we assess the impact that the proposed development would have upon the subject site and the heritage items in the vicinity. This assessment is based upon the Historical Context (refer to Section 2.0), the Physical Evidence (refer to Section 3.0), Heritage Significance (refer to Section 4.0) the Proposal (refer to Section 5.0), a review of the Heritage Management Framework (refer to Section 6.1) and the impact of the proposal on the relevant heritage items situated in the vicinity of the site (refer to Sections 1.3).

6.2.1 Impact Assessment Against the BLEP 2021

The statutory heritage conservation requirements contained in Section 5.10 of the BLEP 2021 are pertinent to any heritage impact assessment for future development on the subject site. We assess the proposal against the relevant clauses below.

CLAUSE	ASSESSMENT
(1) Objectives	<p>The subject site part of a heritage-listed group of terraces – item I322 – listed under Schedule 5 of the BLEP 2021. It is also location in the vicinity of other heritage-listed items.</p> <p>The proposed development would include alterations and additions to the subject site, including the extension of the primary dwelling to the rear, and the addition of a new garage plus studio building presenting to King Lane. It is Heritage 21’s general assessment that proposed works would not engender a negative impact on the significance of the subject site as it would be restricted to later addition fabric, and would be concentrated to the rear portions of the site. The proposed siting, scale and form of the rear additions would ensure that the alterations remain sympathetic to the significance of the heritage item, and would not alter the presentation of the building along King Street. It is also noted that, although the existing presentation of the site to King Lane would be altered, the proposed addition of a garage with attached studio above, would not be uncommon within the King Lane streetscape, and would be in keeping with the pattern of development noted to the general surrounding area.</p> <p>As such, the proposal would be in keeping with the heritage objectives of the BLEP 2021 and would not engender a negative impact on the significance of the site, the heritage-listed terrace group or the significant streetscapes.</p>
(2) Requirement for consent	<p>This Development Application is lodged to Bayside Council to gain consent for the works proposed to a heritage item, which is also in vicinity of other heritage items, and is listed under Schedule 5 of the BLEP 2021.</p>
(4) Effect of proposed development on heritage significance	<p>This Statement of Heritage Impact accompanies the Development Application in order to enable the Bayside Council, as the consent authority, to ascertain the extent to which the proposal would affect the heritage significance of the heritage items located in the vicinity of the site.</p>
(5) Heritage assessment	<p>This Statement of Heritage Impact accompanies the Development Application in order to enable the Bayside Council, as the consent authority, to ascertain the extent to which the proposal would affect the heritage significance of the heritage items located in the vicinity of the site.</p>

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6.2.2 Impact Assessment Against the BDCP 2022

3 GENERAL DEVELOPMENT PROVISIONS	
3.4 Heritage	
3.4.4 European Heritage Items	
Controls - General	Assessment
<p><i>C2 Development of a heritage item must:</i></p> <ul style="list-style-type: none"> <i>a. protect the setting of the heritage item</i> <i>b. retain the significant internal and external fabric and recycle, repurpose and re-use fabric and building elements</i> <i>c. avoid ‘facadism’ by retaining all significant elements of the building including the structure, floor, roof, floor and wall framing, fittings and finishes, fabric and materials (including the interior when it is of significance)</i> <i>d. remove unsympathetic elements where they are directly affected by the development.</i> <i>e. reinstatement of missing building elements and details is encouraged but should be based on evidence and not conjecture.</i> <i>f. use materials, finishes and colours that are appropriate to the architecture, style and age of the heritage item</i> <i>g. reflect the dimensions, pattern and style of original window and door openings when creating new openings</i> <i>h. maintain and repair the building in order to keep the heritage item in good condition</i> 	<p>The proposed demolition works would be limited to the c.2000 kitchen extension located to the rear of the primary dwelling; and the demolition of the c.1980s garage and metal fence presenting to King Lane. As seen in Figure 19, the items proposed for demolition are identified as elements of little significance. The proposed demolition works, as such, would not remove any fabric of high significance.</p> <p>The proposed additions would be concentrated to the rear portion of the site, with the new kitchen and living areas installed to the rear of the primary dwelling. The proposed garage and studio addition would be a stand alone building along King Lane. As seen in 5.2 above, the proposed design, materials and finishes of the new additions would be contemporary and discernible are new. These additions do not imitate any heritage details, and would be a sympathetic to the primary dwelling in this regard. Further, the design also maintains legibility of the original form by maintaining the eastern (side) setback up to the original rear building line. It is noted that the new extension would span the entire width of the site, which also creates the distinction between the old and the new.</p> <p>The colour of the roofing sheets proposed above the extension would incorporate a match the existing red colour, and would not engender any negative visual impacts.</p> <p>The proposed garage with new studio above would be a contemporary addition to the King Lane streetscape. However, similar typology of developments are not uncommon within this streetscape, and the proposed addition would not engender any negative visual impacts on this streetscape.</p> <p>No works are currently proposed to the primary façade or the front sections of the dwelling, to warrant any re-instatement works. However,</p>

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	Heritage 21 would recommend that consideration be given to replacing the front, skillion awning to the curved awning as seen to the primary facades of the other terraces in the listed group.
<i>C3 The design and siting of new work must complement the form, orientation, scale and architectural style of the heritage item.</i>	The proposed design is minimal and sympathetic in its scale, bulk, orientation and detailing. The sympathetic scale ensures that the proposed alterations and additions remain lower than the primary roof form and would not be visible along King Street. Further, the proposed materials and finishes are sympathetic to the presentation of the heritage item as it incorporates a muted colour scheme.
<i>C4 Encourage heritage items to be used for purposes that are appropriate to their heritage significance.</i>	The proposal would not result in the change of use of the heritage item. The original residential use would be continued and maintained.
<i>C8 Development of buildings which form part of group heritage items must ensure that the integrity of the group is retained. Alterations and additions should be located at the rear and designed such that the significant scale, form, features, and materials of the group are retained.</i>	The subject site is part of a heritage-listed group of terraces: 150-160 King Street. As described in Section 3.2, the terrace group has previously undergone unsympathetic alterations, some of which are to 160 King Street. The proposed works would not further deteriorate the integrity of the heritage-listed group and would be restricted only to the rear portion of the site.
Controls – Alterations and Additions	Assessment
<i>C9 Alterations and additions must not adversely impact the significance of a heritage item and, where possible and appropriate, locate additions and alterations in the footprint of previous additions on the site and minimise their visibility and prominence from the street.</i>	The proposed alterations and additions would be restricted to the rear portion of the subject site, and would not be visible from King Street.
<i>C10 Maintain the integrity of the building form (including the roof form and profile) so that the original building is retained and can be clearly discerned, particularly when viewed from the public domain.</i>	As discussed previously, the proposed demolition works undertaken to the primary dwelling would be limited only to the c.2000 kitchen extension, located to the rear of the dwelling. The original form of the building would be retained and conserved. The sympathetic design of the extension also ensures that the legibility of the original footprint is retained, wherein the original rear building line would be defined by the extent of the proposed courtyard.
<i>C11 The height of an addition must not project above the main ridgeline of the heritage item.</i>	The height of the extension would be lower than the eaves of the primary roof form.
<i>C12 Changes at the rear of heritage items are generally supported where new work does not impact on the heritage significance of the heritage</i>	As discussed previously, the proposal would not impact any fabric of high significance, nor would the new additions alter the primary views made to the

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<i>item or alter its scale. Additions should be designed to be submissive in scale to the original building.</i>	subject site along King Street. The proposed siting, scale, form, finishes and colour palette would ensure that the new addition remains sympathetic and submissive to the original building.
<i>C17 Rear extensions shall not be visible from the street and dormer and roof windows are not permitted on roofs visible from the street.</i>	As seen in Section 5.2, the proposed rear additions would not be visible along King Street.
Controls – Design and Materiality	Assessment
<i>C22 External colour schemes must be sympathetic to the heritage item and based on historic research and paint scrapings (where appropriate).</i>	The proposed colour scheme is chosen to closely match the existing colour scheme and would not engender a negative impact on the site.
Controls – Parking and Garages	Assessment
<i>C34 Where a property has access to a rear lane, vehicle accommodation is to be located adjacent to the laneway with vehicle access from the laneway</i>	The proposed garage would be located along the rear boundary line and would be accessed via King Lane.

6.2.3 Impact Assessment Against the NSW Department of Planning and Environment Guidelines

As acknowledged in Section 6.1.3, the NSW Department of Planning and Environment has identified a list of considerations in the form of questions aiming at directing and triggering heritage impact assessment. Below, we assess the proposal against the most pertinent of these questions.

Question	Assessment
Partial demolition of a heritage item (including internal elements)	
<i>Is the partial demolition essential for the heritage item to function?</i>	The proposed partial demolition is limited only to a c.2000 extension located to the rear portion of the dwelling. No fabric or elements of significance would be removed as a result of the proposed demolition.
<i>If partial demolition is proposed because of the condition of the fabric, can the fabric be repaired?</i>	
<i>Are important features and elements of the heritage item affected by the proposed partial demolition (e.g. fireplaces in buildings)?</i>	
<i>Will the proposed partial demolition have a detrimental effect or pose a risk to the heritage item and its significance? If yes, what measures are proposed to avoid/mitigate the impact?</i>	
<i>Identify and include advice about how significant elements, if removed by the proposal, will be salvaged and reused.</i>	
Alterations and additions	
<i>Do the proposed works comply with Article 22 of The Burra Charter,</i>	The proposed alterations and additions would be sympathetic to the cultural significance of the site due the following design considerations:

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Question	Assessment
<i>specifically Practice note article 22 — new work (Australia ICOMOS 2013b)?</i>	<ul style="list-style-type: none"> • The proposed demolition works would not alter or impact any fabric identified to be of ‘high’ heritage significance; • The proposed works would be restricted to the rear portions of the dwelling and the subject site, where similar alterations and additions are noted to other terraces of the subject heritage-listed group; • The proposed extension and the new garage and studio would be discernible as new, and would not imitate any heritage details or obscure the interpretation of any significant elements; • The proposed scale, form and materials and finishes would ensure a minimal presentation of the new additions along King Lane.
<i>Are the proposed alterations/additions sympathetic to the heritage item? In what way (e.g. form, proportion, scale, design, materials)?</i>	The proposed siting, scale, bulk, form, materials and colour palette would be sympathetic to the heritage significance of the subject site.
<i>Will the proposed works impact on the significant fabric, design or layout, significant garden setting, landscape and trees or on the heritage item’s setting or any significant views?</i>	For reasons described previously, it is Heritage 21’s assessment that the proposal would not impact any significant fabric, original layout, setting, or views made to the subject site and the heritage-listed group it is part of.
<i>How have the impact of the alterations/additions on the heritage item been minimised?</i>	The proposed design is of sympathetic scale, siting, proportions, form and materials, and would not engender a negative impact on the significance of the site.
<i>Are the additions sited on any known or potentially significant archaeological relics? If yes, has specialist advice from archaeologists been sought? How will the impact be avoided or mitigated?</i>	An archaeological assessment is beyond the scope of this report.

7.0 CONCLUSION & RECOMMENDATIONS

7.1 Impact Summary

The NSW Department of Planning and Environment's guidelines require the following aspects of the proposal to be summarised.⁸

7.1.1 Aspects of the proposal which respect or enhance heritage significance

In our view, the following aspects of the proposal would respect the heritage significance of the subject site and heritage items in the vicinity:

- The proposed demolition works would be limited only to later addition fabric – c.1980s garage and c.2000 kitchen extension). All significant elements would be retained;
- The proposed works would not alter the presentation of the subject site along King Street;
- The proposed rear extension would be of sympathetic scale and height and would be lower than the ridge height of the primary roof form;
- The proposed works would maintain legibility of the original built form and footprint;
- The design of the proposed garage and studio addition is minimalistic and subservient and would be in keeping with the character of King Lane; and
- The proposed colour scheme and material palette would be subservient within its context and setting.

7.1.2 Aspects of the proposal which could have detrimental impact on heritage significance

In our view, there are no aspects of the proposal which could be detrimental to the significance of the subject site or the heritage items in the vicinity. The neutral impacts of the proposal have been addressed above in Section 7.1.1. Recommendations are provided in Section 7.2.

7.2 Recommendations

Changes or new works to a heritage item also provide opportunities for conservation works to be carried out to the heritage item. Future development applications proposed for further alterations and additions to the site should consider including a few pertinent conservation works to the primary façade, and re-instate the matching details, such as the curved awning and front boundary fence, allowing a more uniform presentation of the listed group on King Street.

⁸ Department of Planning and Environment, *Guidelines for preparing a statement of heritage impact*.

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7.3 General Conclusion

Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would not engender a negative impact on the heritage significance of the subject site, or the heritage items in the vicinity. We therefore recommend that Bayside Council view the application favourably on heritage grounds.

8.0 SOURCES

- Australia ICOMOS. "The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance." 2013.
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- NSW Spatial Services. "SIX Maps." n.d. <http://maps.six.nsw.gov.au/>.



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Phone: 9793 1393 Fax: 9708 3113 Email: info@acousticsolutions.com.au

Acoustic Report

- Aircraft Noise -

**For the Proposed Alterations and Additions
at**

No. 160 King Street, Mascot

Prepared By: Domeniki Tsagaris (M.I.E. Aust), B.E.UNSW

Australian Acoustical Society (Sub).

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Australian Acoustical Society (Member).

Date: December 12th, 2023

Reference No.: 2023-407



Acoustic Report – No. 160 King Street, Mascot
 Reference No.: 2023-407



Document Control

<i>Date</i>	<i>Revision History</i>	<i>Prepared By:</i>	<i>Reviewed and Authorised by:</i>
04/12/2023	Initial Report	Domeniki Tsagaris	Moussa Zaioor
12/12/2023	Final Report	Domeniki Tsagaris	Moussa Zaioor

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1.0 INTRODUCTION

The aim of this report is to determine the building materials to be used and the construction methods to be adopted such that the proposed alterations and additions at No. 160 King Street, Mascot are built to achieve the internal noise and vibration levels as specified in Australian Standard AS 2021:2015 “*Acoustics-Aircraft Noise Intrusion – Building Siting and Construction*” and Bayside Council conditions/requirements.

As the acoustical study below shows, we certify that the internal noise attenuation levels for the proposed development at the above address will satisfy the requirements of the AS 2021:2015 and Bayside Council requirements, provided that the materials to be used in the construction comply with the specifications presented in this report.

The site is situated on King Street in the suburb of Mascot (Figure 1 – Site Location). The architectural plans by John Spiteri dated November 9th, 2023, are for the proposed alterations and additions to an existing dwelling and construction a new garage at the rear with first floor studio. (Figure 2 – Proposed Site Plan).

2.0 ACOUSTICAL STUDY

The site is located east of Sydney Airport, between the ANEF 25 and ANEF 30 contours. According to Table 2.1 of *AS 2021:2015*, any home unit development situated in a zone above the ANEF contour of 25 is not usually permitted. Note 4 under Table 2.1 states that 'this Standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary, it is recommended that such development should achieve the required ANR determined according to Clause 3.2'. The noise attenuation proposed in this report and the building components treatments described below will result in a residence that is more acoustically sound than surrounding houses and existing residence.

The following runways service Sydney Kingsford Smith Airport:

Sydney Airport is made up of three (3) runways:

- North-South Runway
- East-West Runway
- Third Runway

The proposed site at No. 160 King Street, Mascot, is mainly affected by the **East-West Runway** (Figure 3 – Critical Runway). DT, DL, DS for the East-West Runway has been determined as per Figure 3.1 on Page 15 of the above code and are as follows:

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Table 2.1 - Determination of DS, DL, DT Distance

<i>East-West Runway (meters)</i>	
DS	577
DL	811
DT	3552

The maximum aircraft noise level as determined from Table 3.7(B) is **81 dB(A)** for an Airbus A330-301 (Departures).

- The Aircraft Noise Reduction, in sleeping areas and dedicated lounges is **81– 50 = 31 dB(A)**
- The Aircraft Noise Reduction in any other habitable spaces is **81– 55 = 26 dB(A)**
- The Aircraft Noise Reduction in bathrooms, toilets, and laundries **81– 60 = 21 dB(A)**

3.0 FAÇADE & ROOF WEIGHTED SOUND REDUCTION INDICES R_w

The building façade and roof weighted sound reduction indices R_w are determined in accordance with Appendix C and Appendix G Section G3.1 of AS 2021:2015. The most practical and reasonable construction configurations to suit are presented in Table 3.1 below:

Table 3.1 Windows/Sliders, Doors, Walls & Roof Specifications

Building Component	R_w Rating to be Achieved
Windows, Sliding Doors & Sky Lights in All Proposed Habitable Area of the Main Dwelling and the Proposed Studio are to be to 10.38 mm laminated type with full perimeter Fin Mohair Woven Brush Seals ⁽¹⁾⁽²⁾⁽³⁾.	35
Windows and Sliding Doors in all other Non-Habitable Areas (Bathrooms/Laundries/Ensuite etc.) are to be unrestricted in accordance with Australian Standard AS 2047:2014 “Windows and external glazed doors in buildings” ⁽¹⁾⁽²⁾⁽³⁾.	25
External Doors are to be Solid Core with acoustic seals fitted around the parameter of the external doors. A drop seal is required at the base of the external doors ⁽²⁾.	30-33

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External Walls(Main Dwelling) are to be Double skin cavity walls minimum 270/250 mm standard double brick OR brick veneer construction with 90 mm thick R2 insulation in the stud cavity. ⁽²⁾⁽³⁾	50
External Walls (Studio) are to be conventional 90mm timber-stud framed walls Cladded externally with selected cladding and lined internally with 13mm plasterboard plus cavity filled with 75mm thick, 11kg/m ³ insulation batts. ⁽²⁾⁽³⁾	42
Roof is to be Colorbond Steel Roofing with Bradford Anticon 60 MD insulation over battens, 13 mm plasterboard ceiling and ceiling cavity filled with 165 thick R 3.0 Gold batts ⁽³⁾ .	45

NB: This report is to be read in conjunction with the BASIX certificate and any other related building specifications.

