

NOTICE

A meeting of the
Bayside Local Planning Panel - Other Applications
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 22 July 2025 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

Nil

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 MDA-2025/83 - 171 Bay Street, Botany - Section 4.55 Modification2

6.2 MDA-2025/23 - 95 Mimosa Street, Bexley - Section 4.55 Modification..23

Meredith Wallace
General Manager

Bayside Local Planning Panel - Other Applications

22/07/2025

Item No	6.1
Application No	MDA-2025/83
Property	171 Bay Street, Botany
Application Type	Section 4.55 Modification
Proposal	Modification to DA-2023/86 to delete condition 19a requiring retention of 2 eastern elevation ground floor windows
Owner	Mr M McCarthy
Applicant	Mr M McCarthy
Ward	Ward 1
Lodgement Date	20/05/2025
No. of Submissions	Nil
Cost of Development	\$0.00
Reason Criteria	Other
Report by	Peter Barber, Director City Futures

Officer Recommendation

That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to *Section 4.16 of the Environmental Planning and Assessment Act 1979*, be satisfied that the proposed modification:

- a) is of minimal environmental impact;
 - b) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - c) was not required to be notified and that no submissions have been received;
 - d) is NOT acceptable when considering the reasons for the granting of the original consent; and
 - e) is NOT acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
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 MDA-2025/83 for Modification to DA-2023/86 to delete condition No. 19a requiring retention of an eastern elevation ground floor window at 171 Bay Street, Botany NSW 2019 be REFUSED pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
- a) Pursuant to the provisions of *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*, the proposed development does not

satisfy the objectives of Section 5.10 Heritage Conservation of the Bayside Local Environmental Plan 2021, relating to:

(1) (a) *to conserve the environmental heritage of Bayside,*

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

and

(2) (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*

(i) a heritage item

- b) Pursuant to the provisions of *Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979*, the proposal has an adverse heritage impact on the group heritage item.
- c) Pursuant to the provisions of *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979*, the proposed modification is not in the public interest.

Location Plan



Attachments

- 1 [Planning Assessment Report](#)
- 2 [Statement of Environmental Impacts \(SEE\)](#)
- 3 [Heritage Impact Statement \(DA-2023/86\)](#)
- 4 [Eastern Elevation Plan](#)

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	MDA-2025/83
Date of Receipt:	30 May 2025
Property:	171 Bay Street, BOTANY NSW 2019 Lot 4 DP 223896
Owner:	Mathew McCarthy
Applicant:	Mr. M McCarthy
Proposal:	Modification to DA-2023/86 to delete condition 19a requiring retention of the two northern most windows on the eastern elevation of the ground floor
Recommendation:	Refusal
No. of submissions:	Nil
Author:	Reanne Salame
Date of Report:	26 June 2025

Key Issues

The key issues identified in the assessment of the Modification Application relate to:

Heritage Item

The subject property is a heritage item listed in schedule 5 of Bayside Local Environmental Plan 2021.

Botany	House group	165–179 Bay Street	Lots X and Y, DP 100856; Lots 1–4, DP 223896; Lots A and B, DP 443066	Local	I179
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The proposed modification is not supported as it adversely impacts the heritage significance of the property at 171 Bay Street, which is listed in Schedule 5 of the Bayside Local Environmental Plan 2021. The bricking up of the existing window below the attic stairs is not adequately justified and would result in the loss of original architectural features. The application of a translucent privacy film to the existing bathroom window (as per the applicants SEE) is an acceptable reversible measure that preserves the heritage items value.

It is recommended upholding the previous Panel's determination to retain the two existing northernmost eastern side windows as part of the heritage significance.

The Modification Application ("the proposal") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and *Environmental Planning and Assessment Regulation 2021* ("the Regulation") 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 4.16 of the Environmental Planning and Assessment Act 1979*, be satisfied that the proposed modification:
 - a) is of minimal environmental impact;
 - b) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - c) was not required to be notified and that no submissions have been received;
 - d) is NOT acceptable when considering the reasons for the granting of the original consent; and
 - e) is NOT acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application MDA-2025/83 for Modification to DA-2023/86 to delete condition No. 19a requiring retention of the two northern most windows on the eastern elevation of the ground floor 171 Bay Street, Botany NSW 2019 be REFUSED pursuant to s4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:
 - a) Pursuant to the provisions of *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the objectives of Section 5.10 Heritage Conservation of the Bayside Local Environmental Plan 2021, relating to:

(1) (a) to conserve the environmental heritage of Bayside,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

and

(2) (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—

(i) a heritage item

- b) Pursuant to the provisions of *Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979*, the proposal has an adverse heritage impact on the group heritage item.
- c) Pursuant to the provisions of *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979*, the proposed modification is not in the public interest.

Background

History

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

- DA-2023/86— Alterations and additions to the existing heritage dwelling, including additional attic space, and tree removal was approved by the Bayside Local Planning Panel on 12 March 2024 subject to conditions. Condition 19A was added to the Notice of Determination by the Panel in their decision. The condition reads as follows:
 - **19A.** *Retention of the two existing eastern side windows located closer towards the front of the dwelling is required and is to be demonstrated in any plans prior to the issue of the construction certificate.*
REASON: to protect the significance of items of environmental heritage.
- The reason for the Panels determination was outlined in the minutes as follows:
the panel adopted the reasons outlined in the council officer's assessment report for some modifications and subject to a condition to retain the two existing N most eastern side windows. The panel also felt that the heritage nature of those windows should be highlighted.

The history of the subject application is summarised as follows:

- The subject Modification Application was lodged with Council on 20 May 2025.
- 30 June 2025 – Site Inspection was carried out.

Proposal

The application seeks consent to modify the approved development at 171 Bay Street, Botany by deleting condition 19a requiring retention of the two northernmost windows on the eastern elevation of the ground floor. The applicant sought to remove the existing lounge room window and proposed a highlight bathroom window. This condition to retain the existing window was

imposed by the Panel at the 12 March 2024 meeting.

The proposal does not seek any other alterations to the building design, but rather the deletion of a condition within the consent to allow for the removal of existing windows, breaking up of those window areas and replacement with highlight windows which in essence results in the same proposal as previously considered by the Panel.

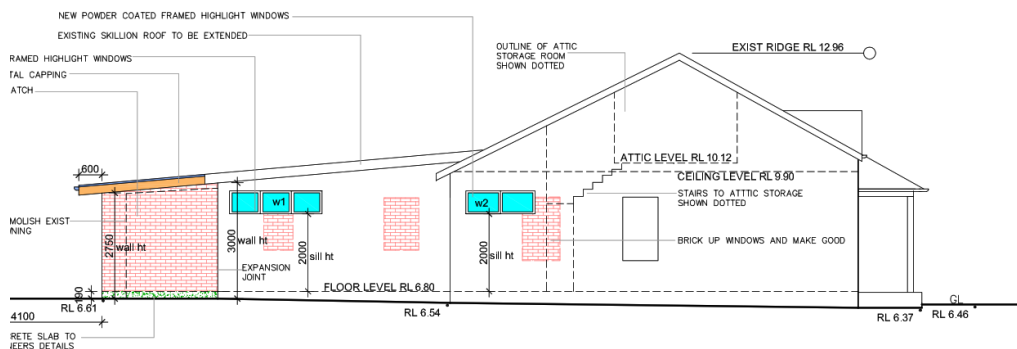


Figure 1: Approved Eastern Side Elevation

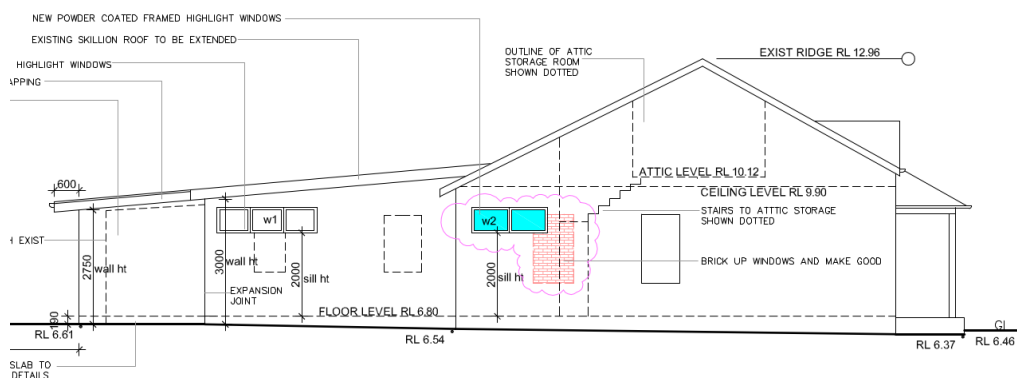


Figure 2: Elevation Plan submitted with subject DA

Site Location and Context

The subject site is legally identified as Lot 4 DP 223896 and is known as 171 Bay Street, Botany. The site is a rectangular in shape with front and rear boundary widths of 6.1 metres. The side boundaries are 36.575 metres deep. The site has sole frontage to Botany Street. The total site area is 223.4sqm. The topography of the site is relatively flat.

The subject site contains a single storey brick semidetached dwelling and detached shed at the rear of the dwelling. The site is located on the southern side of Botany Street

between Jasmine Street and Daniel Street. Adjoining development to the sides includes one and two storey semi-detached brick dwellings.

There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

The subject site is listed as a local heritage item under Schedule 5 of the BLEP 2021, being Item 179 – group house (165-179 Bay Street, Botany).



Figure x: Aerial View of 171 Bay Street, Botany



Figure x: Existing Front Elevation of 171 Bay Street, Botany

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").

S4.55 – Modifications Generally

S4.55(1A) – Modification involving no or minimal environmental Impact

The following quotes the provisions of this Section of the Act, including a response to each:

The Section 4.55(1A) of the Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:

- a) *It is satisfied that the proposed modification is of no or minimal environmental impact, and* Comment: The proposed modification is minor in terms of satisfying the test in relation to whether the application can be considered as a modification and includes the deletion of condition 19a requiring retention of the two northern most windows on the eastern elevation of the ground floor. The proposed changes do not involve any significant or fundamental change to the proposal as originally approved, nor any significant or fundamental change to the environmental impacts compared to the approved development.
- b) *It is satisfied the development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposal remains as previously approved, namely alterations and additions to the existing heritage dwelling, including additional attic space, and tree removal. The proposed modifications will not change the land use or substantially alter the nature of the development. Having regard to both the qualitative and quantitative changes proposed, it is considered the proposed Modification Application remains the same or substantially the same development as that originally approved.

- c) *It has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: In accordance with the applicable Development Control Plan, notification of the proposed modification was not required.

- d) *It has considered any submission made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: The proposed modification was not required to be notified.

S4.55(3) of the Act (Matters for Consideration and Reasons for the Consent or conditions sought to be varied)

S4.55(3) of the Act states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

Response: An assessment and consideration of matters within Section 4.15(1) of the Act is contained in the following section of this report.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Response: The relevant consent which is sought to be varied (being DA- 2023/86) included the following reasons for the granting of consent:

- *The development, subject to conditions, is consistent with the objectives of the R2 low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.*
- *The development, subject to conditions, is consistent with the objectives of Botany Bay Development Control Plan 2013 and generally consistent with the relevant requirements of Botany Bay Development Control Plan 2013.*
- *The proposal and use are suited to the site and area.*
- *The proposal is an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents.*
- *The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.*
- *The proposal will not result in any significant impact on the environment or the amenity of nearby residents.*
- *Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.*
- *To highlight the heritage nature of the existing windows.*

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

As outlined in Section 4.55(3) of the Act above, the provisions of S4.15(1) of the Act must be considered for this Modification Application. This consideration is outlined below.

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

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

The applicant has submitted a BASIX Certificate for the proposed development, being certificate number A491424.

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

Bayside Local Environmental Plan 2021

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

Relevant Section	Compliance with Objectives	Compliance with Standard / Provision
5.10 Heritage conservation	No, see discussion	No, see discussion

5.10 – Heritage Conservation

The subject property is a heritage item listed in schedule 5 of Bayside Local Environmental Plan 2021.

Botany	House group	165–179 Bay Street	Lots X and Y, DP 100856; Lots 1–4, DP 223896; Lots A and B, DP 443066	Local	1179
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The subject site is also located between 169 and 173 Bay Street, which are part of the same heritage item group. The house is semi-detached and shares a party wall with 169 Bay Street.

The group is significant historically and aesthetically to the Bayside area for their Federation form and for the aesthetically distinctive streetscape rhythm established by their substantially intact roof forms and detailing.

The proposed modification was referred to Council's heritage consultant for consideration.

Heritage

The section (drawing number 2/23A) from the approved Development Application (DA) plans indicates that the first existing window, previously not identified for bricking up, is situated below the attic stairs. Without additional supporting documentation, the necessity of removing this window for the construction of the stairs is not adequately demonstrated. Consequently, the bricking up of this window is not supported on heritage grounds.

The application of privacy film to the existing bathroom window is a reversible measure that

supports the ongoing use of the dwelling with minimal physical impact on the original window. While it is acknowledged that moisture could potentially damage the timber window frame, it is reasonable to expect that appropriate protective maintenance measures, such as coatings, be implemented to retain the original window to a heritage item. This approach ensures the preservation of the heritage values of the front half of the dwelling. Therefore, the bricking up of this window is not supported on heritage grounds.

It is therefore recommend upholding the previous Panel's determination to retain the two existing northern most eastern elevation windows as part of the heritage significance of the item.

Having regard to the above, the proposal is not acceptable in terms of heritage impacts.

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

Relevant Part	Compliance with Objectives	Compliance with Standard / Provision
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.4 Heritage	No	No

PART 3 – GENERAL DEVELOPMENT CONTROLS

Part 3.4 – Heritage

See discussion in the BLEP 2021 section of this report.

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.