⁽¹⁾ No through weep holes in windows/sliders.

⁽²⁾ All gaps between window & door frames and the masonry walls are to be sealed using acoustic foam Hilti CP620 or similar. Glass wool batts should be applied prior to the application of the foam to seal larger gaps.

⁽³⁾ All gaps are to be acoustically sealed.

4.0 CONCLUSION

As the acoustical study above shows, we certify that the internal noise attenuation levels for the proposed development at No. 160 King Street, Mascot will satisfy the requirements of the AS 2021:2015 “Acoustics-Aircraft Noise Intrusion –Building Siting and Construction” and Bayside Council requirements provided that the above recommended materials are used in construction. The internal noise levels in the proposed units will enable reasonable amenity for the occupants.

We hope this report meets your requirements. Should you require further explanations, please do not hesitate to contact us.

Yours sincerely,



M. Zaioor
M.S. Eng’g Sci. (UNSW).
M.I.E.(Aust), CPEng.
Australian Acoustical Society (Member #1032).

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5.0 APPENDIX

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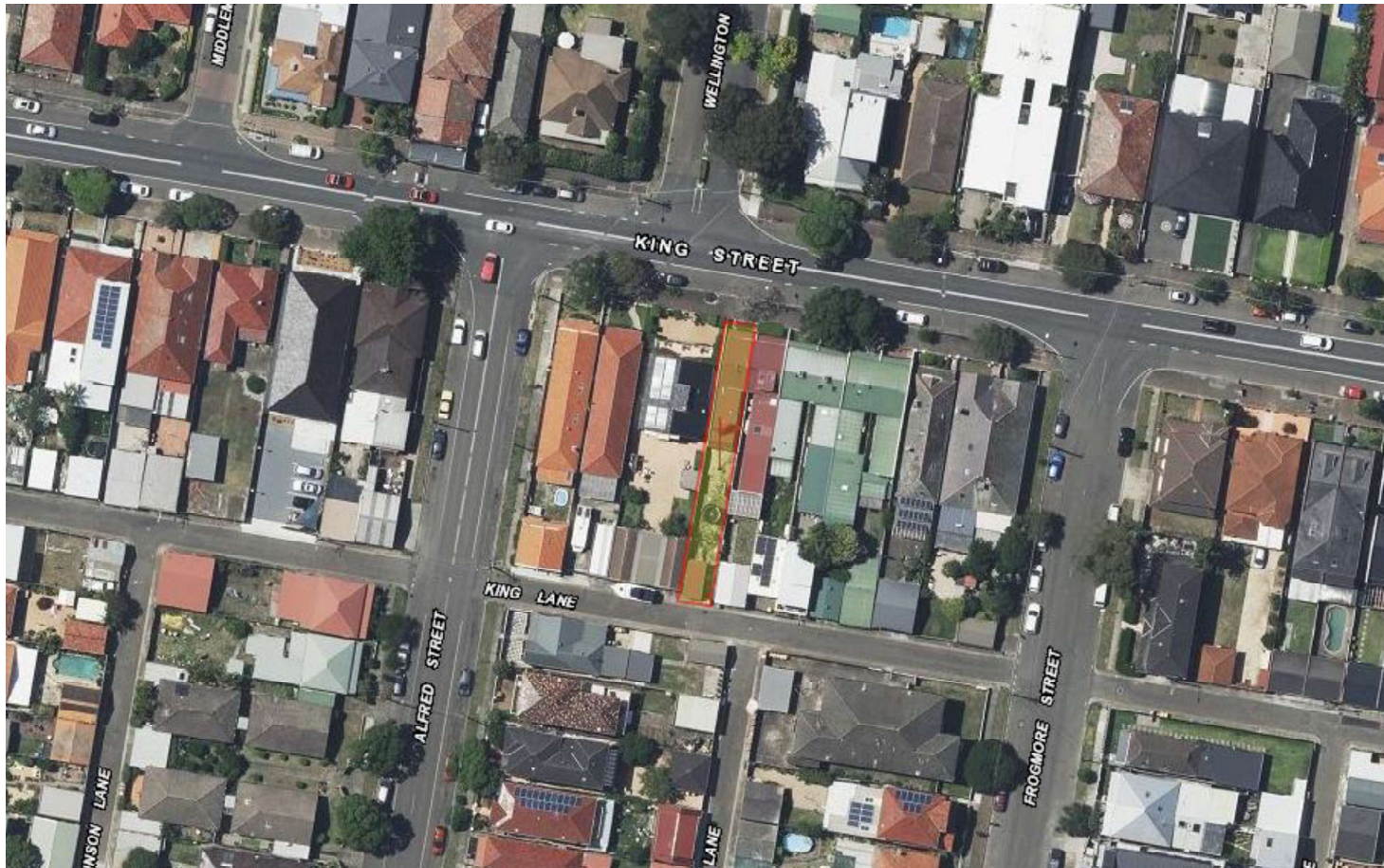


Figure 1 - Site Location

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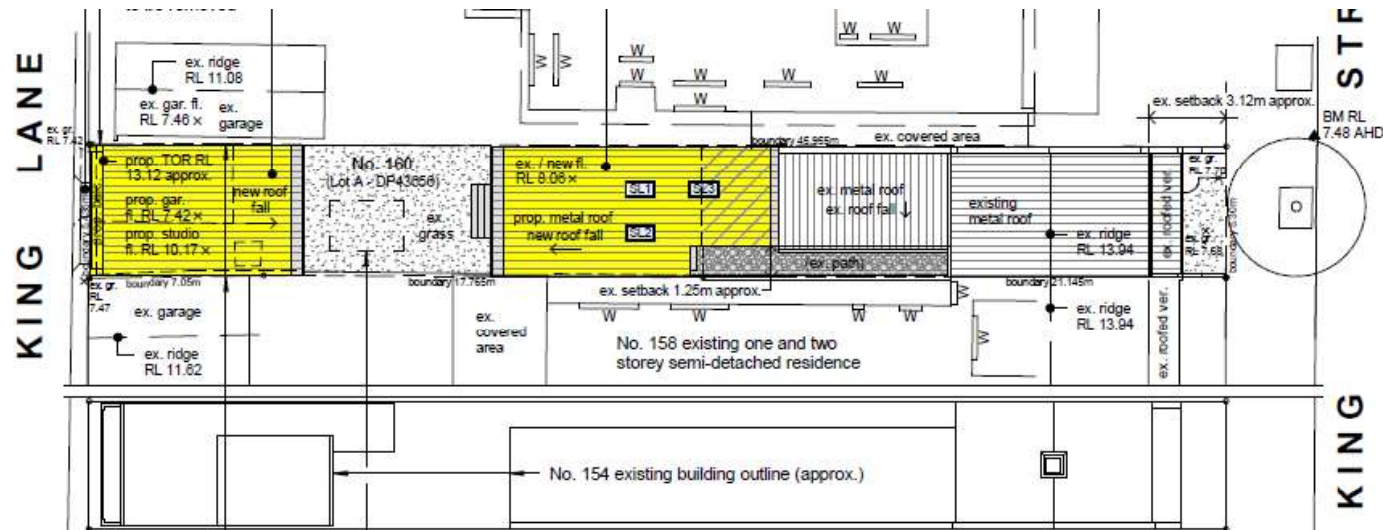


Figure 2 - Proposed Site Plan

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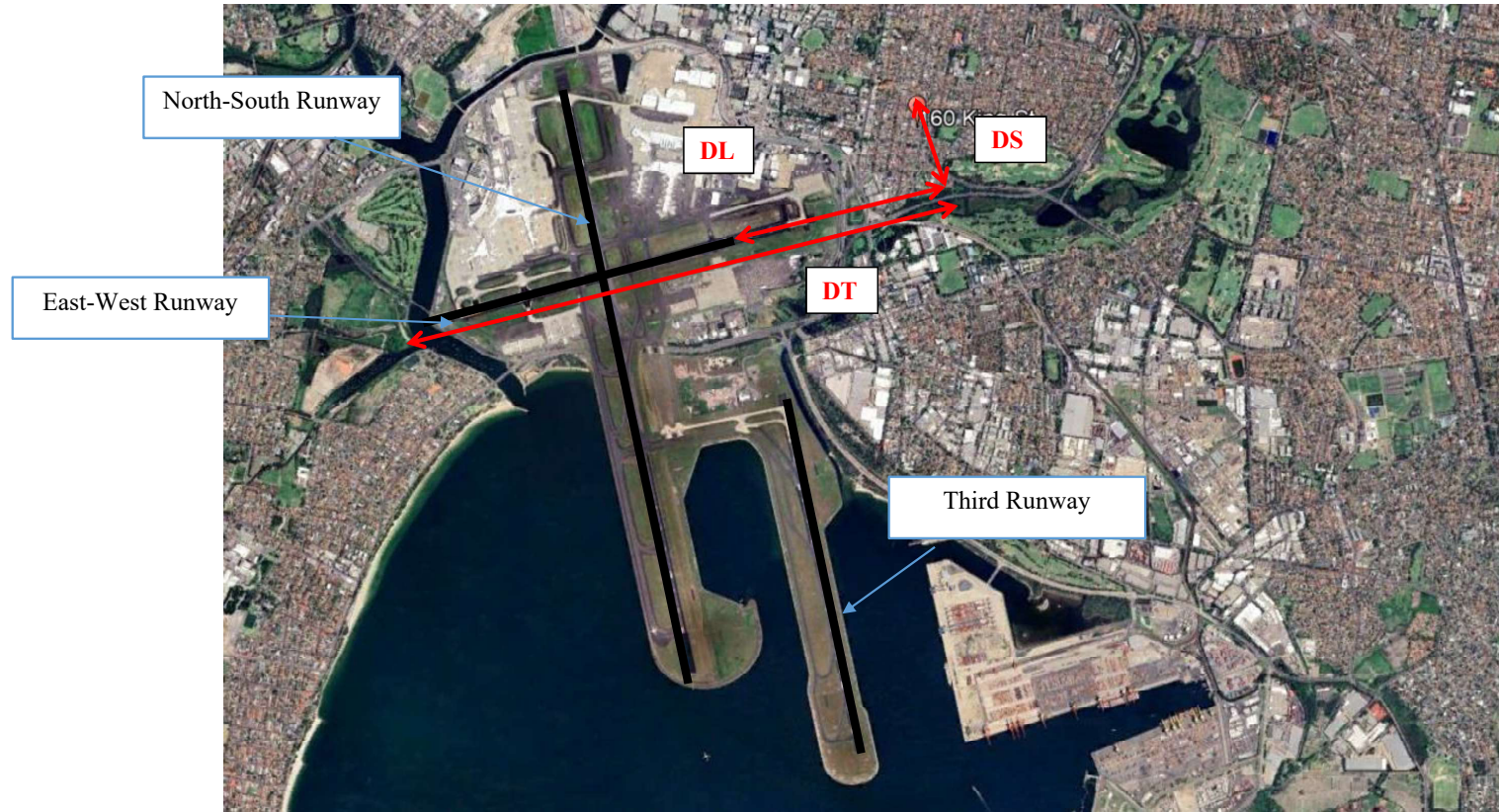


Figure 3 - Critical Runway

Bayside Local Planning Panel - Other Applications

23/07/2024

Item No	6.2
Application No	DA-2023/89
Property	1025 Botany Road, Mascot
Application Type	Development Application
Proposal	Integrated Development - Demolition of existing structures and construction of a five (5) storey mixed use development containing a commercial unit, thirteen (13) apartments and basement parking
Owner	R Solomon
Applicant	Archi spectrum
Ward	Ward 2
Lodgement Date	6/04/2023
No. of Submissions	Seven (7)
Cost of Development	\$3,473,587.00
Reason Criteria	Sensitive development
Report by	Fiona Koutsikas, Development Assessment Planner

Officer Recommendation

1. That the Bayside Local Planning Panel exercising the functions of Council as the consent authority, pursuant to Section 4.47(4) of the *Environmental Planning and Assessment Act 1979*, REFUSE CONSENT to Development Application DA-2023/89 for Integrated Development - Demolition of existing structures and construction of a five (5) storey mixed use development containing a commercial unit, thirteen (13) apartments and basement parking at 1025 Botany Road, Mascot NSW 2020 as the approval body (being WaterNSW) has refused to grant an approval that is required in order for the integrated development to be lawfully carried out.
2. That the Bayside Local Planning Panel exercising the functions of Council as the consent authority, is not satisfied that the applicant's written request to contravene Section 4.3 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 not be in the public interest because it is inconsistent 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-2023/89 for Integrated Development - Demolition of existing structures and construction of a five (5) storey mixed use development containing a commercial unit, thirteen (13) apartments and basement parking at 1025 Botany Road, Mascot NSW 2020 by REFUSING CONSENT for the following reasons:

- (a) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, does not achieve 'Design Excellence' pursuant to section 6.10 of the *Bayside Local Environmental Plan 2021*.
- (b) The proposed development exceeds the maximum permissible building height pursuant to section 4.3 'Height of Buildings' of the *Bayside Local Environmental Plan 2021* and the Section 4.6 variation fails to justify this exceedance.
- (c) The proposed development does not comply with Clause 148 - Non-discretionary Development Standards for Residential Apartment Development regarding car parking and internal area dimensions. In both cases, a Section 4.6 variation has not been submitted in accordance with Section 4.15(3)(b) of the *Environmental Planning and Assessment Act 1979*.
- (d) Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not demonstrate that adequate regard has not been given to the design quality principles within *State Environmental Planning Policy (Housing) 2021*.
- (e) Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not demonstrate that adequate regard has not been given to the objectives of Part 3F 'Visual Privacy' and Part 4C 'Ceiling Heights' within the *Apartment Design Guide (ADG)* and the proposal is contrary to Chapter 4 of *State Environmental Planning Policy (Housing) 2021*.
- (f) Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to demonstrate that the proposal is satisfactory with regards to sections 6.2 'Earthworks' and section 6.3 'Stormwater and Water Sensitive Urban Design' of *Bayside Local Environmental Plan 2021*.
- (g) That Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with, or insufficient information has been provided to demonstrate that the proposal is consistent with, the objectives of the following parts of the Botany Bay DCP 2013:
1. 3A Parking & Access
 2. 3E Subdivision & Amalgamation
 3. 3G Stormwater Management
 4. 3L Landscaping & Tree Management
 5. 4C Apartment Buildings
 6. 8.7 Mascot Character Precinct
- (h) That Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, based on the information provided, the proposed development is likely to result in the following adverse environmental impacts:
1. Natural Environment – stormwater management
 2. Built Environment – bulk, scale, traffic, parking, servicing and adverse impacts to surrounds;
 3. Social Impacts – amenity;
 4. Economic Impacts – site isolation.
- (i) Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is excessive in terms of scale,

size, and height, and would adversely impact upon the amenity of the locality, including adverse impacts to the adjoining sites to the east which are located in a lower density zone.

- (j) Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been submitted to demonstrate that the development is suitable for the site.
- (k) Pursuant to the provisions of Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*, received submissions raise matters of relevance to the assessment which demonstrate that the development is not suitable for the site.
- (l) Pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest.

Location Plan



Attachments

- 1 Assessment Report [↓](#)
- 2 Architectural Plans [↓](#)
- 3 Photomontages [↓](#)
- 4 Clause 4.6 Variation [↓](#)
- 5 DRP Minutes [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	DA-2023/89
Date of Receipt:	6 April 2023
Property:	1025 Botany Road, MASCOT NSW 2020 Lot 2 Sec 2 DP 4089, Lot 3 Sec2 DP 4089
Owner:	R Solomon
Applicant:	Archispectrum Pty Ltd
Architect:	Archispectrum Pty Ltd
Town Planner:	ABC Planning
Proposal:	Integrated Development - Demolition of existing structures and construction of a five (5) storey shop top housing development containing two (2) commercial units, thirteen (13) apartments and basement parking
Recommendation:	Refusal
No. of submissions:	Seven (7)
Author:	Fiona Koutsikas – Development Assessment Planner
Date of Report:	25 June 2024

Key Issues

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

- Integrated Development – The proposal involves excavation of one (1) basement car park level that will intersect the groundwater table. WaterNSW have refused to issue General terms of Approval for the proposal as submitted; therefore, in accordance with s4.47(4) of the Environmental Planning and Assessment Act 1979, the consent authority must refuse the application.