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. The proposed modification to delete condition 19a is not acceptable as it results in the loss of heritage significance and the irreversible alteration of original architectural features and therefore is not supported under S4.15 (1) (b) of the EP&A Act 1979.

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

The development application was not notified.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the modification application, the proposal as modified seeks to delete condition 19a which is unacceptable as it results in the loss of heritage significance and the irreversible alteration of original architectural features. As such, granting approval to the proposed modification will not be in the public interest.

Conclusion and Reasons for Decision

The proposed modifications to the approved development at 171 Bay Street, Botany NSW 2019 has been assessed with regard to s4.15 and 4.55 of the Environmental Planning and Assessment Act 1979 including relevant State Environmental Planning Policies, Bayside LEP 2021 and Bayside Development Control Plan 2022.

The proposed modifications result in adverse heritage impacts to a group heritage item which are not supported. Accordingly, the proposal is not supported for the reasons identified in the assessment above and as per the recommendations.



Email: adamtlawrence@outlook.com

Mobile: 0417 443 547 ABN: 73200115679

Date: 19th May 2025

SECTION 4.55 AMENDMENT

STATEMENT OF ENVIRONMENTAL EFFECTS

REMOVAL OF CONDITION 19A FROM THE DEVELOPMENT CONSENT.

171 BAY STREET, BOTANY

- **PREVIOUS HISTORY**

- DA-2023/86
- Date of Determination: 12th March 2024
- The previous approval was for alterations and additions to the existing dwelling including a new attic level and a new studio to the rear of the site.

- **PROPOSED AMENDMENT**

- The proposed amendment is to have Condition 19A deleted from the Conditions of Consent.
- Condition 19A states the following '*Retention of the two existing eastern side windows located closer towards the front of the dwelling is required and is to be demonstrated in any plans prior to the issue of the Construction Certificate*'.
- The reasoning for the request to have this condition deleted is that it is necessary to have this window deleted as it impacts the following:
- 1. Layout of the proposed bathroom. If the window were to remain it would impact the location of the proposed bathtub. Currently the location of the window would not provide any privacy to the occupants. The window would need to have a translucent film applied to the window which would affect the windows heritage values. The window would also be affected by water splashing from the bathtub which would affect the window over time and cause the timber framing to rot.
- 2. The retention of the current window would significantly affect the location of the proposed attic stairs. On the proposed plan the stair location is directly adjacent to

the window. If we had to move the stairs to retain this window it would affect the whole layout of the dwelling and it would make access to the attic unachievable without ruining one of the front 2 bedrooms. The stairs would not work in other location as the roof line dictates where we can locate this stair. We cannot move the stairs any further to the rear due to the roof line, and moving the stairs forward in the dwelling would necessitate significant reconstruction of walling and demolition and change to the existing heritage fabric of the front 2 bedrooms.

- **IMPACTS OF AMENDMENTS**

- There will be no impacts on adjoining neighbours from the amendments. The window proposed is a highlight window with 2m sill height.
- The window that is proposed to be bricked up will not be viewed from the street as it is towards the back section of the front part of the existing dwelling, and it will be impossible to see as there will be 1.8m high side entry gate at the front building line.
- If this was a Complying Development Certificate this window could be changed under the Housing Alterations Code without any issues as internal alterations and window changes to side and rear elevations can be done under the Housing Alterations Code in Heritage Conservation areas.

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27th March 2023

The General Manager
Bayside Council
PO Box 21
Rockdale NSW 2216

Proposed Alterations and Additions to
171 Bay Street Botany NSW 2019.
Heritage Assessment

Dear Sir / Madam,

This letter is written on behalf of the owners of 171 Bay Street Botany (Mr M. & Mrs. D. McCarthy) and is intended to accompany documents lodged with Council for development consent, with respect to proposed alterations and additions to their dwelling. The subject site is further identified by the NSW Government's Office of the Registrar General as Lot 4 in DP 223896.

The property is one of a row of single semi-detached houses facing Bay Street at Botany, it is located on the south east side of Bay Street. Jasmine Street is approximately 25 metres to the north east and the subject house is on the opposite side of the street to Booralee Park.



Location of 171 Bay Street semi-detached residence.

Figure 1: View of the subject semi-detached residence facing Bay Street Botany Source: Google Maps.

The row of four adjacent semi-detached houses is identified as an item with heritage significance within Schedule 5 (Environmental Heritage) in the Bayside Local Environmental Plan (LEP) 2021, being identified as item I179 and described as "House group" and listed as having a "Local" Level of significance.

171 Bay Street Botany.
Heritage Assessment.
March. 2023.

1

The group of semi-detached houses are not listed as being located in a heritage conservation area.

However, there are several items, located in close proximity to the subject dwelling that are listed in the Bayside LEP 2021 as having heritage significance. These heritage listed items are as follows:

- Item I176 – a “House” at 145 Bay Street Botany.
- Item I177 – a “House” at 147 Bay Street Botany.
- Item I178 – a “House” at 151 Bay Street Botany.
- Item I161 – Booralee Park, located on the north side (opposite side of the street to the subject property) in Bay Street Botany.

All of the above listed heritage items have been assigned a “Local” level of significance.

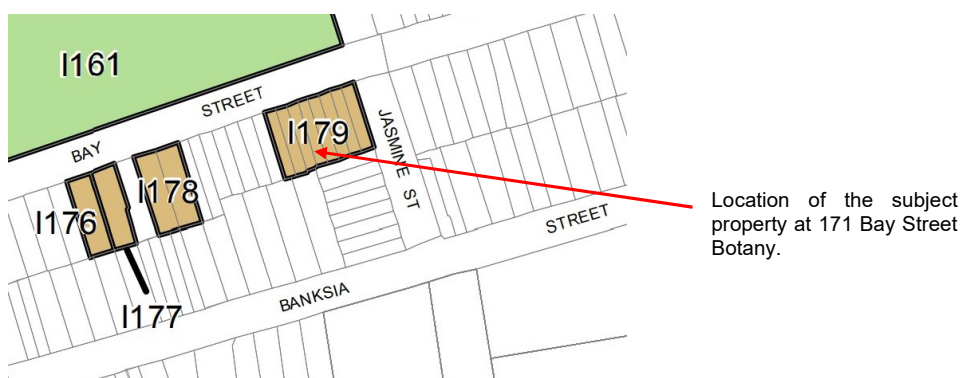


Figure 2: Heritage Map showing the location of the subject property. Source: Bayside Council website.

The dwelling is setback from the Bay Street site alignment with an open lawn area edged in part with planting strips. A pedestrian path is located on the right hand (west) side of the front yard area and leads from the street front alignment to a small verandah and the main entrance to the residence.

The pair of semi-detached residences are single storey in height, and present to the street with the verandah extending across the full width of each semi-detached dwelling. A projecting party wall extends the full length of the building and separates the two adjoining dwellings and at the street frontage it finishes flush with the verandah.

The pair of semi-detached dwellings are roofed with a gable located on both sides of the building over the main part of the house. The roof pitches from the main front wall of the houses to a ridge that is parallel with the street alignment. At the front of the building, the roof projects forward over the front verandah, each side of the verandah roof returns with a short hip back to the main house front wall.

Located in the centre of the roof plane that faces Bay Street is a projecting decorative gable with the central apex being located on the centre of the party wall that separates the two semi-detached dwellings. The back of the projecting gabled roof marries into the main roof with two valleys.

The front elevation of the building is further characterised by the projecting party wall that extends to the front of the verandah along with two unequally spaced columns. The column closest to the party wall identifies the main front entrance to the dwelling.

The semi-detached dwelling is planned with two bedrooms on the east side of a passage that is adjacent to the central party wall located between the adjoining terrace dwellings. The passage leads from the front entry through to a lounge, dining and kitchen area. The kitchen is located at the rear of the dwelling along with a bathroom. At the rear of the house is a roofed patio area with a small paved yard with a separate laundry / storage area at the rear east side of the property and a separate free standing toilet structure on the west side of the property.

The heritage listing of the group of houses with the Heritage Council of NSW, identifies the significance of the item in the following terms.

"The four pairs of semi-detached cottages at 165-179 Bay Street Botany (buildings and setting) are historically and aesthetically significant to the Bayside area for their Federation form and for the aesthetically distinctive streetscape rhythm established by their substantially intact roof forms and detailing. They also contribute to the history of the development of the area and provide evidence of the pattern of development in the area during the period of transition from undeveloped to suburban cultural landscape following the 1886 subdivision of Simeon Lord's 600 acre grant".

Additionally, the heritage listing of the group of semi-detached dwellings identifies the age of the buildings as is shown in the following extract.

"Building approval was granted in 1913 for the construction of four pairs of semi-detached cottages at 800 pounds per pair, for a total of 3200 pounds. M.D. Hughes was the applicant. The first residents were listed in the Sands Directory in 1915."

Botany	House	145 Bay Street	Lot 101, DP 732151	Local	I176
Botany	House	147 Bay Street	Lot A, DP 389313	Local	I177
Botany	House—"The White House"	151 Bay Street	Lots 9 and 10, Section G, DP 1787	Local	I178
Botany	House group	165-179 Bay Street	Lots X and Y, DP 100856; Lots 1-4, DP 223896; Lots A and B, DP 443066	Local	I179

Figure 3: Heritage listing of the subject property. Source: Bayside LEP 2021 – Schedule 5 – Environmental heritage.

Listing of the houses at 165-179 Bay Street Botany.

The proposed alterations to the subject semi-detached dwelling consist of the following:

- Modify and extend the rear part of the house to create a bathroom adjacent to bedroom 2 and in place of part of the existing lounge area.
- Modify the part of the existing roof space to form an attic storeroom.
- Modify and extend the rear section of the house to form a new kitchen / dining and lounge room areas.
- Combine, modify and alter the existing freestanding laundry / storage and toilet to form a new small studio / storage that will include a laundry and ensuite. It extends across the full width of the rear yard.
- A new off-street car parking space is proposed to be constructed at the front of the property, accessed directly from Bay Street.

PROPOSED ATTIC STOREROOM FLOOR PLAN

EXISTING WALLING
 NO. 45 STUDS @ 450 CTS
 EXISTING PARTY WALLING
 NEW TIMBER STORE TO THE NORTH
 NO. 45 STUDS @ 450 CTS
 OPTIONAL SKYLIGHTS TO ATTIC STOREROOM
 PARTS/STORAGE FLOORING
 STOREROOM FLOOR AREA = 23.42m²

GROUND FLOOR AREA = 83.3m²

PROPOSED FLOOR PLAN AND OUTBUILDING FLOOR PLAN / DEMOLITION PLAN

NOTE: SEE CARPARK PLAN ON SEPARATE SHEET

KEY

- EXISTING WALLING
- CAVEITY BRICK WALLING
- NO. 45 STUDS @ 450 CTS
- BRICK VENEER WALLING
- NO. 45 STUDS @ 450 CTS WALLING TO BE DEMOLISHED

PROPOSED ADDITIONS & CARSPACE AT 171 BAY STREET, BOTANY FOR M. AND D. MCCARTHY

DATE: 14-03-23 SCALE 1:100 @ A3 DWG NO 2/23
 DESIGNED: LAWRENCE DESIGN & DRAFTING
 NO. 1417 643 643
 www.lawrencedesignanddrafting.co.nz

The construction of the new additions to the rear of the residence will be of reinforced concrete footings and floor slab, and a combination of full brick, brick veneer and timber framed walling. The roof to the rear of the house will be in the form of a skillion, being an extension of the existing house roof. The roof will be timber framed, insulated and sheeted with prefinished sheet metal colorbond roofing. The ceilings and internal walls will be lined with plasterboard and finished with a cornice at the wall and ceiling junctions. Three windows located at the rear of the existing house will be removed and the openings bricked up, in conjunction with the building-in of two new windows. It is noted

4

that the change in the reconfiguration of these windows will not impact the contribution the residence has to the group of heritage listed semi-detached houses.

The free-standing new studio / laundry located at the rear of the property will be single storey and constructed with reinforced concrete footings and floor slab, brick veneer external walls and timber framed internal walls. The roof will be timber framed as a skillion, pitched with the high point adjacent to the rear boundary and falling at 1.5 degrees towards the front (north) elevation. The roof will be insulated and sheathed with prefinished sheet metal colorbond roofing. The ceilings and internal walls will be lined with plasterboard and finished with a cornice at the wall and ceiling junctions.

A new sliding door suite will be located in the rear (south) elevation of the dwelling extension and a smaller door suite is to be located in the north wall of the studio / storage out building. Windows and door suites will be constructed with powder coated aluminium frames.

The proposed off-street car parking space will entail the construction of a layback and footpath crossing from the street, removal of a portion of the front boundary fence, modifications to the front yard and the construction of a reinforced concrete hardstand area.

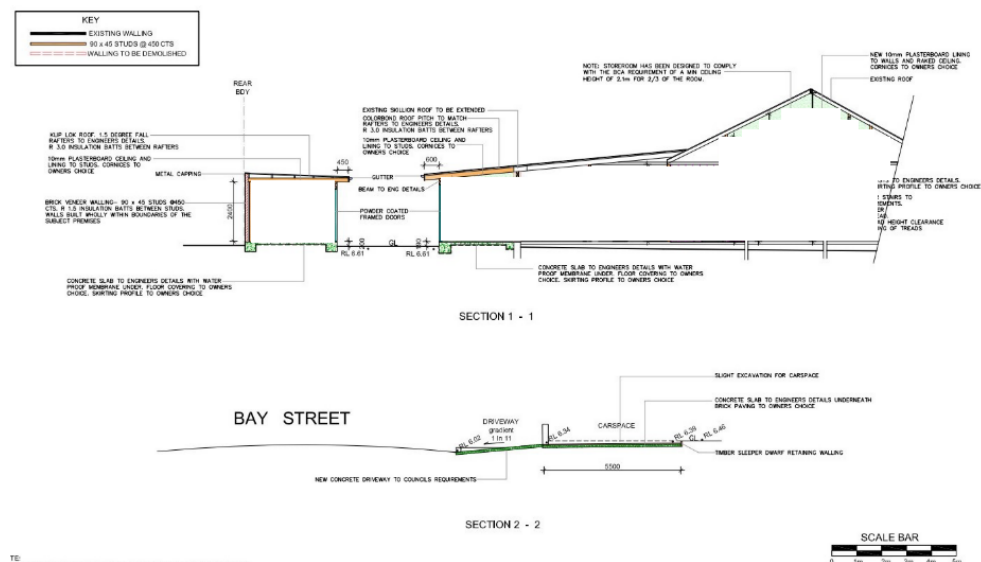


Figure 5: Section through the proposed works and proposed car parking space. Source: Lawrence Design and Drafting.

It should be stressed that, apart from the hardstand parking area, the proposed alterations and additions to the residence are single storey and located at the rear of the existing house. The proposed new studio / laundry outbuilding is located at the rear of the property behind the existing dwelling and therefore, no part of the proposed outbuilding work will be seen from Bay Street.

171 Bay Street Botany.
Heritage Assessment.
March. 2023.

Although the presentation to the street will be altered by the provision of a car parking space, the particular significance of the set of semi-detached houses being *"their Federation form and for the aesthetically distinctive streetscape rhythm established by their substantially intact roof forms and detailing"* will not be impacted by the proposal. Additionally, all of the proposed work will be easily identifiable from the original elements of the residence, changes will be recorded and therefore, the significance of the dwelling as a part of the heritage listed item will not be compromised. Further, the modifications are proposed to enable the building to continue to be used for residential purposes whilst meeting the expectations of residents in the 21st century.

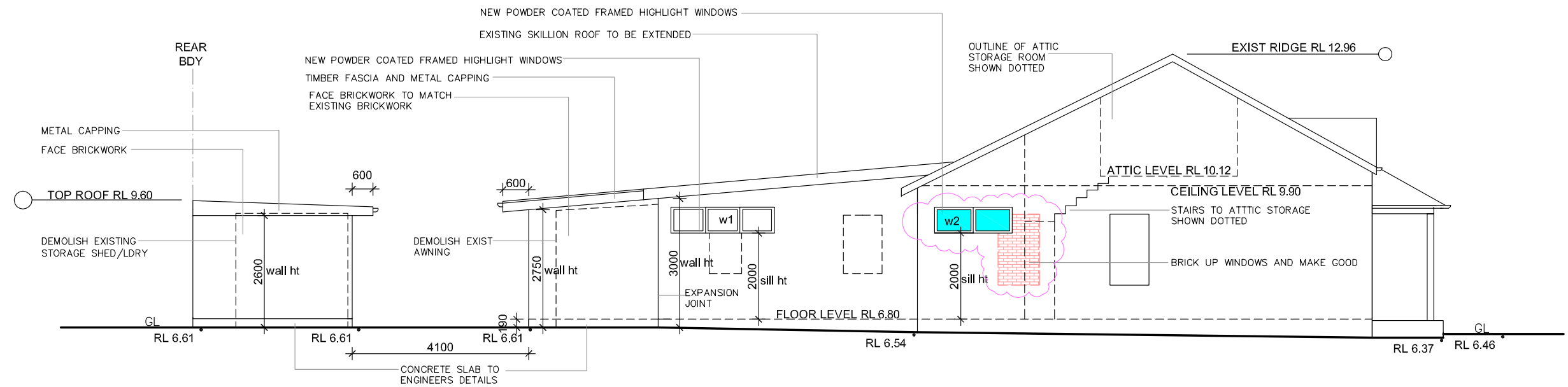
Following a review of drawings showing the proposed alterations and additions and with consideration of the requirements and guidelines of the Bayside LEP 2021 as well as the Botany Bay DCP 2013 it is submitted that the proposal addresses these requirements and is worthy of receiving Council's development consent.

I trust that this information assists with the assessment of the development application.

Yours faithfully,

Russell C. Lee RAIA

B. Arch (Hons), Grad. Dip. Heritage Conservation.
Nominated Architect & Heritage Consultant
for Robert Lee Architects Pty. Ltd.
(NSW Reg. No. 4190, Tas. Reg. No. 1169)



EAST ELEVATION- STUDIO

EAST ELEVATION- DWELLING

WINDOW & DOOR SCHEDULE	
NUMBER	SIZE (h x w)
w1	0.6 x 2.4m
w2	0.6 x 1.8m
w3	0.6 x 0.6m
D1	2.3 x 3.6m
D2	2.1 x 1.8m

EXTERNAL COLOURS

DWELLING REAR WALL- LIGHT GREY PAINT
OUTBUILDING FRONT WALL- DARK GREY PAINT
BRICKWORK WALLS- FACE BRICKWORK TO MATCH EXISTING
WINDOW & DOOR FRAMING- BLACK POWDER COATED ALUMINIUM
ROOF, GUTTERS & DOWNPIPES- COLORBOND MOUNUMENT

NOTE:
-EXTERNAL WALLS WHICH ARE REQUIRED TO BE FIRE RESISTING MUST BE
INSTALLED IN ACCORDANCE WITH CLAUSE 3.7.2.4 OF THE NATIONAL
CONSTRUCTION CODE. (CONSTRUCTION OF EXTERNAL WALLS)

NOTE:
-ALL LEVELS AND DIMENSIONS ARE TO BE CHECKED ON SITE BY
BUILDER PRIOR TO COMMENCEMENT. SITE BOUNDARIES ARE TO BE
VERIFIED ON SITE BY SURVEYOR PRIOR TO COMMENCEMENT.
-IF ANY DISCREPANCIES ARISE THEY ARE TO BE REPORTED TO THE
DESIGNER PRIOR TO THE COMMENCEMENT OF WORKS.
-DO NOT SCALE , USE FIGURED DIMENSIONS ONLY. IF A DIMENSION IS
NOT SHOWN OR IS REQUIRED CONSULT WITH THE DESIGNER.



SHEET 2 OF 3

PROPOSED ADDITIONS
171 BAY STREET, BOTANY
FOR M. AND D. McCARTHY

DATE: 19-05-25 SCALE 1 : 100 @ A3 DWG NO 2/23A
DESIGNED: LAWRENCE DESIGN & DRAFTING
M: 0417 443 547 E: adamtlawrence@outlook.com

Bayside Local Planning Panel - Other Applications

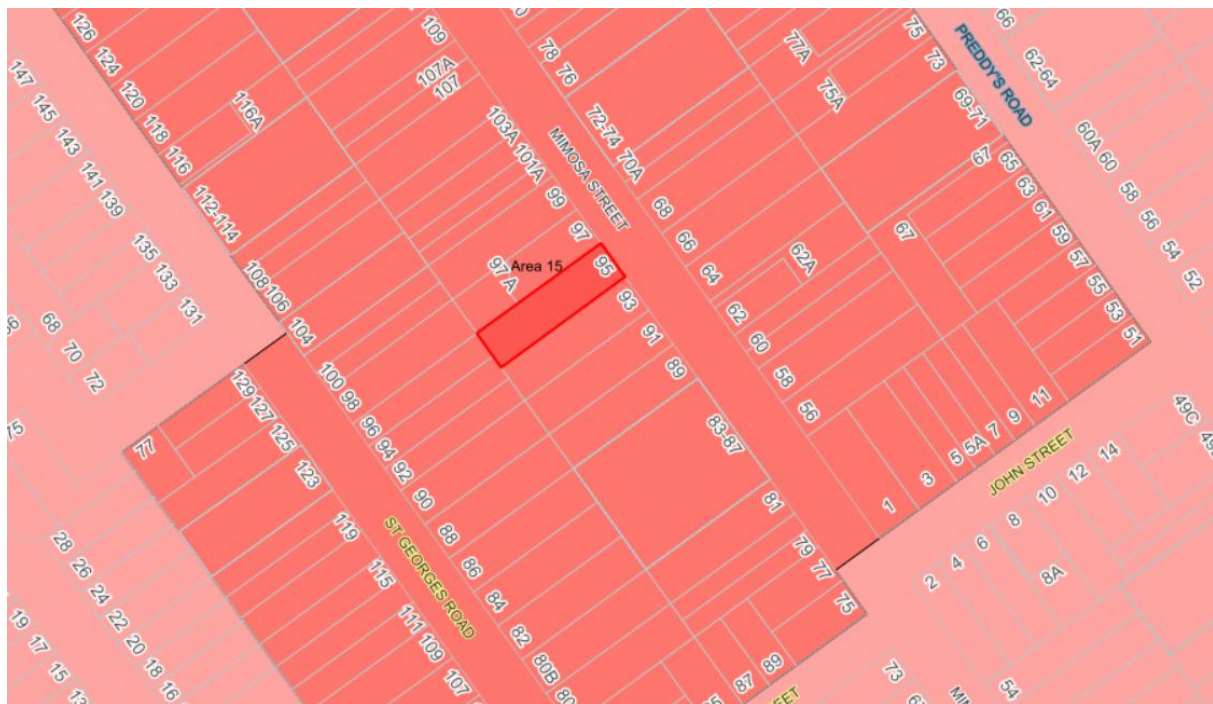
22/07/2025

Item No	6.2
Application No	MDA-2025/23
Property	95 Mimosa Street, Bexley
Application Type	Section 4.55 Modification
Proposal	Modification to DA-2021/448 for use of enclosed recessed spaces to approved dual occupancy
Owner	T Hassan & R Jamieoui
Applicant	R Jamieoui
Ward	Ward 4
Lodgement Date	25/02/2025
No. of Submissions	Nil
Cost of Development	\$0.00
Reason Criteria	Departure from standards
Report by	Peter Barber, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel, pursuant to S4.55(2) of the *Environmental Planning and Assessment Act 1979*, be satisfied that the proposed modification:
 - a) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - b) the relevant Minister, public authority or approval body has been consulted;
 - c) has been notified and the submissions made have been considered;
 - d) is acceptable after considering reasons for the consent sought to be modified; and
 - e) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
2. That the Bayside Local Planning Panel, pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Modification Application MDA-2025/23 which seeks to modify DA-2021/488, as modified, for use of enclosed recessed spaces to approved dual occupancy at 95 Mimosa Street, Bexley by GRANTING CONSENT to modify the original consent as shown in **Schedule 1** and as summarised below:
 - a. Amend conditions 1 and 2; and,
 - b. Insert condition 67A.

Location Plan



Attachments

- 1 [↓](#) Planning Assessment Report
- 2 [↓](#) Modification Consent
- 3 [↓](#) Plans
- 4 [↓](#) Statement of Environmental Effects

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	MDA-2025/23
Date of Receipt:	25 February 2025
Property:	95 Mimosa Street, Bexley Lot 15 DP 3579
Owner:	T Hassan R Jamleoui
Applicant:	R Jamleoui
Architect:	Bas&co
Town Planner:	Rockeman Town Planning
Proposal:	Modification to DA-2021/488 for use of enclosed recessed spaces to approved dual occupancy
Recommendation:	Approval, subject to conditions.
No. of submissions:	No submissions received
Author:	James Martinez – Development Assessment Planner
Date of Report:	17 June 2025

Key Issues

The key issues identified in the assessment of the Modification Application relate to:

- Recessed spaces have been enclosed and result in an exceedance of maximum floor space ratio pursuant to clause 4.4(2E) of Bayside Local Environmental Plan 2021. The variation exceeds 10% and must be referred to the Bayside Local Planning Panel for determination.
- A variation to clause 4.4(2E) is only permitted subject to a demonstrable public benefit. A negotiated outcome has resulted in a condition requiring payment to Council to facilitate planting of forty street trees in Mimosa Street.