- Site Isolation – Council is not satisfied that the Planning Principle for amalgamation of sites and isolation of sites has been sufficiently addressed in relation to the adjoining property to the north, known as 1023 Botany Road, Mascot.
- Design Review Panel – The Design Review Panel considered the application and advised that the design cannot be supported in its present form.
- Height of Building – The proposal exceeds the 14m development standard set by Section 4.3 of the BLEP by 2.5m or 17.86% (not including any potential lift overrun which is not shown on plans). The application is accompanied by a Section 4.6 exception. The breach is not supported.
- Apartment Design Guide (ADG) – The proposal results in non-compliance with the ADG regarding building separation, visual privacy, residential storage, apartment size and layout, communal open space, deep soil and common circulation spaces, which are not supported.
- Housing SEPP – SEPP 65 was repealed on 14 December 2023, with its content (including some amendments) inserted into Chapter 4 'Design of Residential Apartment Development' of *State Environmental Planning Policy (Housing) 2021*. Savings provisions do not apply to those applications lodged prior to 14 December 2023, and consideration must therefore be given to Chapter 4 of the Housing SEPP.
- Dwelling Mix – Of the proposed 13 apartments, 84.6% are studio and/or 1 bedroom configurations, at odds with Part 4C.4.1 of the Botany Bay Development Control Plan 2013 (BBDCP), which requires a maximum of 25% of dwellings to be studio or 1 bedroom.
- Car Parking – The proposed development provides 10 on-site car parking spaces, 10 short of the required 20 spaces. Council's Development Engineer does not support the shortfall nor argument put forward by the Applicant in this regard.
- Vehicle Access and Servicing – Council's Development Engineer has advised that insufficient information has been submitted to demonstrate that access and egress complies with Australian Standard AS2890. Swept paths, gradients and servicing areas are required to demonstrate compliance.
- Stormwater Management – Council's Development Engineer has advised that insufficient information has been submitted to demonstrate compliance with Council's Stormwater Management Technical Specifications.
- Landscaping – The proposal does not achieve minimum landscaping and deep soil requirements under the ADG and BBDCP.
- Sustainability Initiatives – The proposal does not demonstrate sustainability initiatives such as, solar photovoltaic cells, fossil fuel free provisions, electric vehicle (EV) charging provisions, and/or sensor controlled and zoned internal lighting and air conditioning.
- Relevant Zone – At the time of lodgment, the subject site was wholly located within the B2 Local Centre zone under the BLEP, however the Employment zones have since been adopted, replacing the B2 Local Centre zone with the E1 Local Centre zone. Savings provisions allow the continuation of land use permissibility under previous zones until 26 April 2025. The proposed shop top housing development is permissible in both the E1 and B2 zones.

- Relevant DCP – The application was lodged prior to the commencement of the Bayside Development Control Plan 2022 (BDCP) which came into effect on 10 April 2023, therefore in accordance with the 'Savings Provisions' in Part 2.8 of the BDCP, the application is to be assessed against the previous BBDCP. Notwithstanding this, consideration has been given to the BDCP.
- Pre-DA – On 27 January 2022, the applicant was provided non-supportive pre-development advice regarding a development outcome like that currently under assessment. Identified issues of concern included: site isolation; building height; building setbacks; communal open space; car parking; cross ventilation; SEPP 65 and Housing SEPP non-compliance; FSR; noise; materiality; sustainability; deep soil zones; and stormwater management. In its presented form, the proposal was deemed to be unsupportable.
- Approved Development on Adjacent Land – A five (5) storey mixed use development comprising demolition of existing structures and the construction of a four and five storey mixed use development at 1027 – 1043 Botany Road, Mascot was approved by order of the Land and Environment Court on 1 August 2019. This site shares a common side boundary to the subject site (i.e., south). The approved development (DA-2017/1161) has a maximum height (to lift overrun) of RL 25.60 AHD. Council records do not indicate a Construction Certificate has been issued in relation to this development.

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

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

1. That the Bayside Local Planning Panel exercising the functions of Council as the consent authority, pursuant to Section 4.47(4) of the *Environmental Planning and Assessment Act 1979*, REFUSE CONSENT to Development Application DA-2023/89 for Integrated Development - Demolition of existing structures and construction of a five (5) storey mixed use development containing a commercial unit, thirteen (13) apartments and basement parking at 1025 Botany Road, Mascot NSW 2020 as the approval body (being WaterNSW) has refused to grant an approval that is required in order for the integrated development to be lawfully carried out.
2. That the Bayside Local Planning Panel exercising the functions of Council as the consent authority, is not satisfied that the applicant's written request to contravene Section 4.3 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 not be in the public interest because it is inconsistent with the objectives of that particular standard and the objectives for development within the zone.
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 3. Social Impacts – amenity;

4. Economic Impacts – site isolation;
- (i) Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is excessive in terms of scale, size, and height, and would adversely impact upon the amenity of the locality, including adverse impacts to the adjoining sites to the east which are located in a lower density zone.
 - (j) Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been submitted to demonstrate that the development is suitable for the site.
 - (k) Pursuant to the provisions of Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*, received submissions raise matters of relevance to the assessment which demonstrate that the development is not suitable for the site.
 - (l) Pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest.
4. 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:

- DA-2007/10066 – Construction of a double carport adjoining the rear boundary was approved on 23 March 2007.
- PDA-2021/56 – Demolition of existing structures and construction of a 5 storey shop-top housing development comprising ground floor commercial space, 13 residential apartments (including affordable rental housing) above and 7 car parking spaces on ground floor. Consideration found the proposed development required several modifications to address and comply with the requirements of SEPP No. 65 and the ADG, the Housing SEPP, Bayside LEP 2021 and the Botany Bay DCP 2013. The proposal as presented was not supported. A pre-DA meeting was held on 21 December 2021, followed by written advice dated 27 January 2022.

The history of the subject application is summarised as follows:

- 6 April 2023 - The DA was lodged with Council.
- 19 April to 22 May 2023 – Neighbour notification period.
- 2 May 2023 – Site inspected.
- 24 November 2023 – Request for information issued.
- 22 January 2024 – Meeting held between Applicant and Council staff to discuss RFI.
- 30 January 2024 – Applicant requested the application proceed to determination with no amendments or additional information provided.
- 15 March 2024 – The application was considered by the Design Review Panel.
- 20 March 2024 – The minutes of the Design Review Panel meeting were forwarded to the Applicant for consideration.
- 9 May 2024 – WaterNSW advised their intention to refuse General Terms of Approval (GTA).
- 12 June 2024 – WaterNSW refused to issue GTA for the proposal as submitted.

Proposal

The proposed development is summarised as follows:

Demolition/Excavation/Tree Removal

- Demolition of existing structures
- Removal of vegetation within the site
- Excavation for one (1) basement level

Construction

- Construction of a five (5) storey shop top housing development comprising 2 commercial tenancies and 13 residential units:

Basement Level

- Car parking (6 spaces)
- Storage (29.5sqm)
- Bicycle storage (5)
- Lift
- Stairs (2)

Ground Floor

- Vehicular access from Rawson Lane (secondary frontage)
- Car parking (5 spaces, including 1 shared visitor/car wash bay)
- 2 Commercial tenancies (79.7sqm)
- Lobby
- Lift
- Stairs (3)
- WC
- OSD
- Plant room
- Communications room
- Residential waste room
- Awning over Public Domain (Botany Road frontage)

First Floor

- Lift
- Stairs
- 5 residential apartments (3 x studio, 2 x 1 bed)

Second Floor

- Lift
- Stairs
- 4 residential apartments (2 x studio, 1 x 1 bed, 1 x 2 bed)

Third Floor

- Lift
- Stairs
- 3 residential apartments (1 x studio, 2 x 1 bed)

Fourth Floor

- Lift
- Stairs
- 1 residential apartment (1 x 2 bed)

Materials and Finishes

- Externally, the building incorporates a mixture of face brick, steel cladding, painted render, aluminum framed windows and doors, glass balustrades.

Landscaping and Fencing

- Planter boxes at Second, Third and Fourth Floor levels
- Fencing to the Rawson Lane frontage

The proposal includes 2 adaptable units (being Units 1.1 and 1.4).

The proposal does not include an affordable housing component.



Figure 1: Photomontage of proposed development including not constructed development on adjoining site to south (right of image) (Source: Applicant)

Site location and context

The subject site comprises two (2) lots legally identified as Lots 2 and 3, Sec 2 in DP 4089 and is known as 1025 Botany Road, Mascot.

The site is rectangular in shape with front and rear boundary widths of 12.29m and side boundaries of 36.57m. The total site area is 442.6sqm. The topography of the site is relatively flat.

The subject site fronts both Botany Road (primary frontage) and Rawson Lane to its rear.

Existing improvements to the land include two (2), two (2) storey attached dwellings and ancillary carports to the rear, accessed from Rawson Lane.

The site is located on the eastern side of Botany Road between Rawson Street and Tunbridge Street and is adjoined to its north (side) by a 2 storey building comprising commercial use at ground floor and residential at first floor, a single storey dwelling to the south (side) and a single storey dwelling to the east (rear) separated by Rawson Lane.

There is a mix of one and two storey residential buildings within close proximity to the subject property. This section of Botany Road is characterised by two storey built form.

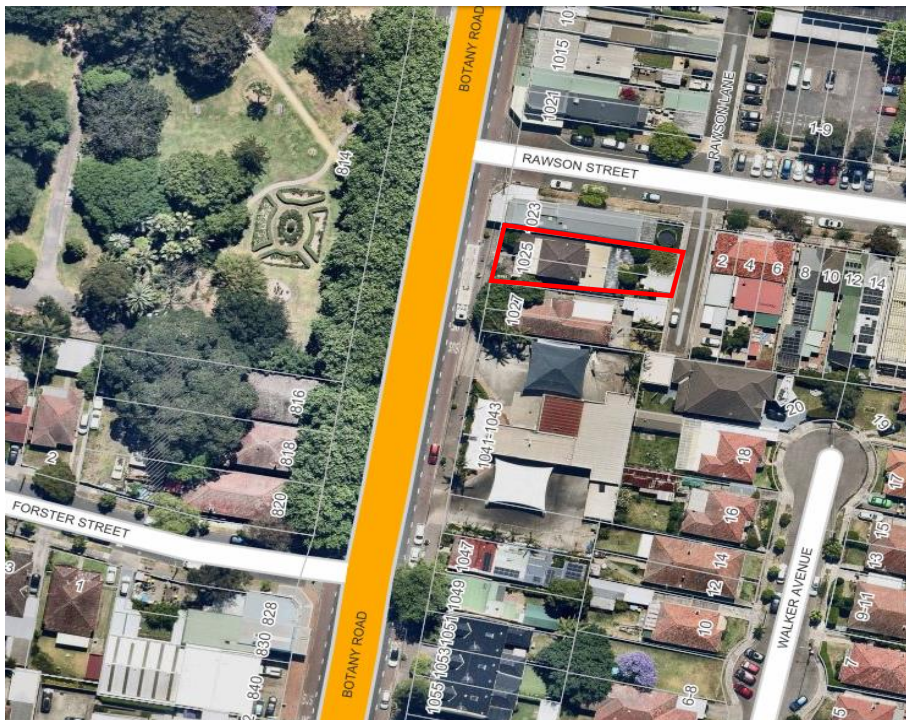


Figure 2: Locality (subject site highlighted in RED)



Figure 3: Streetscape (site frontage highlighted in RED)



Figure 4: Rawson Lane secondary frontage (site highlighted in RED)



Figure 5: Zone boundaries (subject site highlighted in RED)

There are no trees of significance on the site.

The site is not identified as a heritage item, nor is it located in a heritage conservation area as delineated in the BLEP. However, the site is in the vicinity of 1007 – 1019 Botany Road and Mascot Memorial Park, which are listed heritage items.

Statutory Considerations

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").

S4.46 – Development that is Integrated Development

The development application has been lodged as Integrated Development, as an approval under the Water Management Act 2000 is required. Specifically, the development involves a temporary construction dewatering activity.

The proposal involves excavation of one (1) basement car parking level at a depth of 3m (RL 5.6m AHD). Testing on site has been undertaken and the geotechnical report prepared by Rapid Geo Pty Ltd, dated 20 March 2023, demonstrates that groundwater was encountered at -2m below surface level.

The application was referred to WaterNSW for concurrence. By letter dated 21 February 2024, WaterNSW requested the following additional information:

1. *Confirmation of the proposed basement construction design, being either tanked (fully watertight) or drained (requiring permanent ongoing dewatering).*
2. *If a tanked basement design is proposed, the following information is requested:*
 - 2.1 *Volume of water to be extracted annually if available.*
 - 2.2 *Duration of the water take for dewatering if available.*
 - 2.3 *Method of measuring the water take and recording.*
3. *If a drained basement design is proposed, WaterNSW and the Department of Planning and Environment – Water (DPE) will require additional modelled data to support a hydrogeological review and assessment. The Geotechnical report (or equivalent) will need to be updated accordingly and satisfy minimum requirements.*

The above request was forwarded onto the Applicant on 21 February 2024, however the requested information remained outstanding and as a consequence, on 12 June 2024 WaterNSW refused to issue General terms of Approval (GTA) for the development as proposed. Given this, s4.47(4) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to refuse the application. This is reflected in the recommendation.

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 Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

The State Environmental Planning Policy (Sustainable Buildings) 2022 came into effect on 1 October 2023 and encourages the design and delivery of more sustainable buildings across NSW. It sets sustainability standards for residential and non-residential development and starts the process of measuring and reporting on the embodied emissions of construction materials.

In accordance with savings and transitional provisions, the SEPP does not apply to development applications lodged but not yet determined by the commencement date. The application under assessment was lodged prior to 1 October 2023 and therefore an assessment against the SEPP is not required. Therefore, an assessment against State Environmental Planning (Building Sustainability Index: BASIX) 2004 has been undertaken.

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 1374750M, dated 9 March 2023. Commitments made within the BASIX

certificate result in reductions in energy and water consumption on site post construction. The proposal is therefore satisfactory against the requirements of State Environmental Planning (Building Sustainability Index: BASIX) 2004.

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 Subsection 2.48 of the SEPP as the proposed works are 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 on 7 February 2023 for comment. No objections were raised to the proposed development.

The proposal satisfies Subsection 2.48 of the SEPP and is acceptable in this regard.

Division 17 / Subdivision 2 – Subsection 2.119 - 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 2.119 of the SEPP must be considered.

The proposed development limits vehicular access to and from the site via a single driveway from Rawson Lane. No road access is proposed via Botany Road. Additionally, no signage is proposed.

TfNSW have provided concurrence under section 138 of the Roads Act 1993 by letter dated 20 February 2024, subject to conditions. Therefore, it is concluded that the proposal satisfies Subsection 2.119 of the SEPP, noting the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of the design of the vehicular access, the emission of smoke or dust.

Division 17 / Subdivision 2 – Subsection 2.120 - Impact of road noise or vibration on non-road development

The proposed development is on land in or adjacent to the road corridor of a road with an annual average daily traffic volume of more than 20,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Subsection 2.120 of the SEPP is required to be considered as part of this assessment.

For residential accommodation, 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,*
- b. *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 Koikas Acoustics Pty Ltd, dated 6 February 2023, which considered the potential impact of road noise on the proposed development. The report concluded as follow:

- *Road Noise – Maximum external façade road noise levels are expected to be LAeq 15 hour 68 dB / LAeq 9 hour 67 dB at the first-floor level and along the facades exposed to Botany Road. During the most stringent period (in this case, the night), a noise reduction of 32 dB is required for this façade to be habitable spaces.*
- *The building can be sufficiently insulated against existing aircraft and road traffic noise through the use of acoustic glazing.*
- *There is sufficient scope within the proposed building design to achieve the applied acoustic planning guidelines.*

It is therefore concluded that the proposal is capable of satisfying the objectives and requirements Subsection 2.120 of the SEPP.

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 SEPP 55, in particular industrial, agricultural or defence uses.

The applicant has demonstrated in their SEE that the site was used for residential purposes in 1943 and that the site appears to have been used for residential purposes since its subdivision, with no evidence of contaminating land uses. Therefore, in this regard the site is considered suitable in its present state for the proposed residential development.

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*.

All trees located on the site are fruit trees and exempt species. Further to this, Council's Tree Management Officer has advised that the proposal does not impact upon any significant trees on the site or within adjacent lots and the Public Domain.

The proposal satisfies the requirements of Chapter 4 of the SEPP.

State Environmental Planning Policy (Housing) 2021

The State Environmental Planning Policy (Housing) 2021 commenced on 26 November 2021. Effective 14 December 2023, *Chapter 4 Design of residential apartment development* was inserted into the Housing SEPP to contain the substance of SEPP 65 (which was repealed),

with some changes. The changes were not subject to savings and transitional provisions, and therefore the Housing SEPP is the applicable policy.

An assessment against the relevant provisions of the Housing SEPP is as follows:

Chapter 4 – Design of residential apartment development

Subclause 2 applies this chapter to development for the purposes of shop top housing.

In accordance with section 145(2), the proposal was considered by the Design Review Panel (DRP) at its meeting on 15 March 2024. The Panel did not support the design for the reasons discussed in further detail below. No amendments have been submitted to address the Panels comments.

147 Determination of development applications and modification applications for residential apartment development

Pursuant to section 147, development consent must not be granted to residential apartment development unless the consent authority has considered the 'design quality principles' set out in Schedule 9, the Apartment Design Guide and any advice from a Design Review Panel.