The Modification Application ("the proposal") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and *Environmental Planning and Assessment Regulation 2021* ("the Regulation") 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, pursuant to S4.55(2) of the *Environmental Planning and Assessment Act 1979*, be satisfied that the proposed modification:
 - a) is the same or substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - b) the relevant Minister, public authority or approval body has been consulted;
 - c) has been notified and the submissions made have been considered;
 - d) is acceptable after considering reasons for the consent sought to be modified; and
 - e) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
2. That the Bayside Local Planning Panel, pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Modification Application MDA-2025/23 which seeks to modify DA-2021/488, as modified, for use of enclosed recessed spaces to approved dual occupancy at 95 Mimosa Street, Bexley by GRANTING CONSENT to modify the original consent in the following manner:
 - a. Amend condition 1 to read as follows:

1. DPIE - Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn By	Dated
DA02	D	Demolition Plan	Arkhaus	7/03/2022
DA03	D	Subdivision Plan	Arkhaus	7/03/2022

A101	A	Site Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A102	A	Ground Floor Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A103	A	Ground Floor Plan (Secondary dwelling)	bas & co	Submitted to Council via the Portal on 24/02/2025
A104	A	First Floor Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A105	A	Roof Plan (Principal dwellings)	bas & co	Submitted to Council via the Portal on 24/02/2025
A106	A	Roof Plan (Secondary dwellings)	bas & co	Submitted to Council via the Portal on 24/02/2025
A107	A	Elevations Plan (East & North)	bas & co	Submitted to Council via the Portal on 24/02/2025
A108	A	Western Elevation for principal and secondary dwellings	bas & co	Submitted to Council via the Portal on 24/02/2025
A109	A	Elevations Plan (South)	bas & co	Submitted to Council via the Portal on 24/02/2025

A110	A	Sections Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A111	A	Sections Plan (Party Wall)	bas & co	Submitted to Council via the Portal on 24/02/2025
A113	A	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A114	A	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A115	A	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A116	A	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A117	A	External Materials	bas & co	Submitted to Council via the Portal on 24/02/2025
LS02	B	Landscape Plan – Front Garden	Melissa Wilson	15/10/2021
LS03	B	Landscape Plan – Rear Garden	Melissa Wilson	15/10/2021
LS04	B	Landscape Plan – First Floor	Melissa Wilson	15/10/2021
H01	-	Stormwater Management Plans – General Notes 1	RKINFRA	5/04/2024

H02	-	Stormwater Management Plans – General Notes 2	RKINFRA	5/04/2024
H03	-	Stormwater Management Plans – General Notes 3	RKINFRA	5/04/2024
H04	-	Stormwater Layout	RKINFRA	5/04/2024
H05	-	Stormwater First Floor Layout	RKINFRA	5/04/2024
H06	-	Stormwater Roof Layout	RKINFRA	5/04/2024
H07	-	R.W.T/O.S.D TANK DETAILS	RKINFRA	5/04/2024
Document Title		Version No.	Prepared By	Dated
<i>BASIX Certificate</i>		<i>1220691M_04</i>	<i>Damian O'Toole Town Planning Pty Ltd</i>	<i>21/02/2025</i>
Waste Management Plan		-	Arkhaus	-
Geotechnical Investigation		31224/5178D-G	STS Geotechnics Pty Ltd	-/07/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

REASON

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

[MDA-2023/32] – Section 4.55 (1A) amended on 5 May 2023

[MDA-2024/113] – Section 4.55 (2) amended on 7 November 2024

b. Amend condition 2 to read as follows:

DPIE – Design amendments (Routine Development)

Before the issue of a construction certificate, **and prior to issue of any Occupation Certificate**, the certifier must ensure the approved construction certificate plan (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- a) The steps used to access the front entry porch shall be reconfigured so that the entry porch is accessed directly from the driveway rather than the front landscaped area.
- b) The proposed ground levels at the rear of the site are to be confirmed. The floor level of the secondary dwellings is to be set 200mm above the surrounding ground levels. The overall building height shall not change.
- c) The floor level of the kitchen/dining/living room is to be revised to be set at RL 45.950m AHD to ensure that the habitable floor level is at least 100mm above the top of the OSD tank. The overall building height shall not change.
- d) The pool pump is to be relocated to another location that does not conflict with the OSD tank.
- e) The two windows on the western elevation of the two secondary dwellings are to be obscure glazed up to 1.6m from the Finished Floor Level.
- f) The side doors of the secondary dwellings shall be removed. Access to the secondary dwellings shall be through the sliding doors.

g) The Landscape and stormwater plans are to be amended to be consistent with the revised approved architectural plans.

REASON

To require minor amendments to the approved plans and supporting documentation following assessment of the development.

[MDA-2023/32 – Section 4.55 (1A) amended on 05 May 2023]

c. Insert Condition 67A immediately after Condition 67 to read as follows:

Street Tree Planting Agreement

Prior to issue of any Occupation Certificate:

(a) a payment of \$28,800 must be paid to Bayside Council to cover Council

planting forty (40) street trees nominated by Council along Mimosa Street public domain.

(b) A receipt must be provided to the appointed principal certifier.

Reason

To provide a demonstrable public benefit pursuant to clause 4.6(8)(bd) of the Bayside Local Environmental Plan 2021.

Background

History

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

- DA-2021/488 – Demolition of existing structures and construction of a two (2) storey attached dual occupancy with detached secondary dwellings, inground swimming pool and Torrens Title Subdivision into two (2) lots was approved on 3 June 2022.
- MDA-2023/32 – Modifications to DA-2021/488 to raise the floor level of the secondary dwellings by 550mm and change the guttering system was approved on 17 May 2023.
- MDA-2024/113 – Modification to DA-2021/488 including internal and external amendments to the approved dual occupancy and changes to stormwater management system was approved on 7 November 2024.

Note:

- MDA-2024/113 proposed to enclose the recessed areas that are the subject of this MDA-2025/23 however Council officers were not supportive of these changes and the Applicant removed them from the proposal. The recessed spaces have now been enclosed without approval.
- MDA-2024/113 approved enclosure of the recessed area to the rear of the southern dwelling, the new window on the ground floor living room of the southwest dwelling and the new masonry wall in the northwest dwelling.

The history of this modification application MDA-2025/23 is summarised as follows:

- 25/02/2025 – The subject modification application was lodged with Council.
- 06/03/2025 to 20/03/2025 – Notification period
- 12/03/2025 – Site inspection conducted
- June 2025 – Details finalised regarding street tree planting.

Proposal

The application seeks consent to modify the approved development DA-2021/488 (as amended) at 95 Mimosa Street, Bexley as follows:

Ground floor:

- Use of the existing enclosed recessed area as walk in pantries for 95 (Lot B) & 95A (Lot A) Mimosa Street approximately 6.9 m² internal floor space each. This area is mirrored for each dwelling.

First floor:

- Use of the existing enclosed recessed area as two (2) ensuites and walk in wardrobes 14.87m² and 15.36 m², mirrored for each dwelling.

Note – the increase of internal floor area is 6.9m² for each dwelling at first floor level, however the above includes the use of areas that have been reconfigured when compared to the approved scheme.

Note – the changes increase the GFA by 8.5m per enclosed area at each level, resulting in a total increase to GFA of 34m².

Note: the previous modification MDA-2024/113 approved the enclosure of the rear inset area for the southern dwelling (Lot B), the new window on the ground floor living room of the southwest dwelling and the new masonry wall in the northwest dwelling.

Comparison of Approved and Proposed Floor Plans

Figures 1 to 3A show approved plans for the original DA-2021/488 and subsequent modification applications.

Figures 4 and 4A are extracts of plans for this Modification application MDA-2025/23.

1. DA-2021/488 – Original Application.

The plans below show the recessed areas that have now been enclosed.

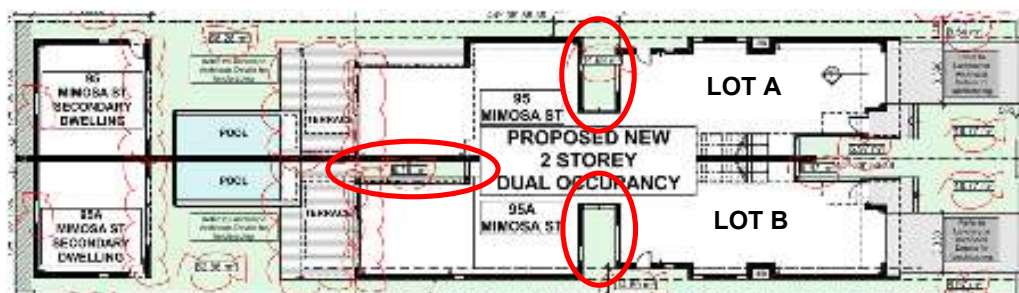


Figure 1 – Approved Site Plan (DA-2021/488). (Note - Recessed spaces are circled in red)

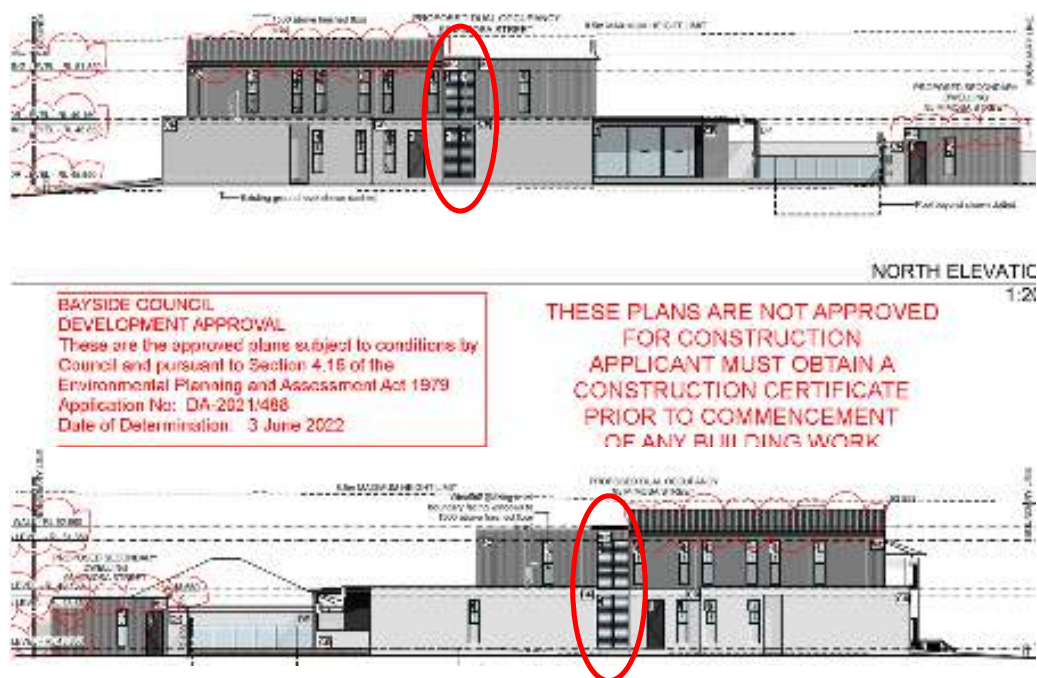


Figure 1A – Approved Elevation Plans (DA-2021/488). (Note - Recessed spaces circled in red).

2. MDA-2023/25 – First Modification Application

No changes to approved recessed areas.

FSR remains as originally approved under DA-2021/488.

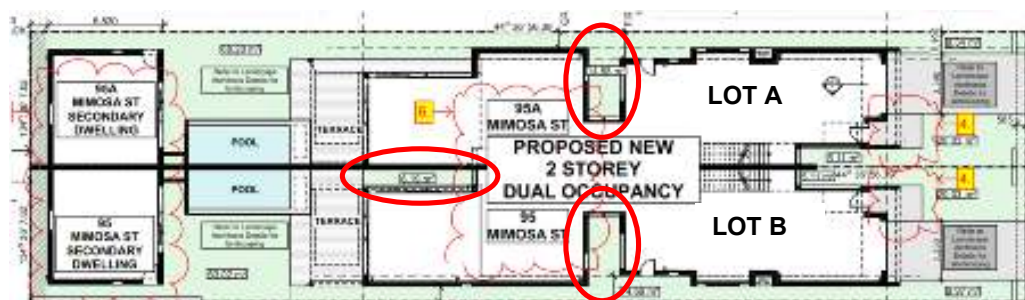


Figure 2 – Approved Site Plan (MDA-2023/25). All approved recessed spaces retained as circled in red.

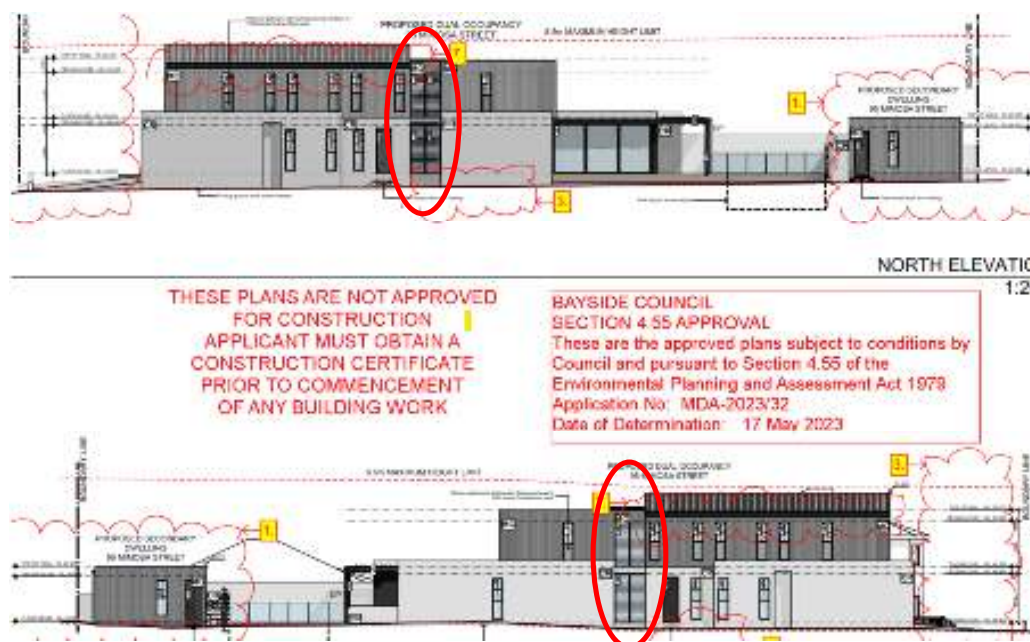


Figure 2A – Approved elevation plans (MDA-2023/25). (Note - Recessed spaces circled in red).

3. MDA-2024/113 – Second Modification Application

This modification application approved the enclosure of the recessed area to the rear of the southern dwelling (Lot B) - see **Figure 3** below.

The applicant originally sought to enclose both recessed areas to the sides, however Council officers were not supportive and the applicant deleted this from the proposal.

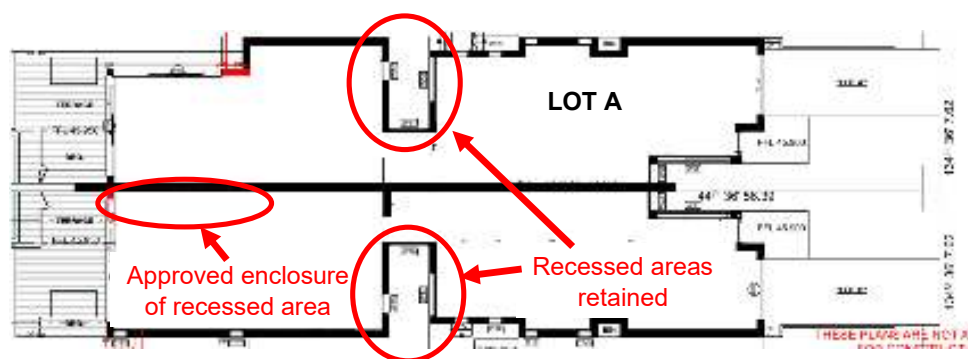


Figure 3 – Approved Floor Plan (MDA-2024/113). Redacted.