An assessment of section 147 is provided below:

(a) Design Quality Principles & Design Review Panel

The design quality principles and Design Review Panel's comments have been considered in the assessment of the proposal and are found to be lacking, as indicated below.

Principle 1 – Context and Neighborhood Character

Panel Comment:

- *To justify an additional storey above the existing height limit, the applicant has used the precedent of an adjacent Court approval for a 5-storey shop-top building immediately to the south on a significantly larger site. Due to the scale of that site and its greater setbacks, the Panel considered it is not a suitable comparison.*
- *The Panel is concerned with the isolated site at 1023 Botany Road that would be created by this proposal.*
- *Based on the currently submitted design, the isolated site will interact awkwardly with the proposal.*
- *The Panel is not supportive of the height variance as currently submitted.*

Council Comment:

- The subject site differs contextually from the adjoining development site known as 1027 – 1043 Botany Road, which has a combined street frontage of 37.495m enabling appropriate transition in building form as height increases to reduce bulk and scale.
- The proposal fails to provide appropriate transition in building form.
- The proposal is inconsistent with the existing and desired future character of Botany Road as envisaged by applicable planning controls.

- The development potential of 1023 Botany Road and/or consolidation of lots has not been adequately explored. Should the development, as proposed, proceed, the adjoining site will remain isolated and unable to achieve permissible development outcomes under the Bayside Local Environmental Plan 2021 / Bayside Development Control Plan 2022 for shop top housing, such as a maximum 2:1 FSR and 14m building height. Minimum dimensions for car parking aisles and internal amenity of future units are also compromised.

Principle 2 – Built Form and Scale

Panel Comment:

- *Further consideration should be given to suitable side setbacks of upper levels to provide a clear break in the built form along Botany Road and suitable levels of separation between adjacent built form. No clear argument is provided as to why reductions in these setbacks provide a better outcome on the site.*

Council Comment:

- Council staff concur with the DRP's commentary regarding lack of separation, particularly at upper levels and the street-facing facade.

Principle 3 – Density

Panel Comment:

- *The proposal shows no communal open space, minimal landscaped areas, features a unit mix with 85% studios and 1-Beds, and proposes to insert an additional story beyond the LEP's height-of-building limit. This is considered by the Panel to represent an overdevelopment of this site, as adequate amenity for residents has not been provided.*
- *A reduction in the density on the site could result in a reduction in car parking requirements and mean a basement isn't required. This could improve the viability of a smaller, more suitable development.*

Council Comment:

- Council staff concur with the DRP's commentary regarding density. Non-compliance with height and setback/separation controls are evidence of the constrained nature of the subject site, which may not be able to achieve its maximum density.

Principle 4 - Sustainability

Panel Comment:

- *No sustainability measures were identified, and drawings do not identify typical measures like photovoltaics and electric chargers, rainwater harvesting and how the proposal can reduce its carbon footprint over the mid to long term.*

Council Comment:

- Council staff concur with the DRP's commentary regarding a lack of sustainability measures. Should the Panel approve the development, it is recommended that conditions be imposed to require the investigation and introduction of sustainability measures into the development scheme, where achievable.

*Principle 5 – Landscape*Panel Comment:

- *Whilst understanding this is a small, narrow site, the degree of site coverage and the lack of landscaping is not supported by the Panel.*

Council Comment:

- The subject proposal provides insufficient landscape and deep soil planting, inconsistent with the existing and desired future character of the area.

*Principle 6 – Amenity*Panel Comment:

- *The proposal varies significantly from ADG advice on good apartment design across most categories, indicating resident and neighbouring amenity will be poor. The design varies from ADG guidance in terms of building separation, visual privacy, residential storage, apartment size and layout, communal open spaces, circulation spaces, and other issues.*
- *We note the decision not to provide any communal open space, internal or external, is identified as being justified by the adjacency of a local park. This argument is weakened by the degree of variance with the Apartment Design Guide and the dominant mix of small studio and 1-Bed units. Adequate communal open space within the development is considered by the Panel to be a critical requirement for the current design.*
- *By undertaking a thorough investigation and exploration of the sites potential, site constraints and the sites potential outcomes a significantly different proposal would be the Panels expected end result.*

Council Comment:

- The DRP comments are agreed with. The development design and lack of communal open space will result in a poor amenity outcome for future occupants.

*Principle 7 - Safety*Panel Comment:

- *The development will potentially increase passive surveillance to the public realm when compared to the existing building.*

Council Comment:

Pedestrian entrances and lobbies are suitably located and dimensioned to encourage passive surveillance and prevent these spaces from feeling concealed and/or unsafe. Further, Council's Development Engineer has not raised any concerns regarding safety.

*Principle 8 - Housing Diversity and Social Interaction*Panel Comment:

- *The proposal shows a mix with 45% studios, 40% 1-bed units and 15% 2-bed units. The dominance of small units should demand a higher percentage of communal space, similar to a Co-Living development, yet no communal areas have been provided.*

- *The mix should be supported by the Panel as a housing diversity measure; however, this would require adequate communal facilities to be provided to offset the small rooms.*
- *The current mix and form is therefore unsupportable.*

Council Comment:

- The DRP comments are agreed with. The unit mix is also inconsistent with Council's DCP and not supported.

Principle 9 – Aesthetics

Panel Comment:

- *The Panel noted a preference to simplify the material palette. Given the mid-rise scale of the building and narrow footprint, it is not considered necessary to break down the form through the 3-phase variation in materials currently shown.*
- *The use of durable materials with integral finishes such as brickwork are supported as opposed to painted finishes. The use of timber paneling is questioned due to its durability and fire issues. The laser cut screens are out fo character with the immediate context and do not contribute positively to the character of the scheme.*
- *The glazed awning would require cleaning to keep it clear of leaves etc. A solid awning may be a more suitable response to the context.*
- *The Panel also requested the applicant further develop the design of the blank wall facing onto the isolated site at #1023. This wall is expected to be highly visible in perpetuity, and so should be treated as an important elevation.*

Council Comment:

- No further comment to add.

c. The Apartment Design Guide

The proposal has been assessed against the *Apartment Design Guide* (ADG). The proposed development is considered to be acceptable in respect to the objectives and design criteria contained within the ADG. The relevant provisions and issues are discussed below:

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
3C – Public Domain Interface	Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface.	A level entry from footpath level is proposed	Yes
	Mailboxes located in lobbies or integrated into front fence	The location of mailboxes is not shown on plans	No
	25% (110.65sqm) Site Area	None provided	No

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
3D - Communal Open Space	50% (221.3sqm) to receive 2 hours solar access in midwinter 9am - 3pm	None provided	No
3E - Deep Soil Zone	7% (30.98sqm) site area Minimum Dimensions 3m	None provided	No
3F - Visual Privacy <i>Min separation - side & rear boundaries.</i>	<p><u>Up to 12m (4 storeys)</u> Hab. Rooms / Balconies = 12m Non Hab. Rooms = 6m</p> <p><u>Up to 25m (5-8 Storeys)</u> Hab. Rooms / Balconies = 18m Non Hab. Rooms = 9m</p>	<p><u>Northern Side - Habitable</u></p> <ul style="list-style-type: none"> • Ground to Third Floor: 0m • Fourth Floor: 1.92m <p><u>Northern Side – Non-habitable</u></p> <ul style="list-style-type: none"> • Ground to Third Floor: 0m • Fourth Floor: 1.92m <p><u>Southern Side - Habitable</u></p> <ul style="list-style-type: none"> • Ground to Third Floor: 0m • Fourth Floor: 2.45m <p><u>Southern Side – Non-habitable</u></p> <ul style="list-style-type: none"> • Ground to Third Floor: 0m • Fourth Floor: 2.45m <p><u>Eastern Rear - Habitable</u></p> <ul style="list-style-type: none"> • Ground to Third Floor: 5.7m to 10.95m • Fourth Floor: 15.84m <p><u>Eastern Rear – Non-habitable</u></p>	No

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
		<ul style="list-style-type: none"> • Ground to Third Floor: 5.7m to 10.95m • Fourth Floor: 15.84m 	
3G – Pedestrian Access and Entries	Multiple entries provided to activate street edge	Multiple entries are provided from Botany Road	Yes
	Building access clearly visible from public domain and communal spaces	Building access is clearly visible from Botany Road	Yes
	Steps / ramps integrated into building & landscape design	Level access provided	Yes
	Electronic access to manage access	Secure electronic access provided	Yes
3H – Vehicular Access	Car park access integrated with building façade and behind building line	Car parking is provided at-grade and within the proposed basement. In both cases, access is suitably integrated	Yes
	Garbage collection, loading and servicing areas screened	Waste storage and loading areas are internalised and screened from outside the site	Yes
	Pedestrian / vehicle access separated and distinguishable	Access paths are clearly identifiable and delineated	Yes
3J - Bicycle and Car Parking	Parking as per Council DCP.	The proposal has a car parking shortfall of 10 spaces (8 resident and 2 visitor). Council's Development Engineer does not support this numerical shortfall, or the justification put forward by the applicant.	No

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
4A – Solar and Daylight Access	Living rooms + POS of at least 70% (9 of 13) of apartments receive min 2hrs direct sunlight b/w 9am and 3 pm mid-winter	100% (13 of 13)	Yes
	Max 15% (2 of 13) apartments receive no direct sunlight b/w 9am and 3pm mid-winter	0% (0 of 13)	Yes
4B – Natural Ventilation	Min 60% (8 of 13) of apartments are naturally cross ventilated in the first nine storeys of the building.	61% (8 of 13)	Yes
4C – Ceiling Heights	<u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m	Minimum floor to ceiling heights are achieved for all units and ground floor mixed use areas	Yes
4D – Apartment Size and Layout <i>+5sq/m per extra bathroom</i>	Studio – 35sqm	>35sqm	Yes
	1 bed – 50sqm	>50sqm	Yes
	2 bed + 2 bath – 75sqm	74.3sqm (U2.6) >75sqm (U4.13)	No Yes
4E – Private Open Space and Balconies	Studio – 4sqm	>4sqm	Yes
	1 bed – 8sqm 2m min depth	>8sqm and 2m depth	Yes
	2 bed – 10sqm / 2m min depth	>10sqm and 2m depth	Yes
4F – Common Circulation and Spaces	Max apartments off a circulation core on a single level is eight	(max) 5 at Level 1	Yes
4G – Storage <i>50% is located within apartment</i>	Studio - 4 cubic metres	The location of residential storage outside of each apartment is not demonstrated on plans	No
	1 bed - 6 cubic metres		
	2 bed - 8 cubic metres		

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
4K – Apartment Mix	Variety of apartment types provided and flexible apartment configurations to support diverse household types and stages of life	The following dwelling mix is proposed: Studio / 1 bed – 85% 2 bed – 15%	No
	Larger apartment types located on ground / roof level where there is potential for more open space and corners where more building frontage is available	Proposed 2 bed dwellings are located at levels 2 (U2.6) and 4 (U4.13)	Yes

Discussion of ADG Non-Compliances

Part 3D – Communal open space

The proposal provides no communal open space (internal or external). This is detrimental to the amenity of the development and reduces opportunities for residents to connect with each other for social interaction. The provision of private balconies which exceed the minimum area requirement in lieu of communal open space is not supported.

Part 3E – Deep soil zones

The proposal provides no deep soil zones. This is considered a poor outcome which is detrimental to residential amenity and is not supported.

Part 3F – Visual privacy

The proposal fails at all levels to comply with minimum visual privacy separation requirements from side and rear boundaries as set in the ADG.

Nil setbacks to both sides at Levels Ground to 1 are considered acceptable in terms of privacy as no windows and/or balconies are impacted upon. However, the nil northern side setback is only supported if isolation of the adjoining site does not occur as discussed previously. Alternatively, a setback compliant with the ADG must be provided.

Building separation was identified by the DRP as a threshold issue.

Part 3J – Bicycle and car parking

The proposal has a car parking shortfall of 10 spaces (i.e. 8 resident and 2 visitor spaces). Council’s Development Engineer has reviewed the submitted Traffic Report and does not support the justification put forward for the numerical shortfall.

Additionally, Council’s Development Engineer has raised objection to the width of car spaces due to obstructions of storage and bicycle spaces adjacent.

Part 4D – Apartment size and layout

With the exception of 1, 2 bed 2 bathroom apartment, the proposal complies with the size and layout requirements set in Part 4D of the ADG. The non-compliant apartment (U2.6) is short of the required 75sqm by 0.7sqm; notwithstanding this minor shortfall, the subject apartment is deemed to be functional in room size and layout. However this is a non-

discretionary development standard and its variation would require submission of a section 4.6 request.

Part 4G – Storage

The proposal includes storage in kitchens, bathrooms, bedrooms and additional storage rooms (combined area of 29.5sqm) at Basement Level. The size and allocation of the additional storage at basement level is not demonstrated on plans. Notwithstanding this, the applicant has indicated that compliance is achievable in this regard.

Part 4K – Apartment mix

Of the proposed thirteen (13) apartments, 85% are studio and/or 1 bedroom in configuration, at odds with Part 4C.4.1 of the BBDCP which requires a maximum of 25% of dwellings to be studio or 1 bedroom. The proposal is also inconsistent with the objectives of Part 4K of the ADG, which seeks flexible configurations to support household types and stages of life including single person, families, multi-generational and group households.

The applicant has advised that the proposed dwelling mix responds to the constraints of the site and modest building envelope. This argument is not accompanied by the demonstration of an under/over supply of 2 and/or 3 bed apartments in the local area.

This is considered a poor outcome, at odds with housing choice objectives, and is not supported.

The DRP identified dwelling mix as a threshold issue.

Clause 148 - Non-discretionary Development Standards for Residential Apartment Development - the Act, s 4.15

The following table summarises these standards and compliance of the proposal:

Standard	Requirement	Compliance and comment
Car Parking	Comply with Part 3J of the ADG	NO - shortfall of 10 spaces. The variation is not supported. In accordance with section 4.15(3)(b) of the EP&A Act, the applicant is required to submit a section 4.6 request to allow any variation to be supported; this has not been submitted for assessment.
Internal Area	Comply with Part 4D of the ADG (min area): <ul style="list-style-type: none"> - Studio 35sqm - 1 bed 50sqm - 2 bed 70sqm - 3 bed 90sqm 	Complies with exception of Unit 2.06 which proposes a minor variation as discussed above. In accordance with section 4.15(3)(b) of the EP&A Act, a section 4.6 request is required to allow any variation to be supported; this has not been submitted for assessment.
Ceiling Heights	Comply with Part 4C of the ADG (min): <ul style="list-style-type: none"> - Habitable rooms 2.7m - Non-habitable 2.4m - Mixed use areas 3.3m 	Complies

Bayside Local Environmental Plan 2021

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

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
1.2 Aims of the Plan	No - see discussion	-
2.3 Zone and Zone Objectives	No - see discussion	No - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio ("FSR")	Yes - see discussion	Yes - see discussion
4.6 Exceptions to development standards	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	No - see discussion	No - 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

1.2 - Aims of the Plan

While not a mandatory consideration for development applications, Section 1.2 of the BLEP 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 BLEP 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 not consistent with the aims above, namely: b, d, e, f, g, h and j.

2.3 - Zone

The subject site is zoned E1 Local Centre under the provisions of the BLEP. The proposal is defined as shop top housing 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 is incompatible with the existing streetscape scale of development and adversely impacts upon residential amenity. Therefore, the objectives of the zone are not satisfied.

4.3 - Height of Buildings

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

The proposal has a maximum height of 16.5m (RL 24.74 AHD) which does not comply with the provisions of this clause. This is a height exceedance of 2.5m and results in a variation of 17.85% and is discussed in Clause 4.6 – Exceptions to Development Standards below.

The proposed height breach is demonstrated in Figure 6, below:



Figure 6: Height plane diagram (Approved adjoining development shown for comparison)
(Source: Applicant)

4.4 – Floor Space Ratio

A maximum FSR standard of 2:1 (GFA of 885.2sqm) applies to the subject site and proposal.

The proposal has a maximum GFA of 877.2sqm and equates to an FSR of 1.99:1, which complies with the provisions and objectives of this clause.

4.6 - Exceptions to Development Standards – Height of Buildings

Section 4.6 of the BLEP 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.

Note: On 1 November 2023, amendments to s4.6 came into force. The minor changes delete the requirement to satisfy the public considerations of s4.15(1)(e) of the Environmental Planning and Assessment Act 1979. However, the changes include savings provisions where development applications lodged prior to 1 November 2023 that have not yet been determined are to be assessed as though the amendments have not yet commenced. The subject application was lodged prior to 1 November 2023 and therefore, the recent changes have no effect.

Extent of Variation

The applicant is seeking to contravene the Building Height development standard by 2.5m which equates to a 17.857% variation. A contravention request in accordance with s4.6 of the BLEP, seeking to justify the proposed contravention, has been prepared by ABC Planning Pty Ltd.

Assessment

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 there and are sufficient environmental planning grounds to support the non-compliant Building Height. These components are summarised below, with the assessing officer's response provided, noting that the submitted document provides an assessment against the objectives of the B2 Local Centre zone rather than the required E1 Local Centre zone. The variation is not supported.

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):

- *Notwithstanding the associated height variation, the proposed development is consistent with the desired future character of the locality, as made evident by the approved adjoining 5-storey mixed-use development at No. 1027 – 1043 Botany Road, which also breached the height development standard in a similar way, having a maximum height of 16.4m to the top of the building and 17.2m to the top of the lift overrun (RL of 24.95).*
- *The substantial form of the approved development which has an extensive frontage makes a significant contribution to the desired character of the locality. It also reaffirms the compatibility of the proposed height variation, noting that a compliant development would be inconsistent/incompatible with the streetscape. In this context, it is considered that the proposed height variation will not be overbearing in the streetscape but will sit comfortably and appropriately alongside the 5-storey building to the south, as there will be a coherent street scale and compatibility with the emerging urban fabric.*
- *The proposed built form is designed to be consistent with the established 2-storey street wall height and recessive upper two levels. The proposed partial fifth-level component is further recessed with the principal built form below, aligning with the adjoining southern neighbour. In this context, it is considered that the proposed height will not be overbearing in the streetscape but will sit comfortably and appropriately with the southern neighbour.*
- *From the northern elevation, the height variation will not be responsible for any unreasonable bulk or scale impacts, noting that the proposal has a compliant FSR and incorporates indentation elements and artwork, which aid in breaking down any perceived bulk and scale from the Rawson Street streetscape, providing a visually interesting built form and mitigating blank walls.*
- *Furthermore, other mixed-use developments within proximity of the subject site include 4-storey built forms with a partial fifth-level component, such as No. 694-700 Botany Road, 904 Botany Road and 984 Botany Road Mascot.*
- *It is therefore considered that the proposed height of the development does not represent an overdevelopment of the site or a development with a height that is incompatible with the context in which it is located. In this regard, it is considered that the proposed height variation would be compatible with the context of the surrounding built environment and represent the desired future character of the locality, irrespective of the height variation.*
- *The proposed height variation associated with the mixed-use development will not create adverse overshadowing impacts to the adjoining development to the north and south, which will continue to receive 2 hours of solar access to principal living and private open space areas per the ADG requirements.*
- *The site and surrounds do not have access to significant views. Nonetheless, the proposed development and associated height variation is not considered to generate any adverse view impacts on any neighbouring dwelling or residential flat building through the use of appropriate setbacks and adequate separation distance, specifically to the eastern dwellings at the R2 interface. Therefore, the strategic design of the proposal aids in mitigating view, privacy and overshadowing impacts on the surrounding streetscape.*

- *No visual impacts are associated with the proposed height variation associated with the partial fifth-storey component, noting that the proposed fifth-storey balcony is oriented to the western front elevation with direct views of Mascot Memorial Park. Therefore, the height variation will result in nil direct overlooking impacts on adjoining residential developments.*
- *In addition, the orientation of primary openings to the front and rear of the development, plus adequate setbacks and separation distances, ensure that visual privacy is maintained to the northern, eastern and southern adjoining neighbours.*
- *Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning.*

Officer Comment:

The applicant has placed emphasis on the first test expressed in *Wehbe v Pittwater Council* (2007) NSW LEC 827 i.e., the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.

The approved, yet to be commenced development on the adjoining site is not sufficient justification, as contextually the development sites differ. The subject site is constrained by its narrow frontage and restricted ability to comply with separation/setback requirements; this is not reflected in the development as proposed.

The submitted s4.6 statement fails to sufficiently demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as required by s4.6(3)(a).

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

Applicant Comments/Arguments (summarised):

- *The recessed nature of the height variation associated with the partial fifth-storey component ensures that the height variation will not be responsible for any unreasonable overshadowing or privacy impacts to neighbouring properties, specifically to the adjoining southern neighbour.*
- *Visual and acoustic privacy impacts to adjoining neighbours from the 2.5m variation (additional storey) have also been carefully considered. The proposed balcony on the fifth level is oriented towards Botany Road to the west, overlooking Mascot Memorial Park, while only window openings are proposed onto the rear eastern façade.*
- *It is reiterated that the proposed height variation is not responsible for any streetscape, overshadowing, privacy, view, heritage or visual bulk impacts.*
- *Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the height variation in this instance.*

Officer Comment:

The proposed development is of a scale which is inconsistent with the existing two (2) storey streetscape character and results in a visually dominant building which adversely impacts upon the adjacent low-density residential zone (to the rear). Further, the applicant has failed to demonstrate that the section of the building which breaches the height limit does not contribute or exacerbate adverse 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 s4.6(3) has been undertaken, as outlined above. The justification provided by the applicant has adequately addressed the requisite matters in s4.6(3), as required.

Section 4.6(4)(a)(ii)- Consent authority is satisfied 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 s4.6 Contravention Request and refers to matters the consent authority must be satisfied with, independent of the s4.6 Contravention Request. In this context, the following commentary and consideration is provided:

The objectives of the E1 Local Centre zone are as follows:

- *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 proposal is considered consistent with these zone objectives because:

- The proposed development is inconsistent with the existing streetscape scale and does not minimise impact upon the residential character of the adjacent low-density R2 zone (to the rear). Therefore, the proposal is inconsistent with the objectives of the E1 Local Centre zone.

The objectives of the relevant Building Height standard are as follows:

- *To ensure that building height is consistent with the desired future character of an area,*
- *To minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,*
- *To nominate heights that will provide an appropriate transition in built form and land use intensity.*

The proposal is considered to be inconsistent with the objectives of the development standard because:

- The proposed building height is inconsistent with the desired future character of the area, particularly given its context adjacent a two (2) storey building that will remain isolated.
- The proposal is visually dominant and fails to provide transition in built form. This view is consistent with those contained in public submissions.

As the proposal is inconsistent with the zone objectives and the relevant development standard being contravened, the consent authority can reasonably conclude the proposal is not in the public interest in the context of s4.6(4) of the BLEP.

The variation is not supported.

6.3 – Stormwater and WSUD

Council's Development Engineer has advised that insufficient information has been submitted to confirm the satisfaction of this Clause. The submitted stormwater plans are not supported for the following key reasons:

- No stormwater roof plan provided with overflows.
- Submitted reports state sand and groundwater table was found at 2m below ground level. As such, the proposed basement is to be designed as a fully tanked basement.
- The OSD design is not supported.
- Rainwater tank re-use details not provided.
- Proposed car wash bay not fully bunded.
- The location and depth of services in the footpath are not shown.

6.7 – Airspace Operations

The site is located within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority. In this regard, the height limit is 15.24m.

The application sought approval for development to a height of 25m ADH and was referred to Sydney Airport Corporation Limited who have raised no objection to the erection of this development to a maximum height of 25m AHD. The approved height is inclusive of all lift overruns, vents, chimneys, aerials, TV antenna, construction cranes etcetera.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 25 to 30 ANEF Contour, thus subject to potential adverse aircraft noise. Given this, appropriate noise attenuation measures are required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared by Koikas Acoustics Pty Ltd, dated 6 February 2023. The report makes recommendations to achieve compliance. The application is recommended for refusal, however should the Panel decide to approved the development, the requirements and objectives of this clause can be achieved through the imposition of conditions of consent.

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 ground floor commercial tenancies and front lobby.

The proposal provides appropriate design measures at ground floor level to facilitate the activation of the development to the adjoining public domain, as required by the Clause. The proposal is satisfactory in this regard.

6.11 – Essential Services

Services are generally available. Specific requirements for the provision of services to the site can be conditioned.

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 Bayside DCP 2022 (BDCP) commenced on 10 April 2022 however the proposal was lodged prior to this date. In accordance with the savings provisions, consideration is to be given to the Botany Bay DCP 2013 (BBDCP). However, where applicable consideration will also be given to the BDCP; details are summarised below:

- Car parking controls remain consistent;
- 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); and
- The general controls as relevant under Part 5 of the BBDCP remain the same in the BDCP.

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

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013 (BBDCP).

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

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3A Parking and Access	No – see discussion	No - see discussion
3B Heritage	Yes - see discussion	Yes - see discussion
3C Access and Mobility	No - see discussion	No - see discussion
3G Stormwater Management	No - see discussion	No - see discussion
3H Sustainable Design	No - see discussion	No - see discussion
3I Crime Prevention, Safety and Security	Yes	Yes
3J Development Affecting Operations at Sydney Airport	Yes - see discussion	Yes - see discussion
3L Landscaping and Tree Management	No - see discussion	No - see discussion
3N Waste Minimisation and Management	Yes - see discussion	Yes - see discussion
PART 4 – RESIDENTIAL DEVELOPMENT		
4C Apartment Buildings	No - see discussion	No - see discussion
PART 5 – BUSINESS CENTRES		
5.2.2.6 Rosebery Neighbourhood Centre	No - see discussion	No - see discussion
PART 8 – CHARACTER PRECINCTS		
8.7 Mascot Character Precinct	No - see discussion	No - see discussion

The following Sections elaborate on key matters from the above table.

Part 3A – Parking and Access

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

- 1 space per 40sqm for commercial use
- 1 space per studio or 1 bedroom dwelling
- 2 spaces per 2 or more bedroom dwelling

Based on a total commercial floor area of 79sqm, a total of 2 commercial spaces are required. The required 2 commercial spaces are provided.

Based on 11 studio/1 bed and 2 x 2 bed dwellings, a total of 15 resident spaces are required. The proposal provides 7 spaces, resulting in a shortfall of 8 spaces. Additionally, the proposal is to provide 1 visitor space per 5 dwellings, therefore 3 visitor spaces are required. The proposal provided 1 visitor space, resulting in a shortfall of 2 spaces.

Based on the above, a total of 20 on-site car parking spaces is required; 10 spaces are proposed. The total shortfall in on-site car parking is 10 spaces. Council's Development Engineer has reviewed the submitted traffic report and advised: the numerical shortfall in car parking is not justified; and the provision of a single carshare space, as proposed, is insufficient to offset 10 residential parking spaces.

The existing development does not consist of an existing car parking shortfall which can be credited to the proposed development.

The shortfall in on site car parking is not supported having regard to Control 2 of Part 3A.2 Parking Provisions of Specific Uses.

Given the above, it is concluded that the proposal fails to provide parking provisions appropriate for the development. As such, Part 3A.2 of the BBDCP is not satisfied.

Part 3B – Heritage

The subject site is not a heritage item, nor is it located within a heritage conservation area. The nearest heritage items are separated from the site by Botany Road to the west and Rawson Street to the north.

The proposed development is consistent with the general objectives of this Part of the BBDCP. The significance and integrity of the nearby heritage items has been considered in the assessment of the development application.

Part 3C – Access and Mobility

In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable and designed in accordance with Adaptable Housing AS 4299 Class B. Three (3), or 23% of the proposed 13 dwellings are noted on plans as being adaptable (i.e. dwellings 1.01, 1.04 and 2.08).

The development has been designed to be accessible with level access from Botany Road, the provision of an accessible sanitary facility at ground floor level and one (1) accessible commercial parking space to the rear of the site. Having said that, the development provides no accessible resident parking spaces, at odds with this Part of the BBDCP which requires the development to provide two (2) accessible resident parking spaces.

A shortfall in on-site accessible resident parking is not supported.

The submitted access report prepared by Access-I dated 27 February 2023 concludes, "the fundamental aspects of the design are capable of compliance in combination with DTS provisions and Performance Requirements (by way of Performance Solutions)". The performance solution relates to access and is required to rely upon under canopy footpath access rather than internal access from within the building. Should the Panel decide to approve the development, this matter can be resolved via condition.

Part 3G – Stormwater Management

Refer to discussion under the heading 6.3 – *Stormwater and WSUD*, above.

Part 3H – Sustainable Design

Whilst the proposal includes water-saving devices, it fails to provide solar collector panels as required by Control 7 of this Part of the BBDCP. No justification for this departure has been provided.

Part 3J – Development Affecting Operations at Sydney Airport

Refer to discussion under the headings 6.7 – *Airspace Operations* and 6.8 – *Development in Areas Subject to Aircraft Noise*, above.

Part 3K – Contamination

Refer to SEPP assessment, above.

Part 3L – Landscaping and Tree Management

Control 9 requires a deep soil landscape zone to be provided for all developments within boundary setbacks, particularly where a site adjoins a residential property, communal and private open space. The proposal provides no deep soil, at odds with this Part of the BBDCP, and Part 3E of the ADG, which requires sites less than 650sqm in area to be provided a minimum deep soil zone of 7% of the site area. This equates to 31sqm.

Given the adjacent low density residential zone to the rear, a minimum 3m dimensioned deep soil landscape zone capable of including a canopy tree to the rear of the site is warranted. Council's Landscape Architect has advised that the basement floor plan provides an area of 8sqm which is free of underground structures and potentially capable of representing a deep soil zone equal to 1.8% of the site area.

Proposed planters provide a level of privacy towards the adjacent low density residential zone, however they are not well integrated and as a result, amenity benefit is reduced.

Given the above, it is concluded that the proposal fails to achieve the objectives of this Part of the BBDCP. The proposal fails to incorporate high quality landscaping and planting designs, and does not provide a vegetated buffer to reduce impacts on neighbouring properties.

Part 3N – Waste Minimisation and Management

The application is accompanied by a Waste Minimisation and Management Plan which lists methods for minimising and managing construction and ongoing waste on site. Residential bins will be stored in a dedicated area at ground floor level, accessed from the rear of the building. Waste chutes are not proposed.

Should the Panel decide to approve the development, appropriate related conditions are recommended.

Part 4C – Apartment Buildings

As discussed under the heading *State Environmental Planning Policy (Housing) 2021*, above, the proposal fails to comply with several provisions of the SEPP and the ADG. This is at odds with Control 1 of Part 4C.1.2 of the BBDCP. Furthermore, the proposal is incompatible with the streetscape, fails to respond to the character and context of the locality, or to provide for housing types to accommodate a diverse and changing population as sought by the general objectives, and as advised by the DRP, does not display design excellence. Given this, the proposal is considered to be inconsistent with the requirements of this Part of the BBDCP.

Part 4C.2.4 – Landscaped Area and Deep Soil Planting

As discussed under the heading *3L Landscaping and Tree Management* above, the proposal provides no deep soil zones.

Proposed landscaping is limited to within planter boxes at levels 2, 3 and 4 that are long and narrow at less than 1m in width. This is inconsistent with Controls 7 and 8. Furthermore, the submitted landscape plans do not include the planting of canopy trees or vegetation to soften the visual bulk of the building as viewed from the adjacent low density residential zone.

Part 4C.2.6 – Setbacks

No part of a building or structure (including basement car park, driveways and OSD/infiltration systems) is to encroach into the front, side and rear building setback zone. The proposed basement car park and driveway encroach into the side and rear setback zones. Additionally, all front, side and rear setback zones are to be provided as deep soil zones to allow unencumbered planting areas; no deep soil zones are provided.

The proposed building comprises the following minimum setbacks from boundaries:

Boundary	Ground Floor	First Floor	Second Floor	Third Floor	Fourth Floor
Front - West	0.0m	2.91m 0.0m to balcony	4.25m 0.0m to balcony	5.99m 3.2m to balcony	6.81m 2.5m to planter
Rear - East	5.84m	7.99m 5.84m to balcony	7.99m 5.84m to balcony	13.35m 6.6m to planter	15.84m 11.1m to planter
Side - North	0.0m	0.0m	0.0m	0.0m	1.92m
Side - South	0.0m	0.0m	0.0m	0.0m	2.45m

Control 6 states that building setbacks from front boundaries must be a minimum 3m if fronting a classified road i.e. Botany Road. The first floor level encroaches into the front setback zone. Further, Control 5 states that awnings and balconies are to be setback a minimum 1.5m from a classified road, therefore proposed balconies at levels 1 and 2 are not compliant.

The proposal lacks spatial separation as sought by Control 3 and consequently fails to adequately minimise bulk and scale, provide deep soil, and create a buffer for visual privacy. As such, the proposed setbacks are not supported.

Part 4C.2.8 – Consideration of Isolated Sites

The applicant has not provided evidence that the site isolation Planning Principles established by the Land and Environment Court have been followed and there is insufficient information provided to demonstrate that the proposal will not result in isolation of the adjoining site to the north known

as, 1023 Botany Road, Mascot.

Figure 7: below provides context by demonstrating the subject site and adjoining site that may be isolated if the subject application is approved.