Figure 3A – MDA-2024/113 – Approved Northern Elevation (Note - recessed area circled red)



Figure 3B – MDA-2024/113 – Approved Southern Elevation (Note – recessed area circled red)

4. MDA-2025/23 – Current Modification Application

Both recessed areas to side elevations were enclosed without prior approval. This modification application seeks approval for the use of these enclosed areas - see **Figure 4**.

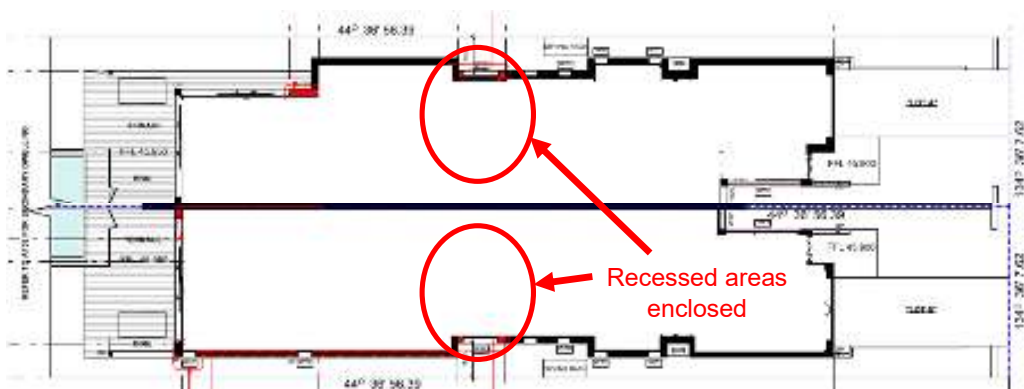


Figure 4 – DA-2025/23 – Proposed Ground Floor Plan (redacted)



Figure 4A – MDA-2025/23 – Proposed Southern Elevation (Note - enclosed area circled in red)



Figure 4A – MDA-2025/23 – Proposed Northern Elevation (Note - enclosed area circled in red)

Site Location and Context

The subject site is legally identified as Lot 15 DP 3579 and is known as 95 Mimosa Street, Bexley. The site is a rectangular shape with front and rear boundary widths of 15.24 metres. The side boundaries are 56.39 metres deep. The site has sole frontage to Mimosa Street. The total site area is 859.4 m². The site slopes gradually towards the north-east corner.



Figure 5. Aerial view of the site and surrounding context.

The Development approved under DA-2021/488 has commenced and is nearing completion, with Construction Certificate CC-2024/30 having been issued. There does not appear to be a modified Construction Certificate to amend it in line with the approved modifications under MDA-2024/113. The site is currently under construction and nearing completion.

The site is located on the south-western side of Mimosa Street between Iliffe Street and Stoney Creek Road. Adjoining development to the sides includes a single and double storey dwelling. A single-storey dwelling is situated on the rear adjoining property. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.



Figure 6. Panorama and aerial view of the site and immediate area.

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").

S4.55 – Modifications Generally

S4.55(2) – Other Modifications

The following quotes the provisions of this Section of the Act, including a response to each:

The Section 4.55(2) of the Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:

- a) *It is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Response: The proposal remains as previously approved, namely the *Demolition of existing structures and construction of a two (2) storey attached dual occupancy with detached secondary dwellings, inground swimming pool and Torrens Title Subdivision into two (2) lots.*

The proposed modifications will not change the land use or substantially alter the nature of the development and only seek to use the filled in voids for use as walk in pantries and ensuites with walk in wardrobes. It can be reasonably argued that these will not change the defined use of the site and will be ancillary uses being for the dominant purpose of the two (2) dual occupancy / semi-detached dwellings. Previous modifications have resulted in minor alterations however the overall development is still substantially the same. Quantitatively, the proposal will result in a gross floor area (GFA) of 566.1 m², or 0.659:1 compared to the original

approval of 509.6m², or 0.659:1, which represents a difference of 56.5m² (approximately 11% increase compared to the original approved GFA).

Having regard to both the qualitative and quantitative changes proposed, though the increase in total area is significant, given the compatible uses within the context of the initially approved development, it is considered that the proposed modification application remains the same or substantially the same development as that originally approved.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Response: Consultation was with a Minister, public authority or approval body was not required in this instance.

- c) *It has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Response: The proposal has been notified in accordance with the applicable Development Control Plan.

- d) *It has considered any submission made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Response: No submissions have been received.

S4.55(3) of the Act (Matters for Consideration and Reasons for the Consent or conditions sought to be varied)

S4.55(3) of the Act states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

Response: An assessment and consideration of matters within Section 4.15(1) of the Act is contained in the following section of this report.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Response: The relevant consent which is sought to be varied (being DA 2021-488) included the following underlying reasons for the conditions being sought to be varied:

- The development, subject to conditions, is consistent with the objectives of the R3 zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- The development, subject to conditions, is consistent with the objectives and controls of Bayside Development Control Plan 2022
- The proposed development is in the public interest.

The proposed amendments do not affect the underlying reasons for approval of the original application. The proposal was found to comply with the objectives and controls with regards to BLEP 2021 and BDCP 2022. The proposal was also found to allow the development of the site in accordance with its environmental capacity. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it was considered that the development application is in the public interest subject to substantial tree planting along Mimosa Street frontage.

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

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

As outlined in Section 4.55(3) of the Act above, the provisions of S4.15(1) of the Act must be considered for this Modification Application. This consideration is outlined below.

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

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 1220691M_04.

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

State Environmental Planning Policy (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 this SEPP, in particular industrial, agricultural or defence uses. There is no significant excavation proposed.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

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

The proposed works do not involve the clearing of vegetation and is therefore considered acceptable.

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 R3 Medium Density Residential	Yes – see discussion	Not Applicable
4.3 Height of buildings	Yes – see discussion	Yes – see discussion
4.4 Floor space ratio ("FSR")	Yes – see discussion	No – see discussion
6.3 Stormwater and WSUD	Yes – see discussion	Yes – see discussion

2.3 - Zone

The subject site is zoned R3 Medium Density Residential under the provisions of the LEP. The proposal is for the alterations to an approved semi-detached dwelling, which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium 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 to minimise 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, as amended, satisfies the objectives of the zone.

4.3 - Height of Buildings

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

The proposed modification does not involve any change to the approved height of 8.4 m. The proposal maintains compliance with the provisions and objectives of this Clause.

4.4 – Floor Space Ratio

The site has a total area of 859.4m², is zoned R3 and would normally benefit from an FSR of 0.6:1. This current proposal would result in an increase in GFA of 34m², resulting in a total GFA of 570.5m² and an FSR of 0.66:1 across the whole of the site. This exceeds 0.6:1 FSR by 10%.

However, pursuant to clause 4.4(2E), a maximum FSR of 0.55:1 applies to this proposal which is located in Area 15 on the *Floor Space Ratio Map* and which has proposed lots with areas less than 460m² (Lot A and Lot B both have an approved site area of 429.7m²).

Clause 4.4(2E) reads as follows:

(2E) Despite subclause (2), the floor space ratio for a building on land that is in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential on land identified as Area 15 on the [Floor Space Ratio Map](#) must not exceed 0.55:1 if the land has an area of less than 460 square metres.

The FSR for the original proposal, and previous amendments, were incorrect and are therefore not included in the table below.

The proposed FSR for each lot is as follows:

Lot Size	Proposed FSR (This MDA)	Variation to 0.55:1 FSR
Lot A (North-Western lot) 429.7m ²	0.65:1 (281.6m ²)	18.1%
Lot B (South-Eastern lot) 429.7m ²	0.67:1 (288.6m ²)	21.8%

The proposed FSR for each lot exceeds the maximum 0.55:1 provisions of clause 4.4(2E) of the BLEP 2021 by 18.1% for Lot A and 21.8% for Lot B as demonstrated in the table above.

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

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

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

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

It should be noted that the previous modification applications and initial development application were assessed based on an FSR of 0.6:1. The original proposal was therefore found to be compliant and MDA-2024/112 was found to result in a minor variation to the maximum 0.6:1 FSR for Lot B only.

The provisions of Clause 4.6 – Exceptions to Development Standards do not strictly apply as the proposal is a Modification Application however, the following commentary below adopts a similar approach and consideration to the proposal as would apply to a contravention request under Clause 4.6 of the LEP, including commentary regarding whether requiring compliance is unnecessary and unreasonable and environmental planning grounds to justify the proposed contravention.

Summary of Applicant's position:

The applicant contends that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case as the proposal satisfies the first of the Wehbe Tests, being that the proposal complies with the objectives of the FSR standard notwithstanding the non-compliance. Their SEE contains a list of reasons to justify their position, including that the proposal remains consistent with the existing and desired future medium density character of the R3 Medium Density zone, that the bulk/scale/massing remains consistent with the approved development and is characteristic of development in the area (noting that the infill of the “*2m wide indentation provided little relief in the massing of the side elevations that expand for 23m*”), that adverse impacts to adjoining properties are minimised and that the setbacks align with the side and rear setback controls.

The applicant submits that the proposal demonstrates adequate environmental planning grounds, particularly that the proposal provides a bulk / scale / massing that will maintain a density that is compatible with, and reflective of, development in the locality.

Officer comments:

The applicant's justification is generally agreed with. The proposal is found to satisfy the objectives of the FSR development standard notwithstanding the non-compliance. The building bulk and scale is broken up by the use of materials / finishes / colours combined with the additional setbacks provided at first floor level which result in a development that appears commensurate with the anticipated density in the R3 Medium Density Residential zone. The proposed change is not visible from the street, will not have any significant change to impacts, and the proposal continues to relate appropriately with existing development on surrounding sites.

The applicant has also adequately demonstrated that sufficient environmental planning grounds existing to justify the contravention of the FSR standards. The site is located in the R3 Medium Density Residential zone and the built form is considered compatible with the desired future character of the area.

Demonstrable Public Benefit

Pursuant to Clause 4.6(8)(bd) of BLEP 2021, development consent must not be granted for development that contravenes the maximum FSR permitted under clause 4.4(2E) unless it is for a demonstrable public benefit.

Council's Environment Team have identified that Mimosa Street can accommodate at least forty (40) street trees. A negotiated outcome has been arrived at to include a condition requiring payment to Council to facilitate the planting of forty street trees. The payment also covers establishment costs.

This will enhance the quality and amenity of the public domain, contributing to urban greening, supporting canopy coverage targets, mitigating urban heat, and improving the pedestrian experience for the general public. These outcomes align with Council's strategic objectives for sustainability and public domain enhancement. As such, the proposal delivers a demonstrable public benefits that allows the variation to be supported.

6.3 – Stormwater and WSUD

The development will connect to the existing stormwater system. Stormwater plans were not provided however the application was reviewed by Council's Development Engineer who had no objections to the proposal as there would be no changes to the stormwater condition as the increase in impervious is less than 60 m².

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		
3.1 Site Analysis and Locality	Yes	Yes
3.7 Landscaping, Private Open Space and Biodiversity	Yes – see discussion	No – see discussion
3.9 Stormwater Management	Yes – see discussion	Yes – see discussion

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
and WSUD		
PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS		
5.1.2 Ancillary Uses – Additions, Garages, Secondary Dwellings and Studios	Yes - see discussion	Yes - see discussion
5.2.1.1 Streetscape, Local Character and Quality of Design	Yes – see discussion	Yes – see discussion
5.2.1.2 Built Form Controls	Yes – see discussion	Yes – see discussion
5.2.1.3 Setbacks	Yes – see discussion	Yes – see discussion
5.2.1.4 Landscaping and Private Open Space	Yes – see discussion	Yes – see discussion
5.2.1.5 Solar Access and Overshadowing	Yes – see discussion	Yes – see discussion
5.2.1.7 Visual and Acoustic Privacy	Yes – see discussion	Yes – see discussion
5.2.2 Dual Occupancies and Semi-Detached Housing	Yes – see discussion	Yes – see discussion

PART 3 – GENERAL DEVELOPMENT CONTROLS

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

Landscaping

The proposed use generates a required landscaped area of 25% of the site area. The original DA approved landscaped areas of 27% (116.9 m²) for Lot A, and 24% (102.6 m²) for Lot B. The proposal seeks to remove 6.9 m² of side landscaped area from both lots, resulting in landscaped areas of 25.6% (110 m²) for Lot A, and 22.3% (95.7 m²) for Lot B. This still maintains compliance for Lot A, however increases the noncompliance for Lot B.

The loss of landscaped area is located entirely within the side courtyards that have been filled in. There is no loss of landscaped areas for Lot B's private open space, preserving the sites capacity to provide landscaped recreational space.

The proposal complies with the requirement that at least 20% of the front setback is landscaped area (with 75.2% provided). The proposal complies with the control that at least 75% of the landscaped area comprise planting areas, as opposed to paving/gravel.

Tree Preservation and Management Controls

The proposal results in the loss of two (2) trees, one for each lot, that was to reside within the courtyard area. As part of the street tree planting initiative for this application, the provision of street trees will sufficiently replace the loss of these two trees and result in an increase in canopy cover and contribute to the character of the area.

Based on the above assessment, the provision of additional landscaped area in the side setback area can be supported.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP, subject to recommended conditions.

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 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENT

5.1.2 – Ancillary Residential Uses – including secondary dwellings

Part 5.1.2 provides controls for secondary dwellings. The proposal does not include any changes to the approved secondary dwellings, however these are generally compliant with the provisions of this part of the DCP.