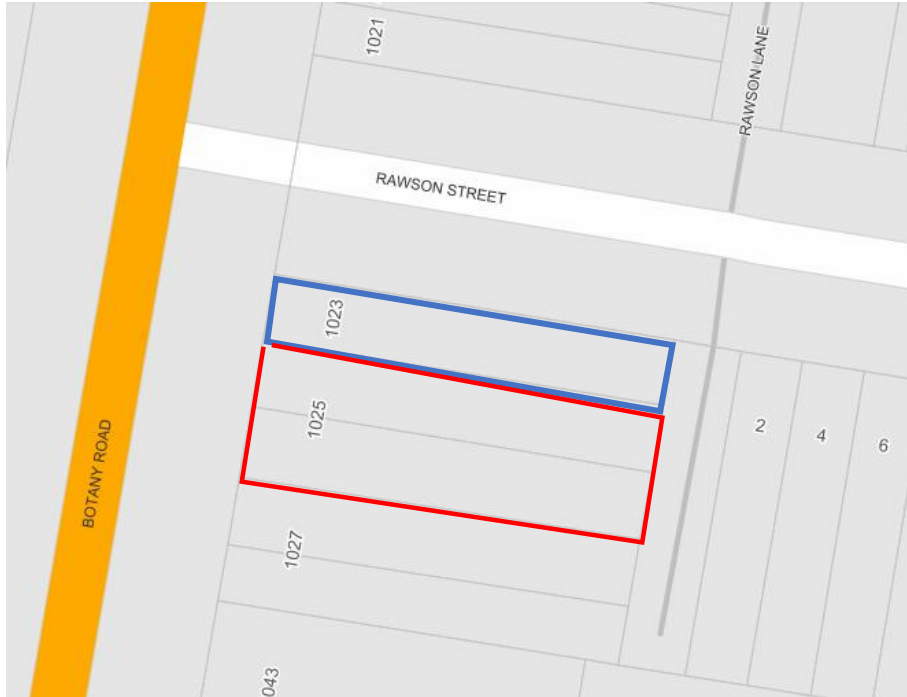


Figure 7: Subject site highlighted in RED and adjoining site which may be isolated highlighted in BLUE

The proposal is at odds with objectives O3 and O4 of Part 4C.2.8, which read as follows:

- O3 *To ensure allotment size is sufficient for development and associated provision of landscaping, parking, vehicular and pedestrian access.*
- O4 *To maintain amenity by having sufficient separation between buildings.*

The lack of landscaping, parking and building setbacks (as detailed above) demonstrates that the allotment size is insufficient for the scale of the development as proposed.

Part 5.2.2.6 – Rosebery Neighbourhood Centre**Figure 8:** Rosebery Neighbourhood Centre

This Part of the BBDCP refers to the building stock in Rosebery Neighbourhood Centre as comprising “a long row of inter-war (predominantly) two-storey shop-top housing. The shop-top buildings are all built to the street alignment with continuous awnings and parapets”. The proposed five (5) storey shop-top development preserves the referenced street alignment, awnings and parapets, however the proposal is inconsistent with key controls, including C3 which encourages redevelopment through logical lot consolidation and infill development, and C5 which requires new buildings to respond sympathetically to an established streetscape and reinforce these features.

The proposed development will improve the residential amenity for the housing above the shops by providing direct access to balconies, and entries are readily available from Botany Road. However, the proposal does not comply with Council’s sustainable development requirements as identified in Part 3H – Sustainable Design.

Part 5.3.1.1 Floor Space Ratio

Refer to the LEP assessment.

Part 5.3.1.2 Height

Refer to the LEP assessment.

Part 5.3.1.3 Street Setbacks

Refer to the assessment under Part 4C.2.6 – Setbacks.

Part 5.3.1.5 Built Form and Streetscape

The proposal has been reviewed by Council's Design Review Panel. Having regard to built form and streetscape character, the Panel is not supportive of the development, as proposed.

The proposal does not sensitively relate to the existing or desired future character of the area and does not respond to the streetscape qualities as sought by the objectives of this Part of the BBDCP.

The proposed development is not supported in its current form.

Part 5.3.2.5 Public Domain Interface at Ground Level

The proposed development demonstrates a clearly defined entry which addresses the street.

The interface at ground level promotes a high level of pedestrian amenity to the public domain, consistent with the Active Street Frontage requirements in the BLEP.

Part 5.3.2.6 Active Street Frontages

Refer to the LEP assessment.

Part 5.3.2.9 Landscaped Area

The proposed development indicates landscaping within planters. This has been reviewed by Council's Landscape Architect and was considered inappropriate for the site.

Part 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 proposal provides no at-grade outdoor private open space or communal open space. Further, no communal open space areas are included in the proposal.

Part 5.3.2.11 Materials and Finishes

The application is accompanied by a schedule of colours and finishes.

The Design Review Panel suggested a simplified material palette with reduced amounts of painted finishes, timber panelling and screening devices necessary to respond to the context. Notwithstanding this, the proposal is considered to reasonably satisfy objective O1 of Part 5.3.2.11 of the BBDCP.

Part 5.3.3.3 Solar Access and Shadow

Submitted solar diagrams demonstrate at 9am, 12 noon, and 3pm on 21 June that the neighbouring site to the south can achieve a minimum 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.

Part 5.3.3.6 Stormwater Management and Flooding

Refer to the LEP assessment.

Part 8.7 – Mascot Character Precinct

This section of the BBDCP provides rationale for determining the appropriateness and strategic direction for development in the Mascot Character Precinct.

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

The proposed five (5) storey development is inconsistent with the established height of adjoining development, being two (2) storeys in height, and the desired future character statement, which describes a maximum height of 14m with a maximum of four (4) storeys permitted. The proposed five (5) storey building has an overall height of 16.5m.

The proposal is non-compliant regarding height, setbacks, landscaped area (deep soil), private open space, and communal open space, and is considered to unreasonably impact upon neighbouring sites with regards to visual and acoustic privacy. As such, the proposal is not considered suitable for the site and/or wider Mascot Character Precinct.

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

There is no planning agreement applicable to the proposal.

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

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

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed or warrant some elaboration are as follows:

Built Environmental Impacts**Construction Impacts**

Temporary construction-related impacts do affect amenity and this is partially inevitable from demolition, excavation and constructing new works. Construction-related impacts are able to be addressed by standard conditions of consent to reasonably manage and mitigate impacts, while allowing rational and orderly construction, should the Panel approve the development.

Social Impacts

The proposal will impact adversely upon the amenity and character of the area and is not supported.

Economic Impacts

In terms of economic impacts, the proposal will cause no anticipated negative economic impacts and will result in positive economic impacts from the materials and labour needed for operation and construction of the proposal.

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

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. Council is not satisfied that 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. Accordingly, the application is recommended for refusal.

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

The development has been notified in accordance with the BBDCP, between 19 April and 22 May 2023. Seven (7) submissions have been received, including one (1) in support and one (1) on behalf of five (5) properties within Walker Avenue, Mascot.

The issues raised in the submissions are discussed below:

Issue 1: Height breach

Comment: The proposal breaches the 14m height limit set under s4.3 of the BLEP by 2.5m or 17.85%. Refer to discussion under the headings 4.3 *Height of Buildings* and 4.6 *Exceptions to Development Standards*, above.

Issue 2: Non-compliance with Apartment Design Guide (ADG)

Comment: The proposal varies numerous ADG requirements. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 3: Bulk and scale

Comment: The proposed building mass is inconsistent with the adjacent two (2) storey development examples. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 4: Streetscape character

Comment: The site is located in an area undergoing transition from low density residential to higher mixed use developments. The proposal is generally consistent with the desired future character of the area. Notwithstanding this, various non-compliances cannot be supported. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 5: Setbacks and building separation

Comment: Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 6: Traffic generation and parking shortfall

Comment: The proposal comprises a singular vehicular access from Rawson Lane to the rear of the site. Transport for NSW have by letter dated 20 February 2024 granted concurrence, subject to the imposition of conditions in any related consent. Traffic generation and parking requirements are discussed under the headings *State Environmental Planning Policy (Housing) 2021* and *Part 3A Parking & Access*, above.

Issue 7: Solar access

Comment: Submitted solar diagrams demonstrate at 9am, 12 noon, and 3pm on 21 June that the neighbouring site to the south can achieve a minimum 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.

Issue 8: Negative impact on property values

Comment: This is not a planning matter for consideration.

Issue 9: Stormwater management

Comment: Refer to discussion under the heading 6.3 *Stormwater and WSUD*, above.

Issue 10: Construction dust, noise and potential ground movement impacting surrounding development

Comment: The minimisation of construction impacts can be addressed via condition.

Issue 11: Waste management

Comment: The application is accompanied by a waste management plan, which has been reviewed by Council's Waste Management Officer. No objection has been raised regarding waste management (i.e., onsite storage and/or collection).

Issue 12: General nuisance

Comment: Should the Panel decide to grant consent, appropriate conditions to minimise general amenity impacts are recommended for imposition.

Issue 13: Visual privacy impacts

Comment: Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021* and *Visual Privacy* under the BBDCP, above.

Issue 14: Amenity impacts from commercial premises

Comment: The proposal includes two (2) ground floor tenancies identified as commercial premises (i.e., business, office and/or retail premises under the BLEP), a permitted land use with consent in the E1 Local Centre zone. Operational details have not been provided. If approved, commercial premises will be subject to a separate application to consider operational matters.

Issue 15: Communal open space

Comment: The proposal provides no communal open space, at odds with the minimum 25% required under Part 3D of the ADG. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 16: Landscaping

Comment: The proposal provides no deep soil zone, at odds with the minimum 7% required under Part 3E of the ADG. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 17: Dwelling mix

Comment: Of the proposed thirteen (13) apartments, 84.6% are studio and/or 1 bedroom in configuration, at odds with Part 4C of the BBDCP, which requires a maximum of 25% of dwellings to be studio or 1 bedroom. Refer to discussion under the heading *State Environmental Planning Policy (Housing) 2021*, above.

Issue 18: Location of plant and equipment

Comment: Submitted plans do not demonstrate the location of plant and equipment, except for a fire hydrant booster located at-grade central to the sites Botany Road frontage.

Issue 19: Public interest

Comment: based on the above assessment and absence information deemed necessary to allow a full and proper assessment of the proposal, granting approval to the proposed development is not considered to be in the public interest.

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

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 unsuitable for the site and has adverse environmental impacts. As such, granting approval to the proposed development is not considered to be in the public interest.

S7.11 - Development Contributions

The application was referred to Council's Development Contributions Planner who advised that the proposal is subject to a \$240,000.00 s7.11 development contribution under Council's Contribution Plans.

The contributions will be used towards the provision or improvement of amenities and services identified below:

Community Facilities	\$ 22,070.85
Recreation and Open Space	\$ 176,134.93
Transport Facilities	\$ 40,049.06
Administration	\$ 1,745.16
Total in 2023/24	\$ 240,000.00

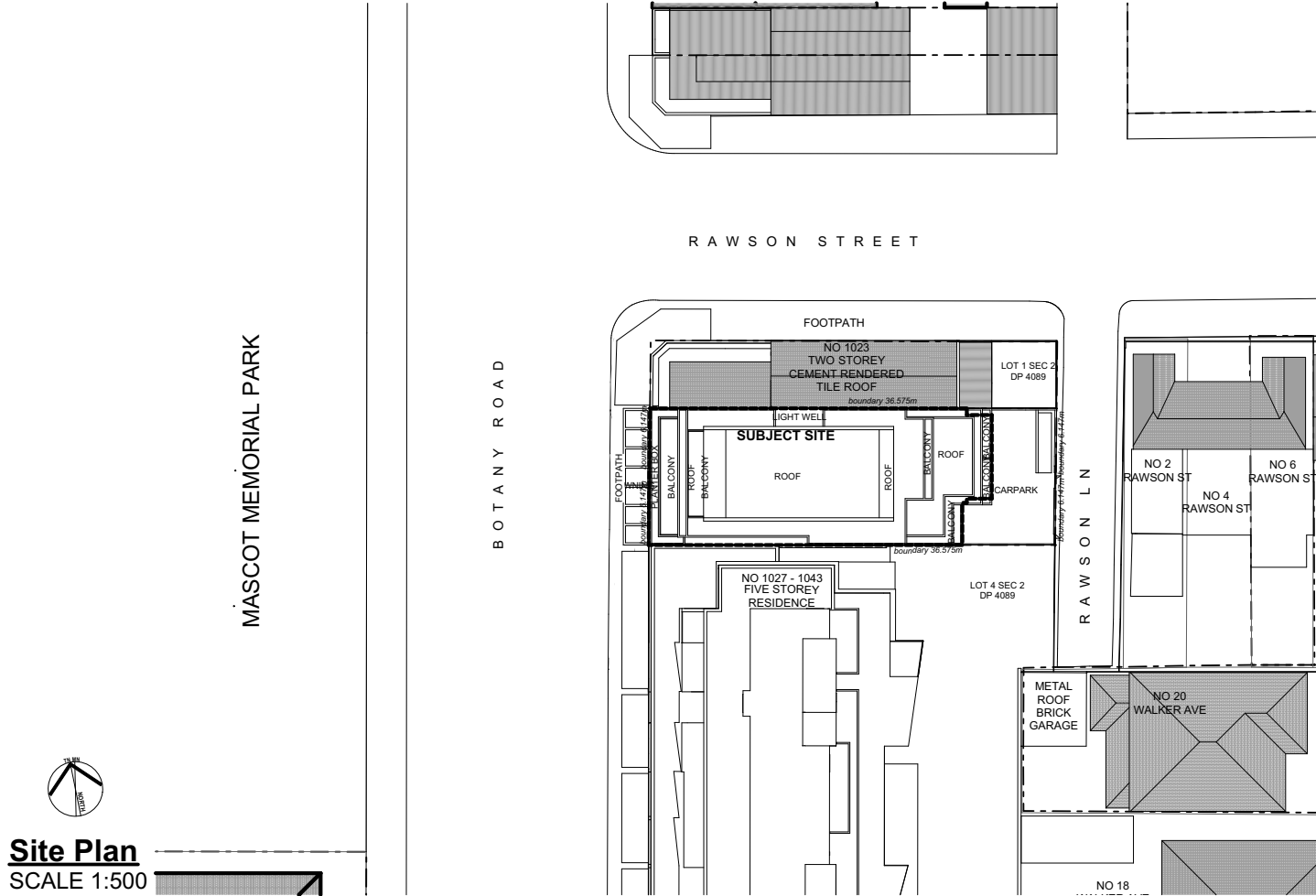
Conclusion and Reasons for Decision

The proposed development at 1025 Botany Road, Mascot NSW 2020 has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments, Bayside LEP 2021 and Botany Bay DCP 2013.

The proposed development, being shop top housing, is a permissible land use within the zone with development consent, however the application as proposed cannot be supported for reasons detailed in the report.

In response to the public notification, seven (7) submissions have been received. The matters raised in these submissions include: building height; streetscape presentation; traffic impacts; parking provisions; loss of solar access; visual and acoustic privacy; and loss of amenity for the adjacent low density residential zone. These matters are considered valid and have been addressed in this report.

The application is not supported for the reasons outlined in this report.



Site Plan
SCALE 1:500

ARCHISPECTRUM
 Nominated Architect: Martin Bednarczyk
 | NSW ARB #8912 |
 Suite C5, 8 Allen St, Waterloo
 NSW 2017
 ph: (02) 8399 2807
 mob: (0419) 670 108
 email: office@archispectrum.com.au
 A.B.N. 40 966 067 144

PROJECT:
**Proposed Mixed Use
 Development**
 1025 Botany Rd, Mascot

SHEET TITLE:
Notification Drawings - Site Plan

DRAWN: -----
 SCALE: as shown

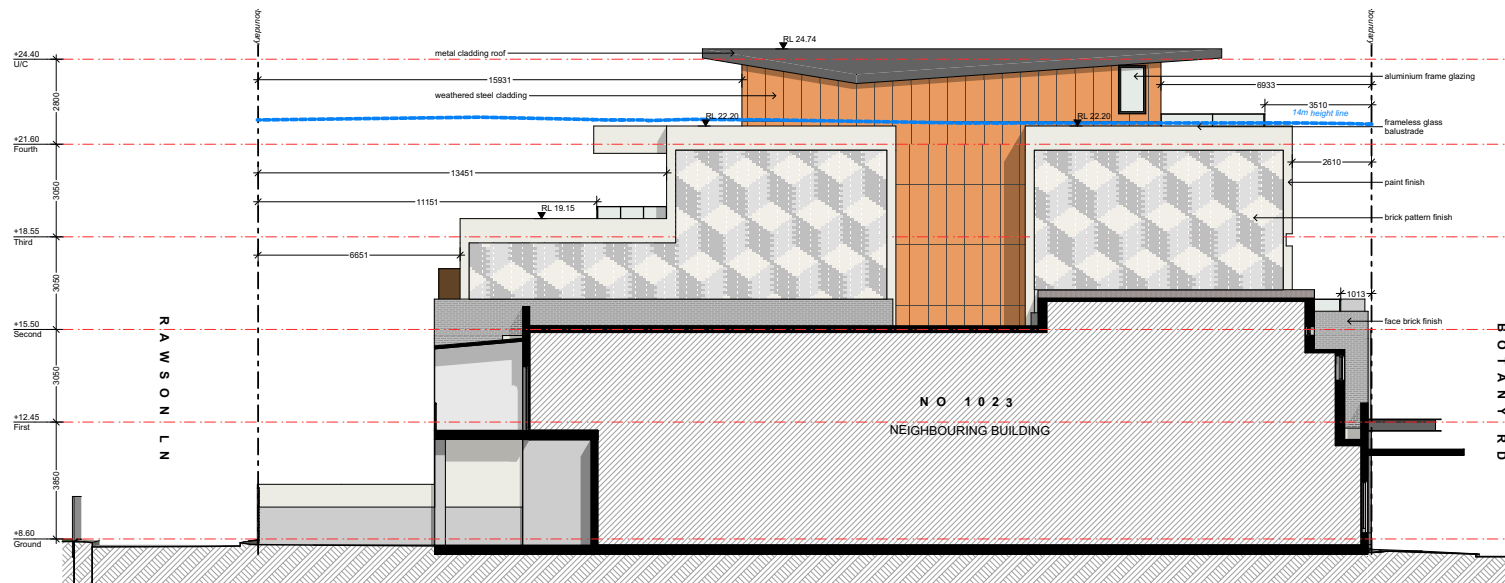
SHEET SIZE:
A4



West Elevation - Botany Rd
SCALE 1:200



East Elevation - Rawson Ln
SCALE 1:200



North Elevation - 1023 Botany Rd
SCALE 1:200

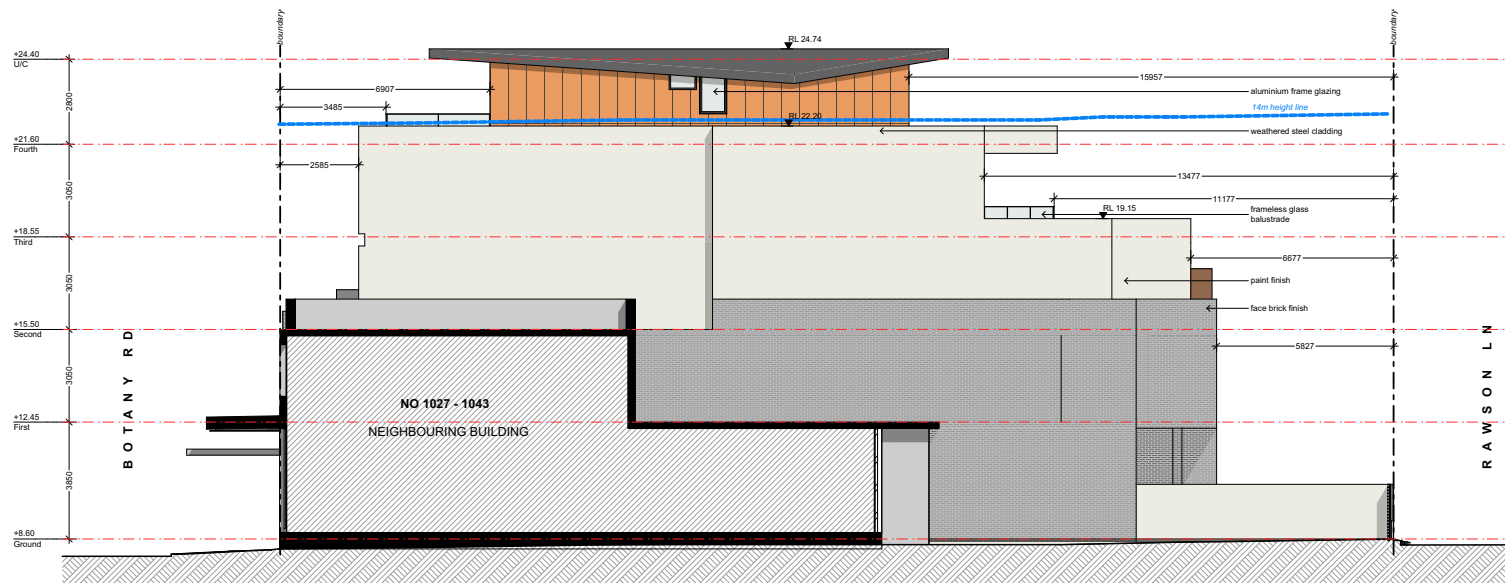
ARCHISPECTRUM
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 ph: (02) 9399 2807
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 email: office@archispectrum.com.au
 A.B.N. 40 966 067 144

PROJECT:
**Proposed Mixed Use
 Development**
 1025 Botany Rd, Mascot

SHEET TITLE:
**Notification Drawings - North
 Elevation**

DRAWN: -----
 SCALE: as shown

SHEET SIZE:
A4



South Elevation - 1027-1043 Botany Rd
SCALE 1:200



A 27/03/2023 DA Issue to Council
 NAME DATE 06/04/2024

ARCHITECTURE SPECTRUM:
Non-Residential Architects: Suite 200, 1025 Botany Rd, Mascot NSW 1522
 Suite 20, 4 Abercrombie Street, NSW 2011 Sydney NSW 1514
 Tel: 0419 070 100 | Fax: 02 9399 3827 | E: office@architecture-spectrum.com.au

DESIGNER CONTRACTOR IN THESE DRAWINGS AND ANY INFORMATION ON THE PROPERTY OR CONTAINED THEREIN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A CONTRACT. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED AND THE CLIENT'S OBLIGATION TO OBTAIN NECESSARY APPROVALS FROM THE RELEVANT AUTHORITIES.

PROJECT:
Proposed Mixed Use Development
 1025 Botany Rd, Mascot

CLIENT:
Richard Solomon

DEVELOPER:
Perspective Views

SCALE: 1:50
 DRAWN: S. Luffa

Clause 4.6 - Height

1025 Botany Road Botany

CLAUSE 4.6 TO CLAUSE 4.3 OF BAYSIDE LEP 2021
EXCEPTIONS TO DEVELOPMENT STANDARDS – **HEIGHT VARIATION**

Demolition of the existing dwelling and erection of a 5-storey shop top housing development comprising ground floor commercial space, 13 residential apartments above and 11 parking spaces on the ground floor and basement level

1025 BOTANY ROAD, MASCOT

PREPARED BY
ABC PLANNING PTY LTD

March 2023

BAYSIDE LEP 2021 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the development application for demolition of the existing dwelling and erection of a 5-storey shop top housing development comprising 13 residential units, ground floor parking, landscaping and associated structures at Lot 3 Section 2 DP4089, commonly known as 1025 Botany Road, Mascot.

This Clause 4.6 accompanies plans dated 23 March 2023.

Clause 4.6 of the Bayside LEP 2021 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement in *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734*, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*, and more recently the decision of *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112*.

It is noted in particular that in the SJD decision, the Court at [73] held that "*it should be noted cl 4.6 of [LEP] is as much a part of [LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome.*"

Clause 4.6 is reproduced in full immediately below, and each aspect of the clause is addressed in this written request.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (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.
- (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
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (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
 - (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
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the *Bayside LEP 2021* - maximum height of 14m, demonstrated on the LEP map in **Figure 1** below.

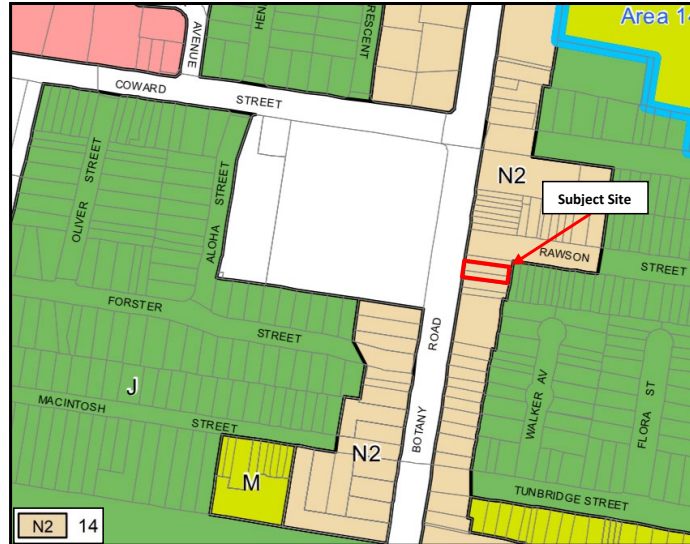


Figure 1: Building Height Map

As shown in the below Section A-A elevation excerpt (Drawing DA04.01), the proposed maximum height of 16.5m (RL 24.74), represents a variation of 2.5m from the numerical height standard in the LEP, as shown on **Figure 2**.

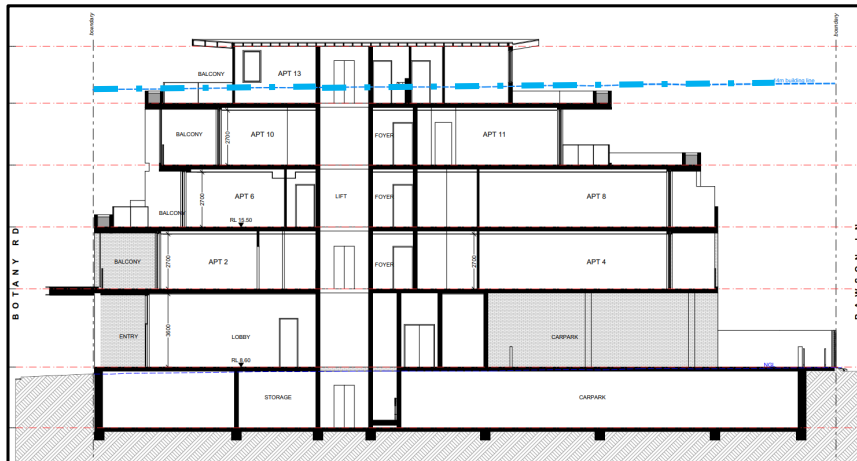


Figure 2: Section A-A excerpt showing the extent of height non-compliance (dotted in blue), which is limited to portions of the fifth level, whilst the remainder of the built form is sited below the height standard of 14m

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two primary aspects. Both aspects are addressed below:

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

Assessment: It is considered that strict compliance with the development standard for height on the site is unreasonable and unnecessary in the circumstances for the following reasons:

The proposal complies with the development standard's objectives and the B2 Local Centre zone, as indicated in the assessment in Table 1. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest, achieving the objectives for development within the zone, notwithstanding non-compliance.

- **Compatibility with the height of the adjoining mixed-use building to the south and the desired future character of the locality**

The term 'desired future character' is not defined by the Bayside LEP 2021. However, key case law outcomes (i.e. Big Property Pty Ltd v Randwick City Council [2021], HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] and Woollahra Municipal Council v SJD DB2 Pty Limited [2020]) have outlined that the desired future character can be determined by a series of factors such as the Local Environmental Plan and approved developments that neighbour a site, specifying that it cannot be determined solely by the applicable development standards:

"The Council contends that the proposal is not compatible with the desired future character envisaged for the area as established by the planning controls contained in LEP 2012. The desired future character of an area is not defined and fixed by development standards for height of buildings and FSR. For the reasons set out above, development standards for height of buildings and FSR do not envisage the desired future character of a locality because they do not, alone, determine the realised building envelopes for that locality" Big Property Pty Ltd v Randwick City Council [2021] [at48]

In this regard, notwithstanding the associated height variation, the proposed development is consistent with the desired future character of the locality, as made evident by the approved adjoining 5-storey mixed-use development at No. 1027-1043 Botany Road, which also breaches the height development standard in a similar way, having a maximum height of 16.4m to the top of the building and 17.2m to the top of the lift overruns (RL of 24.95), as demonstrated in the following streetscape elevation excerpt, photomontage and height plane diagram:



Figure 3: Photomontage of the approved mixed-use development at No. 1027-1043 Botany Road adjacent to the existing subject site to the south. The approved development indicates 2-storey wall heights and 2-recessed residential levels above with a recessed fifth-storey component

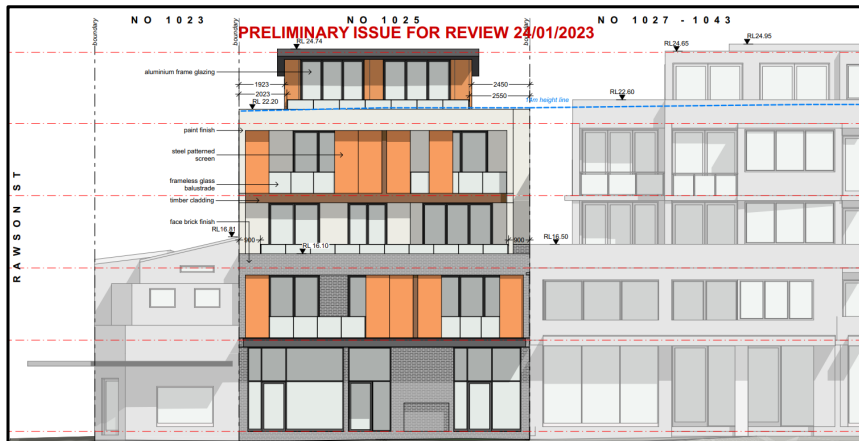


Figure 4: Excerpt of the streetscape elevation with the adjoining neighbouring developments to the north and south. Specifically, the excerpt demonstrates that the extent of height non-compliance (blue dotted line) aligns with that approved for No. 1027-1043, thereby indicating that the proposed development complies with the desired character of the streetscape

Clause 4.6 - Height

1025 Botany Road, Botany



Figure 5: Height plane diagram demonstrating the portions of the development that site above the height standard of 14m. The proposed height is compatible with the adjoining southern neighbour at No. 1027-1043, which exceeds the height standard in a similar way

The neighbouring development demonstrates the variation from height development standard to allow a building of greater height than the controls envisaged. The substantial form of the approved development which has an extensive frontage makes a significant contribution to the desired character of the locality. It also reaffirms the compatibility of the proposed height variation, noting that a compliant development would be inconsistent/incompatible with the streetscape. In this context, it is considered that the proposed height variation will not be overbearing in the streetscape but will sit comfortably and appropriately alongside the 5-storey building to the south, as there will be a coherent street scale and compatibility with the emerging urban fabric.

The proposed built form is designed to be consistent with the established 2-storey street wall height and recessive upper two levels. The proposed partial fifth-level component is further recessed with the principal built form below, aligning with the adjoining southern neighbour. In this context, it is considered that the proposed height will not be overbearing in the streetscape but will sit comfortably and appropriately with the southern neighbour.

From the northern elevation, the height variation will not be responsible for any unreasonable bulk or scale impacts, noting that the proposal has a compliant FSR and incorporates indentation elements and artwork, which aid in breaking down any perceived bulk and scale from the Rawson Street streetscape, providing a visually interesting built form and mitigating blank walls, as demonstrated in the following excerpt:

Clause 4.6 - Height

1025 Botany Road, Botany

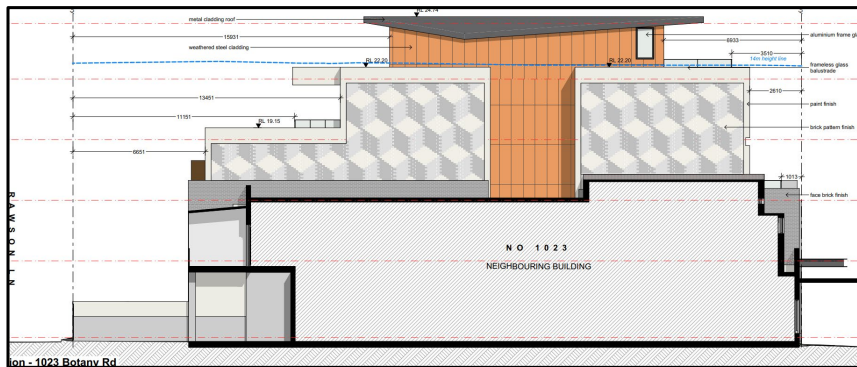


Figure 6: Northern elevation excerpt

Furthermore, the proposal utilises a high level of articulation, including the provision of balconies, screening and setbacks. Therefore, the height variation will be well integrated into the high-quality, articulated design of the proposal, thereby ensuring that the built form will contribute positively to the locality.

The component associated with the height variation is substantially recessed as shown above in Figure 6, which confirms that there will be no adverse visual bulk or privacy impacts associated with the non-compliant upper level. The upper level also sits consistently with the approved development when viewed from the R2 zoned properties to the east.

Furthermore, other mixed-use developments within proximity of the subject site include 4-storey built forms with a partial fifth-level component, such as No. 694-700 Botany Road, 904 Botany Road and 984 Botany Road Mascot.

It is therefore considered that the proposed height of the development does not represent an overdevelopment of the site or a development with a height that is incompatible with the context in which it is located. In this regard, it is considered that the proposed height variation would be compatible with the context of the surrounding built environment and represent the desired future character of the locality, irrespective of the height variation.

• **Retention of solar access**

The proposed height variation associated with the mixed-use development will not create adverse overshadowing impacts to the adjoining development to the north and south, which will continue to receive 2 hours of solar access to principal living and private open space areas per the ADG requirements.

The east-west orientation of the site inevitably overshadows the adjoining southern neighbour at No. 1027-1043 Botany Road. However, as indicated by the shadow diagrams, minimal additional overshadowing will occur as a result of the proposed development and associated height variation (as indicated by the pink shadow) from 8 am to 4 pm on June 21, noting that there is existing overshadowing present.