5.2.1.1 - Streetscape, Local Character and Quality of Design

The considerations for the local area outlined in Part 7 of the DCP have been addressed previously.

The proposal remains consistent with the local streetscape, noting the setbacks, form and materials incorporated into the design are contextually appropriate. The proposal has incorporated a range of materials and colours which complements the existing dwelling and integrate with the overall appearance of the building within the streetscape. The materials on the exterior walls add interest and articulate the façade.

Therefore, it is reasonable to conclude the proposal is consistent with the objectives and controls relating to building design, materials and finishes.

5.2.1.2 - Built Form Controls

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

The maximum building length remains unchanged and is compatible with that of adjoining sites.

5.2.1.3 – Setbacks

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

The proposal complies with these controls, with no changes to minimum setbacks as a result of the infill.

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

Shadow diagrams have not been provided in this application, however previous shadow diagrams have been provided for the Development Application DA-2021/488 which can be used as a guide on the potential impacts. The proposal does not result in any real change to the solar amenity of the proposed / approved development. With regards to impacts to neighbours, the changes will be minimal. Figure 5 shows that the private open space of the neighbouring (southern) property is not significantly impacted for 3 hours between 9am and midday, and that impacts windows located within the dwelling on the southern lot will have minimal change due to the size of the enclosed slot and the larger setback of the dwelling beyond the existing driveway which runs along the northern side of the southern neighbours site. As a result, requiring shadow diagrams to be provided is considered to be too onerous in this circumstance.

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.

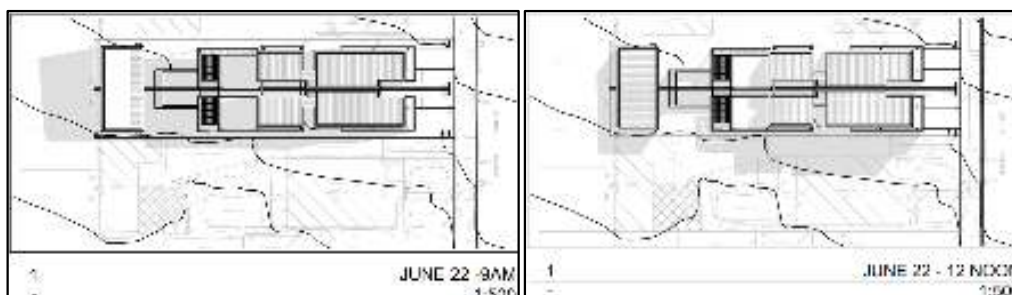


Figure 5. Shadow diagrams provided for DA-2021/488 for 9am to noon. The void is visible in the proposed shadow diagram, which can be used as a guide on the potential overshadowing impact of the infill.

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 application proposes for non-habitable uses including walk in wardrobes, ensuites, and walk in pantries. Additionally, the windows are consistent with the rest of the existing structure. It therefore complies with the requirements of this section.

5.2.2 - Additional Controls for Dual Occupancy and Semi-Detached Dwellings

In terms of height, it is noted the DCP states:

Two or three storey development is only permitted on the front of an allotment and may extend to a maximum of 70% of the depth of the site measured from the property boundary

The proposed height complies with this control, with no changes arising from the infill in height or number of storeys.

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 Modification submission has included sufficient information to enable environmental assessment of the application (Part 5, Division 1 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:

Natural Environmental Impacts

The proposal is not anticipated to have any negative natural environmental impacts. The potential environmental impacts from construction have been considered and as the development is almost completed it is not expected to cause adverse environmental impacts. Stormwater and flooding considerations have been assessed by Councils Development Engineers who have supported the proposal subject to suitable conditions which have been included in the recommended conditions of consent. The street tree planting initiative will benefit the natural environment.

Built Environmental Impacts

Minimal additional built environmental impacts are expected as a result of this application.

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 cause no anticipated negative economic impacts and 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 as modified is suitable for the site.

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

The submissions made, and consideration of matters raised within those submission, has been previously outlined in response to the relevant subsection in Section 4.55(3) of the Act.

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 Modification 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, and a condition requires monetary contribution to Council to facilitate street tree planting within Mimosa Street. As such, granting approval to the proposal will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts. In addition, it is in public interest that additional tree planting condition is included in the modified consent.

S7.11/S7.12 - Development Contributions

The proposal does not affect required contributions.

Conclusion and Reasons for Decision

The proposed development at 95 Mimosa Street, Bexley has been assessed in accordance with Sections 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposal is a Modification Application under Section 4.55(2) of the Act, The Modification proposed seeks to modify Development consent DA-2021/488 as modified, which approved the demolition of existing structures and construction of a two (2) storey attached dual occupancy with detached secondary dwellings, inground swimming pool and Torrens Title Subdivision into two (2) lots originally approved by Bayside Council on 3 June 2025. The proposed Modifications essentially involve for use of enclosed recessed spaces to approved dual occupancy

In response to the public notification, nil submissions have been received.

The proposal is supported for the following main reasons:

- The proposal remains the same or substantially the same development as originally approved.
- The proposed contravention of floor space ratio is considered acceptable, as the modified proposal is consistent with the objectives of the standard being breached and consistent with the objectives of the zone.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal by requiring additional tree planting in the public domain.

Schedule 1 – Draft Conditions of Consent

Refer to draft conditions attached separately.



SCHEDULE 1 – CONDITIONS OF CONSENT

The above development has been approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, subject to the following conditions:

GENERAL CONDITIONS

1. *DPIE - Approved plans and supporting documentation*

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn By	Dated
DA02	D	Demolition Plan	Arkhaus	7/03/2022
DA03	D	Subdivision Plan	Arkhaus	7/03/2022
A101	B	Site Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A102	B	Ground Floor Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A103	B	Ground Floor Plan (Secondary dwelling)	bas & co	Submitted to Council via the Portal on 21/10/2024
A104	B	First Floor Plan	bas & co	Submitted to Council via the Portal on 24/02/2025
A105	B	Roof Plan (Principal dwellings)	bas & co	Submitted to Council via the Portal on 24/02/2025
A106	B	Roof Plan (Secondary dwellings)	bas & co	Submitted to Council via the Portal on 21/10/2024

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Plan No.	Revision No.	Plan Title	Drawn By	Dated
A107	B	Elevations Plan (East & North)	bas & co	Submitted to Council via the Portal on 24/02/2025
A108	B	Western Elevation for principal and secondary dwellings	bas & co	Submitted to Council via the Portal on 21/10/2024
A109	B	Elevations Plan (South)	bas & co	Submitted to Council via the Portal on 24/02/2025
A110	B	Sections Plan	bas & co	Submitted to Council via the Portal on 21/10/2024
A111	B	Sections Plan (Party Wall)	bas & co	Submitted to Council via the Portal on 21/10/2024
A113	B	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A114	B	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A115	B	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 24/02/2025
A116	B	Window & Door Schedule	bas & co	Submitted to Council via the Portal on 21/10/2024
A117	B	External Materials	bas & co	Submitted to Council via the Portal on 21/10/2024
LS02	B	Landscape Plan – Front Garden	Melissa Wilson	15/10/2021

Plan No.	Revision No.	Plan Title	Drawn By	Dated
LS03	B	Landscape Plan – Rear Garden	Melissa Wilson	15/10/2021
LS04	B	Landscape Plan – First Floor	Melissa Wilson	15/10/2021
H01	-	Stormwater Management Plans – General Notes 1	RKINFRA	5/04/2024
H02	-	Stormwater Management Plans – General Notes 2	RKINFRA	5/04/2024
H03	-	Stormwater Management Plans – General Notes 3	RKINFRA	5/04/2024
H04	-	Stormwater Layout	RKINFRA	5/04/2024
H05	-	Stormwater First Floor Layout	RKINFRA	5/04/2024
H06	-	Stormwater Roof Layout	RKINFRA	5/04/2024
H07	-	R.W.T/O.S.D TANK DETAILS	RKINFRA	5/04/2024

Document Title	Version No.	Prepared By	Dated
BASIX Certificate	1220691M_04	Damian O'Toole Town Planning Pty Ltd	21/02/2025
Waste Management Plan	-	Arkhaus	-
Geotechnical Investigation	31224/5178D-G	STS Geotechnics Pty Ltd	-/07/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

REASON

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

[MDA-2023/32] – Section 4.55 (1A) amended on 5 May 2023

[MDA-2024/113] – Section 4.55 (2) amended on 7 November 2024

[MDA-2025/23 – Section 4.55 (2) amended ***]**

1A. General Landscape and Tree Management

This condition must be read in conjunction with the landscape plan approved in Condition 1 and all other conditions related to the landscaped area of the subject site.

Please note that, except for the conversion of the ground floor void landscaped area in Lot B to part of the ground floor gross floor area, all other landscaped areas remain as approved in the original consent (DA-2021/488).

All relevant conditions imposed in DA-2021/488 regarding requirements, measures, and ongoing management of landscaped areas and trees remain in effect.

REASON

To ensure compliance with all relevant landscape and tree management conditions.

[MDA-2024/113 – Section 4.55 (2) inserted on 7 November 2024]

2. DPIE – Design amendments (Routine Development)

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plan (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- a) The steps used to access the front entry porch shall be reconfigured so that the entry porch is accessed directly from the driveway rather than the front landscaped area.
- b) The proposed ground levels at the rear of the site are to be confirmed. The floor level of the secondary dwellings is to be set 200mm above the surrounding ground levels. The overall building height shall not change.
- c) The floor level of the kitchen/dining/living room is to be revised to be set at RL 45.950m AHD to ensure that the habitable floor level is at least 100mm above the top of the OSD tank. The overall building height shall not change.
- d) The pool pump is to be relocated to another location that does not conflict with the OSD tank.
- e) The two windows on the western elevation of the two secondary dwellings are to be obscure glazed up to 1.6m from the Finished Floor Level.
- f) The side doors of the secondary dwellings shall be removed. Access to the secondary dwellings shall be through the sliding doors.
- g) ***The Landscape and stormwater plans are to be amended prior to issue of any Occupation Certificate to be consistent with the revised approved architectural plans.***

REASON

To require minor amendments to the approved plans and supporting documentation following assessment of the development.

[MDA-2023/32 – Section 4.55 (1A) amended on 05 May 2023]

[MDA-2025/23 – Section 4.55 (2) amended on 12 June 2025]

3. DPIE – Payment of 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	\$21.50
Section 7.11 Contributions	\$22,239.32
Builders Damage Deposit (Security Deposit)	\$5,560.00

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.

REASON

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

4. DPIE – Payment of Building and Construction Industry Long Service Levy

Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy of \$7,061.45 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

REASON

To ensure the long service levy is paid.

5. DPIE – Payment of Section 7.11 Contributions

For developments with an estimated cost of less than \$10 million:

Before the issue of a construction certificate, the applicant must pay the following contributions to Council for:

a) Rockdale City Council Section 94 Contributions Plan

Regional Open Space Fund	\$ 1,784.54
City Wide Open Space Fund	\$ 2,822.40
Bexley Local Open Space Fund	\$14,363.54
Bexley Local Car Parking Fund	\$ -
City Wide Town Centre & Streetscape Fund	\$ 317.18
Bexley Local Town Centre & Streetscape Fund	\$ 96.52
Pollution Control Contribution	\$ 1,632.56
Administration Bexley Planning Precinct	\$ 121.69
Child Care Services	\$ 66.55
Community Services	\$ 71.27
Library services	\$ 963.07
Total in 2021/22	\$22,239.32

The total contribution payable to Council under the condition is \$22,239.32 as calculated at the date of this consent, in accordance with the Rockdale City Council Section 94 Contributions Plan.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Rockdale City Council Section 94 Contributions Plan.

REASON

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

6. 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*.

7. Timeframe for obtaining Subdivision Certificate

The subdivision certificate must be registered with the NSW Land Registry Services prior to use or physical occupation of the dwellings (principal dwellings and secondary dwellings).

8. Amendments Require Modification Application

Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, the fitting of any form of doors and/or walls, shall not be undertaken without first obtaining approval from Council under Section 4.55 of the *EP&A Act*.

9. Approved Materials and Finishes

The finishes, materials and colour scheme approved under condition 1 and 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.

10. 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.

11. Swimming Pools – New Pools

- a) The design and construction of the swimming pool and associated fencing and equipment must comply with:
 - i) *Swimming Pools Act 1992*, and
 - ii) *Swimming Pools Regulation 2008*, and
 - iii) *National Construction Code*, and
 - iv) *AS 1926.1 – Swimming Pool Safety – Safety Barriers for Swimming Pools*, and
 - v) *Protection of the Environment Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate and must be complied with prior to the issue of the Occupation Certificate.

- b) The swimming pool shall be designed and constructed in a manner that does not allow water to be drained to the adjoining properties, and
- c) Waste water from the pool or spa shall be discharged into the Sydney Water system, and
- d) The swimming pool shall be registered in accordance with the requirements of the *Swimming Pools Act 1992* prior to issue of any Occupation Certificate, and
- e) The pool / spa shall not be filled until the safety fences have been completed in accordance with this consent and inspected by the Principal Certifier, and
- f) The motor, filter, pump and sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to neighbours.
- g) Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- i) Before 8.00am or after 8.00pm on any Sunday or public holiday, or
- ii) Before 7.00am or after 8.00pm on any other day.

REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER AUTHORITIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the *Environmental Planning and Assessment Act 1979*:

12. Sydney Water

The following conditions are imposed by Sydney Water in their letter dated 20 December 2021 and must be complied with:

a) Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in™ 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.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

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

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

c) **Out of Scope Building Plan Approval**

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary
 - An easement in our favour
 - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
 - Construction of a retaining wall over, or within the zone of influence of our assets
 - Excavation of a basement or building over, or adjacent to, one of our assets
 - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

d) **Tree Planting**

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and Diagram 5 – Planting Trees within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

13. DPIE – Construction Site Management Plan

Before the issue of a Construction Certificate, the Applicant must ensure a Construction Site Management Plan is prepared before it is provided to and approved by the Certifier. The plan must include the following matters:

- Location and materials for protective fencing and hoardings to the perimeter on the site.
- Provisions for public safety.
- Pedestrian and vehicular site access points and construction activity zones.
- Details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site.
- Protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable).
- Details of any bulk earthworks to be carried out.
- Location of site storage areas and sheds.
- Equipment used to carry out all works.
- A garbage container with a tight-fitting lid.
- Dust, noise and vibration control measures.
- Location of temporary toilets.

The Applicant must ensure a copy of the approved construction Site Management Plan is kept on-site at all times during construction.

REASON

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

14. DPIE - Erosion and Sediment Control Plan

Before the issue of a Construction Certificate, the Applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's Development Control Plan,

- The guidelines set out in the NSW Department of Housing Manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- 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).

The Applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

REASON

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

15. DPIE – Waste Management Plan

Before the issue of a Construction Certificate, the Applicant is to ensure that a Waste Management Plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the Certifier:

- a) Council's Waste Management Development Control Plan

OR

- b) details the following:

- The contact details of the person(s) removing the waste.
- An estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill.
- The address of the disposal location(s) where the waste is to be taken.

The Applicant must ensure the Waste Management Plan is referred to in the Construction Site Management Plan and kept on-site at all times during construction.

REASON

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

16. DPIE – Utilities and Services

Before the issue of the relevant construction certificate, the applicant must submit the following written evidence of service provider requirements to the certifier:

- a) a letter of consent from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- b) a response from Sydney Water as to whether the plans proposed to accompany the application for a construction certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met.
- c) other relevant utilities or services – that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

REASON

To ensure relevant utility and service providers requirements are provided to the certifier.

17. DPIE – Dilapidation Report

Before the issue of a Construction Certificate, a suitably qualified Engineer must prepare a Dilapidation Report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the Certifier. If the Engineer is denied access 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 Certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

- a) 97 Mimosa Street BEXLEY NSW 2207
- b) 97A Mimosa Street BEXLEY NSW 2207
- c) 93 Mimosa Street BEXLEY NSW 2207

The report shall be prepared at the expense of the Applicant and a copy of the Dilapidation Survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifier prior to commencement of any works. The insurance cover shall be a minimum of \$10 million.

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

REASON

To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.

18. DPIE – Car Parking Details

Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities – Off-Street Carparking and Council's development control plan.

REASON

To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.

19. 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. Details are to be provided on the Construction Certificate plans.

20. 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 RKINFRA, dated 05/04/2024, along with the requirements detailed below:

- a)** A minimum 9,500 litre rainwater tank shall be provided for each dwelling, connected to all toilets, clothes washers and external taps/landscape irrigation for non-potable stormwater re-use. The rainwater tank overflow invert level to be shown.
- b)** Balconies are not allowed to drain into the rainwater tanks.
- c)** The balconies are to provide surface drainage with rainwater outlets and must provide an overflow. The surface level of the rainwater outlets to be shown along with the crossfall.
- d)** A grated trench drain to be provided on the lowest point of the driveway that must drain into the silt arrestor pit. The surface level and invert level of the grated trench drain to be shown on the stormwater ground floor plan.
- e)** Details of the silt arrestor pit to be shown including the surface level, invert level of the inlet and outlet pipe and sump level. A 20mm drop is to be provided between the inlet and outlet pipes.
- f)** The stormwater ground floor plan is to show the downpipe invert levels. The rainwater tank overflow invert level to be shown on the plans. The outlet pipe from the silt arrestor to be 1% fall and gravity discharge to the kerb and gutter.
- g)** A sediment and erosion control plan to be provided.
- h)** The finished floor level of all buildings to match with the approved architectural plans.

REASON

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

[MDA-2024/113 – Section 4.55 (2) amended on 7 November 2024]

21. Building/Driveway within Proximity of On-Site Detention / Absorption System

Prior to the issue of any Construction Certificate, any part of the proposed building within three (3) metres of the proposed detention tank, underground rainwater tank or absorption system shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base.

Any driveway over the absorption system shall be either constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the trench base or constructed as a structural slab so that no load is transferred to the plastic trench.

These requirements shall be reflected on the Construction Certificate plans and supporting documentation.

22. Traffic and Parking Requirements Minor

Prior to issue of the Construction Certificate:

- a) A longitudinal driveway profile 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.
- b) The Construction Certificate plans shall show the width of each driveway at the boundary to be a maximum of 3.0 metres and separated by 6.0m along the kerb.

REASON

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

23. 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.

24. Retaining Walls Over 600mm

Retaining walls over 600mm in height shall be designed and specified by a structural engineer registered with the National Engineering Register (NER).

25. Property Address Allocation

Prior to the issue of a Construction Certificate for the development an application for street addresses Property Address Allocation and associated fee shall be submitted to Council for each individual new lot within the development in accordance with Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components is governed by the NSW Addressing User Manual to ensure consistency of application.

http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/NSW_Addressing_User_Manual.pdf

26. Structures to be wholly within the Property Boundaries

The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property. To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by / pegged out by a registered surveyor in accordance with the approved plans, prior to the issue of a Construction Certificate.

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

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

27. DPIE – Erosion and Sediment Controls in Place

Before the commencement of any site or building work, the Principal Certifier must be satisfied the erosion and sediment controls in the Erosion and Sediment Control Plan, (as approved by the Principal Certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

REASON

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

28. DPIE – Tree Protection Measures

Before the commencement of any site or building work, the Principal Certifier must ensure the measure for tree protection detailed in the construction site management plan are in place.

REASON

To protect and retain trees.

29. DPIE – 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 70 clauses (2) and (3).

30. DPIE – 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, clause 69(2).

31. DPIE – 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, clause 71(1), (2) and (3).

32. DPIE – 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 5 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.

33. Dilapidation Report - Public Domain - Pre-Construction - Minor

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.

DURING ANY WORKS (including Demolition, Excavation and Construction)

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

34. DPIE – Hours of Work

The Principal Certifier must ensure that building work, demolition or vegetation removal is only carried out between 7:00am to 5:00pm Monday to Saturday.

The Principal Certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a Construction Site Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

REASON

To protect the amenity of the surrounding area.

35. DPIE – Compliance with the Building Code of Australia

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

REASON

Prescribed condition – EP&A Regulation clause 69(1).

36. DPIE – Procedure for Critical Stage Inspections

While building work is being carried out, any such 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.

37. DPIE – Implementation of the Site Management Plans

While vegetation removal, demolition and/or building work is being carried out, the Applicant must ensure the measures required by the approved Construction Site

Management Plan and the Erosion and Sediment Control Plan are implemented at all times.

The Applicant must ensure a copy of these approved plans are kept on site at all times and made available to Council officers upon request.

REASON

To ensure the required site management measures are implemented during construction.

38. DPIE – 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 clause 75 EP&A Regulation).

39. DPIE – Surveys by a Registered Surveyor

While building work is being carried out, a registered Surveyor is to measure and mark the positions of the following and provide them to the Principal Certifier:

- a) All footings / foundations.
- 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.

40. DPIE – Construction Noise

While building work is being carried out, and where a Noise and Vibration Management Plan is approved under this consent, the Applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no Noise and Vibration Management Plan is approved under this consent, the Applicant is to 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.

REASON

To protect the amenity of the neighbourhood.

41. DPIE – Tree Protection (if relevant)

While site or building work is being carried out, the Applicant must maintain all required tree protection measures in good condition in accordance with the Construction Site Management Plan required under this consent, the relevant requirements of AS 4970-

2009 Protection of trees on development sites and any Arborist's Report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

REASON

To protect trees during construction.

42. DPIE – Responsibility for changes to Public Infrastructure

While building work is being carried out, the applicant must pay 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).

REASON

To ensure payment of approved changes to public infrastructure.

43. DPIE – 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 clause 74.

44. DPIE – Uncovering Relics or Aboriginal Objects

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The Applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b) is of State or local heritage significance; and

- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

REASON

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

45. DPIE – Waste Management

While building work, demolition or vegetation removal is being carried out, the Principal Certifier must be satisfied all waste management is undertaken in accordance with the approved Waste Management Plan.

Upon disposal of waste, the Applicant is to compile and provide records of the disposal to the Principal Certifier, detailing the following:

- The contact details of the person(s) who removed the waste.
- The waste carrier vehicle registration.
- The date and time of waste collection.
- 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.
- The address of the disposal location(s) where the waste was taken.
- 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.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the Applicant is to maintain all records in relation to that Order or Exemption and provide the records to the Principal Certifier and Council.

REASON

To require records to be provided, during construction, documenting that waste is appropriately handled.

46. 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.

47. 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.

48. 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.

49. Vibration During Demolition Works

Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*.

The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

Prior to commencement a specific vibration monitor must be set up to monitor and record the vibration levels affecting surrounding buildings.

50. 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
- k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

51. 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.

52. 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.

53. 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.

54. 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*.

55. Tree Protection and Management

- a) Existing Murraya, Magnolia, Banksia and Citrus site trees located within the footprint of the proposed buildings may be removed.
- b) Consent is granted for the removal one (1) dead street tree that is located within the adjoining road reserve at the applicants expense.

A Qualified Arborist, minimum level 2 (AQF 2) with their own public liability insurance must be engaged to remove the tree as per Australian Standard 4373 - Pruning of amenity trees.

All work taking place on the Council road reserve and footpath requires the appropriate safety and directional signage.

If road and footpath closures are required a Council Road Occupancy Permit is required.

A Dial-Before-You-Dig inquiry is required prior to stump grinding and shall occur without damage to Council infrastructure or underground services / utilities. Council takes no responsibility for any damage incurred to persons, property, or services during the tree removal works.

The tree removal and subsequent tree replacement is to be funded by the applicant.

- c) Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.

- d) Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- e) Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

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

56. DPIE – Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, the Principal Certifier must ensure 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, is completed to the satisfaction of the relevant authority.

Before the issue of the Occupation Certificate, the Certifier must request written confirmation from the relevant authority that the relevant services have been completed.

REASON

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

57. DPIE – Post-Construction Dilapidation Report

Before the issue of any Occupation Certificate, a suitably qualified Engineer must prepare a post-construction dilapidation report, to the satisfaction of the Principal Certifier, detailing whether:

- a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an Occupation Certificate, the Principal Certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the Principal Certifier) and to the relevant adjoining property owner(s).

REASON

To identify damage to adjoining properties resulting from building work on the development site.

58. DPIE – Preservation of Survey Marks

Before the issue of an Occupation Certificate, a registered Surveyor must submit documentation to the Principal Certifier which demonstrates that:

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

REASON

To protect the State's survey infrastructure.

59. DPIE – Repair of Infrastructure

Before the issue of an Occupation Certificate, the Applicant must ensure any public infrastructure damaged as a result of the carrying out of the building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the Council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

REASON

To ensure any damage to public infrastructure is rectified.

60. DPIE – Removal of Waste Upon Completion

Before the issue of an Occupation Certificate, the Principal Certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved Waste Management Plan. Written evidence of the removal must be supplied to the satisfaction of the Principal Certifier.

Before the issue of a partial Occupation Certificate, the Applicant must ensure the temporary storage of any waste is carried out in accordance with the approved Waste Management Plan to the Principal Certifier's satisfaction.

REASON

To ensure waste material is appropriately disposed or satisfactorily stored.

61. DPIE – Completion of Landscape and Tree Works

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

REASON

To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).

62. Occupation Certificate

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

Note: As required by condition 7 of this consent, the buildings must not be occupied until the subdivision certificate is registered with the NSW Land Registry Services.

63. BASIX / Energy Efficiency Commitments

A Compliance Certificate must be provided to the Principal Certifier confirming that the development has been constructed in accordance with the commitments contained within the approved BASIX Certificate listed in Condition 1 prior to the issue of any Occupation Certificate.

64. Certification of New Stormwater System

Prior to the issue of any Occupation Certificate, a qualified Civil Engineer 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. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.

REASON

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

[MDA-2024/113 – Section 4.55 (2) amended on 7 November 2024]

65. Rainwater Tank – Plumbing Certification

Prior to the issue of any Occupation Certificate, a registered plumber shall certify that the rainwater tank has been connected to all toilet flushing, the cold water tap that supplies the clothes washing machine and all external taps/landscape irrigations for non-potable stormwater re-use.

66. Roads Act / Public Domain Works - Minor Development

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:

- a) Construction of a new footpath and landscaping (grass verge/street tree planting as required) along all frontages of the development site;
- b) Construction of a new fully constructed concrete vehicular entrance/s;

- c) Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks and other damaged public domain improvements which will no longer be required;
- d) Reconstruction of selected areas of the existing concrete footpath/vehicular entrances and/or kerb and gutter;
- e) Construction of new kerb and gutter along the frontage of the development site; and
- f) Any brick/sandstone kerb and gutter shall be retained and protected as part of the development. Any damaged sections shall be repaired using brick/sandstone kerb and gutter of a similar type and equal dimensions.

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.

67. General Landscape Planning

Prior to issue of the Occupation Certificate, the following must be complied with to the satisfaction of the Principal Certifier:

- a) All landscape works are to be carried out in accordance with the approved final landscape plans as per condition 1.
- b) A Landscape Architect shall provide a report to the principal certifier (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements:
 - i) Pedestrian access of each dwelling shall be consolidated with proposed driveway. Pedestrian access gate shall be consolidated with driveway gate. (Reason: to provide enough deep soil to include a canopy tree in each dwelling in scale with the proposed building)
 - ii) Front setback of each dwelling will include one tree capable to reach a mature height of minimum 8 meters in local conditions, Tree shall be planted at minimum 100 litres in a tree pit of minimum 1.5 by 1.5 meters. Trees at time of inspection shall have a minimum height of 2.4 meters, calliper at 300mm greater than 50mm, installed with stakes and ties within a mulch bed or equivalent. (Reason: Amenity and Environmental).
 - iii) All other trees and screening shrubs shall be planted at advanced form, as indicated in approved landscape plan. (Reason: provide a good level of amenity and privacy at time of occupation).
- c) All street trees have to be supplied in a pot size not less than 100 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.