Furthermore, the sensitive design of the proposal in providing adequate separation and setbacks to the northern elevation combine to preserve a reasonable degree of solar access to the southern units of the northern neighbour, as demonstrated in the accompanying shadow diagrams:

Clause 4.6 - Height

1025 Botany Road, Botany

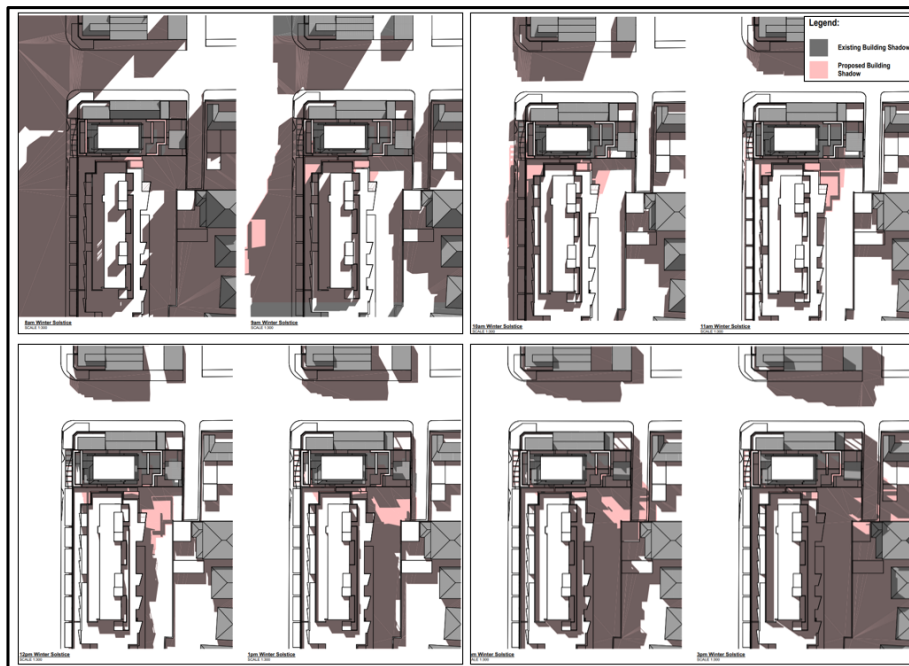


Figure 7: Shadow diagrams indicating the minimal additional overshadowing cast by the proposed residential flat building (as indicated by the pink shadow) from 8am to 4pm on June 21

In this regard, the retention of solar access further confirms that the proposed height variation is not responsible for any unreasonable shadow impacts and that the proposed architectural design has been managed to mitigate shadow impacts.

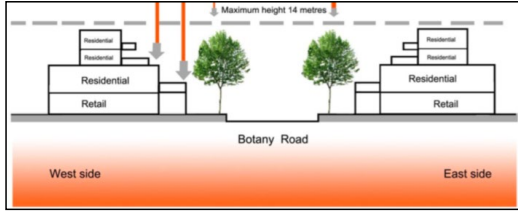
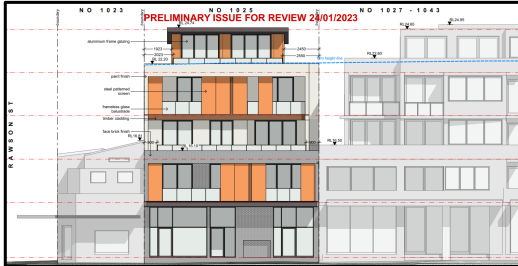
- **Absence of impacts**


The site and surrounds do not have access to significant views. Nonetheless, the proposed development and associated height variation is not considered to generate any adverse view impacts on any neighbouring dwelling or residential flat building through the use of appropriate setbacks and adequate separation distance, specifically to the eastern dwellings at the R2 interface. Therefore, the strategic design of the proposal aids in mitigating view, privacy and overshadowing impacts on the surrounding streetscape.

No visual impacts are associated with the proposed height variation associated with the partial fifth-storey component, noting that the proposed fifth-storey balcony is oriented to the western front elevation with direct views of Mascot Memorial Park. Therefore, the height variation will result in nil direct overlooking impacts on adjoining residential developments.

In addition, the orientation of primary openings to the front and rear of the development, plus adequate setbacks and separation distances, ensure that visual privacy is maintained to the northern, eastern and southern adjoining neighbours.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the objectives of the height standard in the LEP	
Objectives	Assessment
<p>4.3(a) to ensure that building height is consistent with the desired future character of an area,</p>	<p>The proposed height variation is suitable for the subject site and within the context of the locality and the B2 mixed-use block along Botany Road, aligning with the 5-storey mixed-used development to the south of the site at No. 1027-1040. Therefore, the proposed height provides a cohesive and compatible built form outcome that satisfies this objective.</p> <p>The proposal provides ground-floor retail premises and upper-level shop top housing, aligning with the existing setbacks and balconies along the Botany Road frontage, consistent with the existing/desired future streetscape.</p> <p>In addition, the proposed development has been generally designed in accordance with Figures 26 (Part 5.2 Business Centres – Mascot Local Centre) DCP provisions, noting that the subject site addresses and responds to the recently constructed development to the south, which includes a 2-storey street wall height and recessed 3-storey residential upper levels with a partial fifth level component.</p> <p>It can be noted that the proposed building envelope is similar to the immediately adjoining southern neighbour and therefore is consistent with recent approvals in the immediate area.</p> <div style="text-align: center;">  </div> <p style="text-align: center;">Figure 8: Council building envelope control (Figure 26)</p> <div style="text-align: center;">  </div> <p style="text-align: center;">Figure 9: Proposed building envelope which produces a uniform and consistent built form along Botany Road, irrespective of the height variation</p>

	 <p>Figure 10: Approved building envelope at No. 1027-1043 Botany Road (DA/2017/1161)</p> <p>As illustrated on the accompanying architectural plans prepared by Archispectrum, the proposed built form is appropriately sited on the subject site, with a nil setback at the first two stories to Botany Road, in the same manner as that approved to the south, thereby achieving the desired future character of the locality, notwithstanding the height variation.</p>
<p>4.3(b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,</p>	<p>The proposed height variation does not adversely impact upon the amenity of adjoining neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p> <p>It is reiterated that the proposed height will achieve a cohesive outcome with the adjoining development immediately to the south and that the proposal will not appear out of scale or dominant when viewed from any neighbouring property to the north along Rawson Street.</p> <p>The proposal retains 2 hours of solar access to the neighbouring southern development through the strategic use of recessive upper levels and setbacks, thereby minimising the disruption of solar access loss.</p>
<p>4.3(c) to nominate heights that will provide an appropriate transition in built form and land use intensity.</p>	<p>As discussed above, the proposed height variation aligns with the desired character of the B2 block, which is established by the approved development to the south of the subject site. In this regard, the proposed 5-storey height of the proposal provides a suitable transition between the 2-3-storey building to the north and the low-density house building to the east.</p> <p>In addition, compliant street setbacks and the appropriate scale of development ensure that the built form will positively contribute to the physical definition of the street network and public spaces.</p>
<p>Consistency with the objectives of the B2 Local Centre zone</p>	
<p>Objectives</p> <ul style="list-style-type: none"> To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. To encourage employment opportunities in accessible locations. To maximise public transport patronage and encourage walking and cycling. To create lively town centres with pedestrian focused public domain activated by adjacent 	<p>Assessment</p> <p>The proposed demolition of an existing two-storey residential dwelling and the construction of a shop-top housing development with ground-floor commercial and upper-level residential components is permissible in the B2 Local Centre land use zone.</p> <p>The height variation does not generate any inconsistency with the objectives as it allows for the contribution of affordable housing types (studios and 1-bedroom apartments) in an area convenient to transport, Sydney airport, Mascot Railway station etc.</p> <p>As outlined above, the proposed height variation does not adversely affect the amenity of neighbouring residents in the zone and in the adjoining and nearby residential zones.</p> <p>Therefore, the proposed height does not generate any inconsistency with the zone objectives.</p>

Clause 4.6 - Height

1025 Botany Road, Botany

<p><i>building uses and landscape elements.</i></p> <ul style="list-style-type: none"> • <i>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.</i> 	
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Based on the above assessment, it is considered that strict compliance with the LEP height standard is unreasonable and unnecessary in this instance.

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

Assessment: The recessed nature of the height variation associated with the partial fifth-storey component ensures that the height variation will not be responsible for any unreasonable overshadowing or privacy impacts to neighbouring properties, specifically to the adjoining southern neighbour.

The subject site represents a positive contribution to the public domain by providing commercial spaces on the ground floor along Botany Road, thereby activating the streetscape as per the B2 zone, whilst providing additional housing choice/mix in a serviced area within proximity to key infrastructure, i.e. Sydney Airport, UNSW and Mascot train station.

The height variation has been well integrated into the high-quality, and articulated design aesthetic of the built form and positively contributes to locality. The use of artworks and varying materials, colours and finishes, specifically along the northern elevation, breaks down any perceived bulk and scale when viewed from Rawson Street and limits visually unattractive blank walls. Therefore, the proposal will positively contribute to the aesthetic value of the streetscape.

The proposed development complies with the FSR development standard. As illustrated in the streetscape elevations and montages, the proposed shop-top housing development is contained within a building envelope that is compatible with the built form of the surrounding area.

Visual and acoustic privacy impacts to adjoining neighbours from the 2.5m variation (additional storey) have also been carefully considered. The proposed balcony on the fifth level is oriented towards Botany Road to the west, overlooking Mascot Memorial Park, while only window openings are proposed onto the rear eastern façade.

It is reiterated that the proposed height variation is not responsible for any streetscape, overshadowing, privacy, view, heritage or visual bulk impacts.

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the height variation in this instance.

Other Matters for Consideration

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 for development within the zone in which the development is proposed to be carried out

Assessment: The above assessment demonstrates that the proposed height satisfies the objectives of the height standard and the B2 zone.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the minor height variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

*(5) In deciding whether to grant concurrence, the Director-General must consider:
(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning*

Assessment: The proposed height variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed height allows for the achievement of a compatible building envelope without creating a development with overbearing height, bulk or scale and without compromising the desired future character of the area.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

Nevertheless, the Court may wish to consider the concurrence requirements

(b) the public benefit of maintaining the development standard

Assessment: The above assessment demonstrates that the proposed height satisfies the objectives of the standard and the zone and confirms that the proposed height allows for a better planning outcome on the subject site.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the height variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

Clause 4.6 - Height

1025 Botany Road, Botany

It is also noted that there is no public benefit in maintaining the height standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

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

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Generally as to concurrence, for the reasons outlined above – and particularly having regard to the site specific nature of this clause 4.6 variation request – there is nothing about this proposed height variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the development proposal at 1025 Botany Road, Mascot and is requested to be looked upon favourably by Council.

Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Friday, 15 March 2024 at Bayside Council

Panel members:

Dean Boone
Matt Hollenstein
Duncan Corrigan
Richard Nugent

Coordinator:

Pascal Van de Walle

ITEM # 1

Date of Panel Assessment:	15 March 2024
Applicant:	Archispectrum Pty Ltd
Architect:	Archispectrum Pty Ltd
Property Address:	1025 Botany Road, Mascot
Proposal:	Integrated Development – Demolition of existing structures and the construction of a five (5) storey shop top housing development comprising two (2) commercial tenancies, thirteen (13) apartments and basement parking
No. of Buildings:	1
No. of Storeys:	5
No. of Units:	13
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2023/89
Declaration of Conflict of Interest:	Nil

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant including Martin Bednarczyk, Director – Archispectrum; Richard Solomon – Owner of site and Pascal Van de Walle (Coordinator) & Fiona Koutsikas (Senior Planner) – Bayside Council.

Design Principle	Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The scheme is for a 5-storey shop-top building on Botany Road, an active main street. It shows a ground floor retail tenancy with awning, which will bridge a gap between an existing small shop-top building to the north and a 5-storey shop-top approval to the south.</p> <p>To justify an additional storey above the existing height limit, the applicant has used the precedent of an adjacent Court approval for a 5-storey shop-top building immediately to the south on a significantly larger site. Due to the scale of that site and its greater setbacks the panel considers it is not a suitable comparison. The Panel is supportive of this general approach of referring to local precedent but notes that the applicant needs to review built form context in all directions rather than only the most beneficial.</p> <p>The Panel is concerned with the isolated site at 1023 Botany Road that would be created by this proposal. This site is a 6.5m deep lot at the end of the block with three street frontages. The applicant advised that the property owner has rebuffed one purchase offer and has identified that they are not interested in selling due to non-financial reasons. The Panel understands Council has a clear process for proving good faith efforts to amalgamate, which staff advised has only partially been completed.</p> <p>Based on the currently submitted design, the isolated site will interact awkwardly with the proposal. The development application for #1025 shows a largely zero lot line development along the isolated site's boundary. This will result in a tall blank wall above the 2-storey 'isolated' building that will be highly visible from multiple approaches. If the development complied with the existing LEP controls, then this would present as a 4-storey blank wall. With the applicant's proposed Clause 4.6 variation to accommodate an additional storey, and the layout proposed, it will instead present as a 5-storey blank wall (with an upper-level setback). This worsens a poor urban outcome, and the Panel is therefore not supportive of the height variance as currently submitted.</p> <p>The Applicant also advised their view that #1023 is not an isolated site and would likely be developed in future. It is not clear to the Panel how this would occur, and supporting documentation, showing a feasible development outcome for the isolated site on its own at a future date, was requested.</p>

<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The Panel's concerns with the proposal's Built Form and Scale relate to its adjoining Context, which is described above.</p> <p>The building should be reduced in height by one floor to sit within the height controls.</p> <p>Further consideration should be given to suitable side setbacks of upper levels to provide a clear break in the built form along Botany Road and suitable levels of separation between adjacent built form. No clear argument is provided as to why reductions in these setbacks provide a better outcome on the site.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal shows no communal open space, minimal landscaped areas, features a unit mix with 85% studios and 1-Beds, and proposes to insert an additional story beyond the LEP's height-of-building limit. This is considered by the Panel to represent an overdevelopment of this site, as adequate amenity for residents has not been provided.</p> <p>A reduction in the density on the site could result in a reduction in car parking requirements and mean a basement isn't required. This could improve the viability of a smaller, more suitable development.</p>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>No sustainability measures were identified, and drawings do not identify typical measures like photovoltaics and electric chargers, rainwater harvesting and how the proposal can reduce its carbon footprint over the mid to long term.</p> <p>A raft of considerations and initiatives within the development should form part of the design ethos and rationale, such as the below comments on materiality, longevity and maintenance, access to natural light and ventilation into lift lobbies and comments on provision of communal open space.</p> <p>Panel expects a considered approach to sustainability to be made for the proposal rather than providing outcomes that are added without a considered approach.</p>

<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</p>	<p>The site is shown fully built out, with zero ground level landscaped area or provision of any deep soil.</p> <p>There are also no upper-level communal spaces, meaning the building's 'landscape' is limited to narrow and ineffective planter boxes to some edges only. Large expanses of empty roof space, in cases between a balcony and the planter could have been explored for the integration of a greener architectural outcome. The overall arrangement, placement and prioritizing of landscape within the development is poorly considered both in terms of the visual appearance and the user experience for future residents.</p> <p>While understanding this is a small, narrow site, the degree of site coverage and the lack of landscaping is not supported by the Panel.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The proposal varies very significantly from ADG advice on good apartment design across most categories, indicating resident and neighbouring amenity will be poor. The design varies from ADG guidance in terms of building separation, visual privacy, residential storage, apartment size and layout, communal open spaces, circulation spaces, and other issues.</p> <p>We note the decision not to provide any communal open space, internal or external, is identified as being justified by the adjacency of a local park. This argument is weakened by the degree of variance with the Apartment Design Guide and the dominant mix of small studio and 1-Bed units. Adequate communal open space within the development is considered by the Panel to be a critical amenity requirement for the current design.</p> <p>The Panel would like to see what the implications of a fully a fully compliant ADG scheme would be and what issues these present to the proponent. The proponent should then work through these issues and provide justification or compensating gestures for any non-compliances within their preferred scheme.</p> <p>The apartment layouts could be improved by further refinement to avoid excessive corridors, improved kitchen and laundry layouts. Typically, indicative furniture layouts are also shown with couches, tables etc.</p>

	<p>The residential entry should be shifted on the ground floor to allow a larger consolidated commercial area or co-located tenancies. This would enhance the viability and flexibility of the commercial premises.</p> <p>The lift lobby areas should have access to daylight and natural ventilation.</p> <p>The exposed fire egress stair should be relocated within the built form of the building.</p> <p>By undertaking a thorough investigation and exploration of the sites potential, site constraints and the sites potential outcomes a significantly different proposal would be the panels expected end result.</p>
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<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The development will potentially increase passive surveillance to the public realm when compared to the existing building.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal shows a mix with 45% studios, 40% 1-bed units and 15% 2-bed units. The dominance of small units should demand a higher percentage of communal space, similar to a Co-Living development, yet no communal areas have been provided.</p> <p>The mix could be supported by the Panel as a housing diversity measure; however, this would require adequate communal facilities be provided to offset the small rooms.</p> <p>The current mix and form is therefore unsupportable.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel noted a preference to simplify the material palette. Given the mid-rise scale of the building and narrow footprint, it is not considered necessary to break down the form through the 3-phase variation in materials currently shown.</p> <p>The use of durable materials with integral finishes such as brickwork are supported as opposed to painted finishes. The use of timber paneling is questioned due to its durability and fire issues. The laser cut screens are out of character with the immediate context and do not contribute positively to the character of the scheme.</p> <p>The glazed awning would require cleaning to keep it clear of leaves etc. A solid awning may be a more suitable response to the context.</p> <p>The Panel also requested the applicant further develop the design of the blank wall facing onto the isolated site at #1023.</p>

	This wall is expected to be highly visible in perpetuity, and so should be treated as an important elevation.
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RECOMMENDATION

- The design cannot be supported in its present form and should be amended as outlined above for reconsideration by the Panel.