- d) The verge strip of Mimosa Street shall be planted with one (1) *Ulmus parvifolia* (Chinese Elm) or *Lophostemon confertus*, (Box Brush) as per local Street Tree Master Plan. Trees at time of inspection shall have a minimum height of 2.4 meters, calliper at 300mm greater than 50mm, installed with stakes and ties within a mulch bed or equivalent.
 - i) Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent.
 - ii) New Street tree shall be planted in an area measuring 1.5 metres long by 1.5 metres wide, backfilled with imported soil/compost, water holding additive and fertiliser. Interface of tree pit and turf shall be with hardwood, 50mm x 150mm, edging set flush with adjoining kerb and path, provide pegs at both ends and centre of timber edge.
 - iii) New street trees shall be installed with Stakes and Ties- Three stakes (3) of 50 x 50 x 2500mm of durable hardwood, straight, free from knots or twists, pointed at one end. Provide ties fixed securely to the stakes, 50mm hessian webbing installed around the stakes and stem in a figure of eight pattern and stapled to the stakes.
 - iv) Mulching- Tree pit mulched shall conform to AS4454 and free of deleterious extraneous matter such as soil, weeds, wood slivers, stones. Mulch shall be in all tree pits to a depth of 100mm, when plants are installed, clear of all plant stems, and rake to an even surface flush with the surrounding finished levels.

67A. Street Tree Planting Agreement

Prior to issue of any Occupation Certificate, a payment of \$28,800 must be paid to Bayside Council to cover Council planting forty (40) street trees nominated by Council along Mimosa Street public domain. A receipt must be provided to the appointed principal certifier.

Reason

To provide a demonstrable public benefit pursuant to clause 4.6(8)(bd) of the Bayside Local Environmental Plan 2021.

[MDA-2025/23 – Section 4.55 (2) amended **]***

68. Site Tree Replacement

- a) At least Fourteen (14) replacement trees shall be planted in accordance with
- b) The existing street tree located within the adjoining road reserve is to be removed and replaced with one (1) 75L *Lagerstroemia indica* (Crepe Myrtle).

The replacement street tree shall be planted in a suitable location in accordance with the approved landscape plans within the nature strip on completion of all building and hard landscape construction.

PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE OR STRATA CERTIFICATE

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

69. Subdivision Certificate Application

A Subdivision Certificate must be obtained from Council prior to registration of the subdivision with the NSW Land Registry Service.

An application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgement of the Subdivision Certificate.

70. Release of Subdivision Certificate

The endorsed Subdivision Certificate shall not be released until completion of the development and the issue of the Final Occupation Certificate.

71. Torrens Subdivision – Dual Occupancy

The new lots created are to be numbered Lot 700 and Lot 701.

72. Section 73 Sydney Water Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au, then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifier prior to release of the Subdivision/Strata Certificate.

73. Services to be Covered by Easement

All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88 Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.

74. Subdivision Requirements

Council will not issue the Subdivision Certificate unless the following has been provided to the satisfaction of Council:

- a) Works-As-Executed Plan for Stormwater Drainage System, and
- b) Engineer's Compliance certificate for Stormwater Drainage System and work-as-executed drawing, and
- c) Final Occupation Certificate (where necessary), and
- d) Utility Service Plan, and
- e) Original of Section 73 Compliance Certificate referring to Subdivision – (*Sydney Water Act 1994*), and
- f) Landscape certification (if Council not appointed as PCA), and
- g) Administration Sheet and Section 88B instruments prepared by a qualified Surveyor.

75. Deleted.

[MDA-2024/113 – Section 4.55 (2) deleted on 7 November 2024]

OPERATIONAL CONDITIONS

76. DPIE – Release of Securities / Bonds (if required)

When Council receives a Final Occupation Certificate from the Principal Certifier, the applicant may lodge an application to release the security deposit(s) held in accordance with Council's fees and charges for development. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Bayside Council's requirements.

A request for refund can be made through Bayside Councils "Request for Refund" Application Form.

REASON

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

77. DPIE – Location of Mechanical Ventilation (if applicable)

During occupation and ongoing use of the building, the Applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plan and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.

REASON

To protect the residential amenity of neighbouring properties.

78. DPIE – Maintenance of Wastewater and Stormwater Treatment Device (if applicable)

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

The stormwater drainage system shall be regularly cleaned, maintained, and repaired to always ensure the efficient operation of the system. 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 any rainwater tank shall 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 sewerage and stormwater systems.

79. Landscape – Maintenance

- a) The landscaping shall be maintained for the life of the development. All soft landscape areas are to be maintained in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan.
- b) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of twelve (12) months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties; to sustain adequate growth and health. Maintenance does not include trimming or pruning of the trees under any circumstances.

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) Street numbers

A street number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to occupation.

e) 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.

f) Asbestos

All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- a) *Work Health and Safety Act 2011*, and
- b) *Work Health and Safety Regulation 2011*, and
- c) *Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]*, and
- d) *Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]*, and
- e) *Protection of the Environment Operations (Waste) Regulation 2005*.

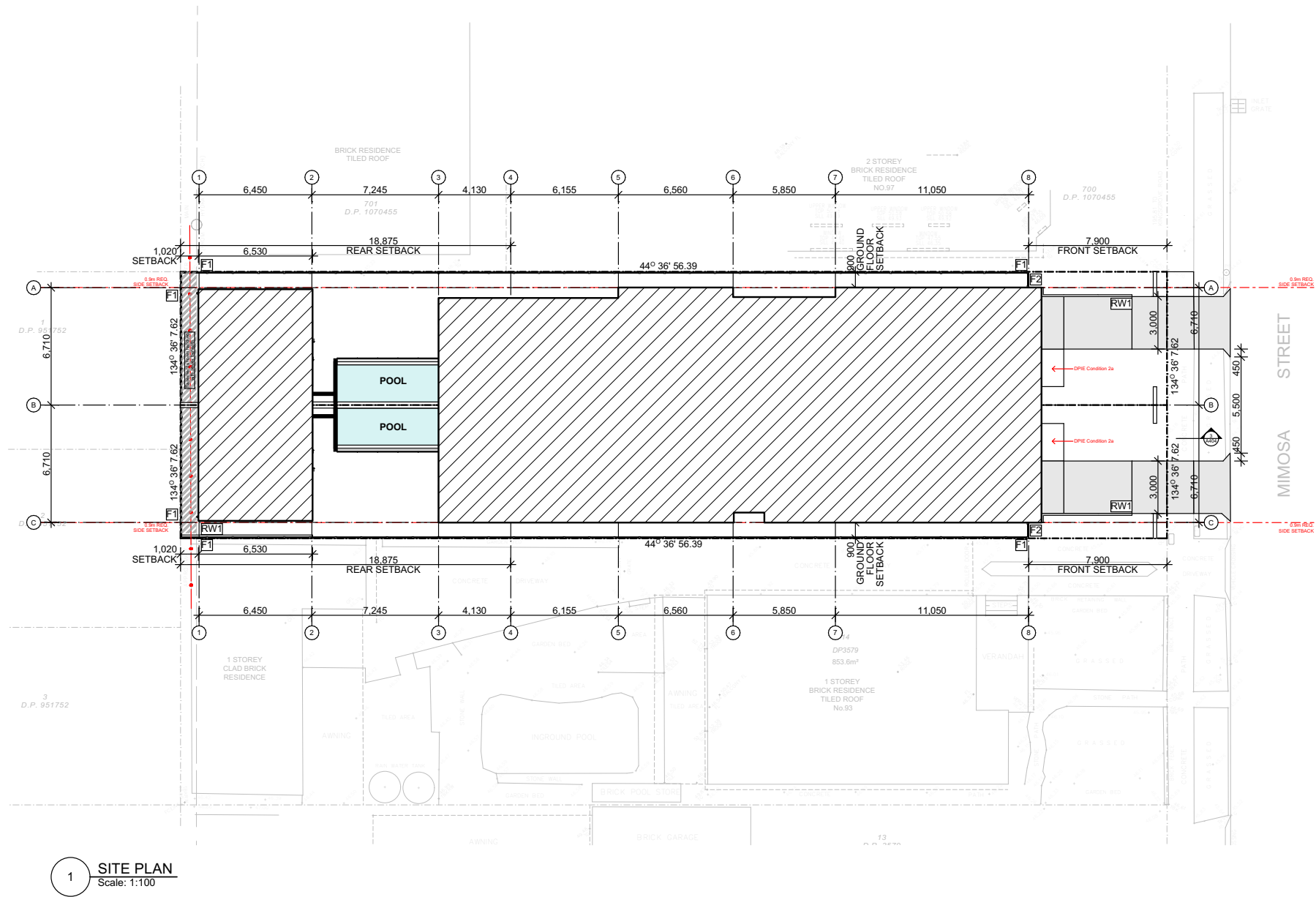
All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in the Health and Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the *Protection of the Environment Operations (Waste) Regulation 2005*.

g) 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*.

FENCE LEGEND	
F1	1800MM LAPPED AND CAPPED TIMBER FENCE TO MATCH GARAGE DOOR TIMBER
F2	1800MM LAPPED AND CAPPED TIMBER FENCE GATE TO MATCH GARAGE DOOR TIMBER
RW1	RETAINING WALL



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REV

NOTES

DATE

DRAWING TITLE

SITE PLAN

PROJECT

MIMOSA DUPLEX INTERIORS

SITE ADDRESS

95 MIMOSA STREET BEXLEY NSW 2207

SCALE

1:200

DRAWN BY

AY

PROJECT #

D251

PAPER SIZE

A2

CHECKED BY

AY

STATUS

MODIFICATION

REVISION

A

PLOT DATE

5/7/2024

SHEET #

A101



NOTES

Provide mechanical ventilation in accordance with
NCC Housing Provisions 2022 Clause 10.6.2

Balustrades/barriers to be constructed and installed in accordance with NCC Housing Provisions 2022 Clause 11.3.4

Provide protection of operable windows in accordance with NCC Housing Provisions 2022 Clause 11.3.7



REFER TO A104 FOR SECONDARY DWELLING

1 ROOF PLAN
Scale: 1:100

ROOFLINE EXTENDED TO ENCLOSE
FIRST FLOOR VOID AS SHOWN. FALL
AND DETAILING TO MIRROR
ADJACENT FOOTPRINT

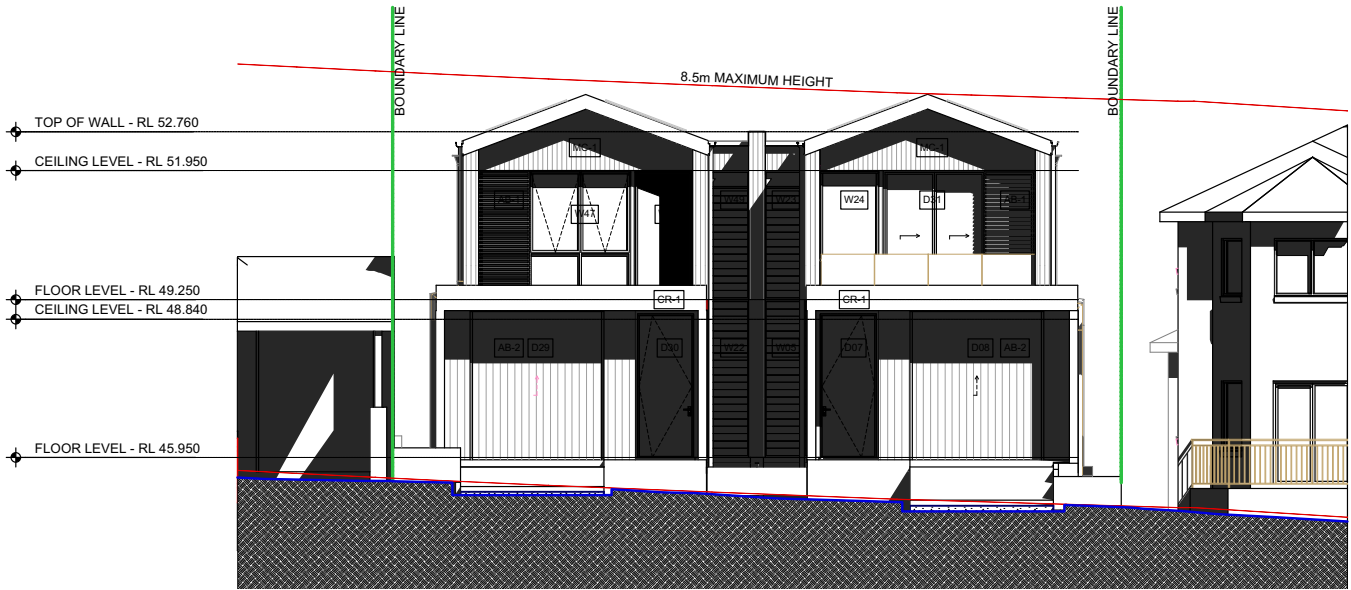
ROOFLINE EXTENDED TO ENCLOSE
FIRST FLOOR VOID AS SHOWN. FALL
AND DETAILING TO MIRROR
ADJACENT FOOTPRINT

LEGEND:

 PROPOSED NEW WALLS
 PROPOSED NEW SCOPE AS SHADED
 EXISTING FOOTPRINT
 (AS PPROVED)



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FINISHES KEY:

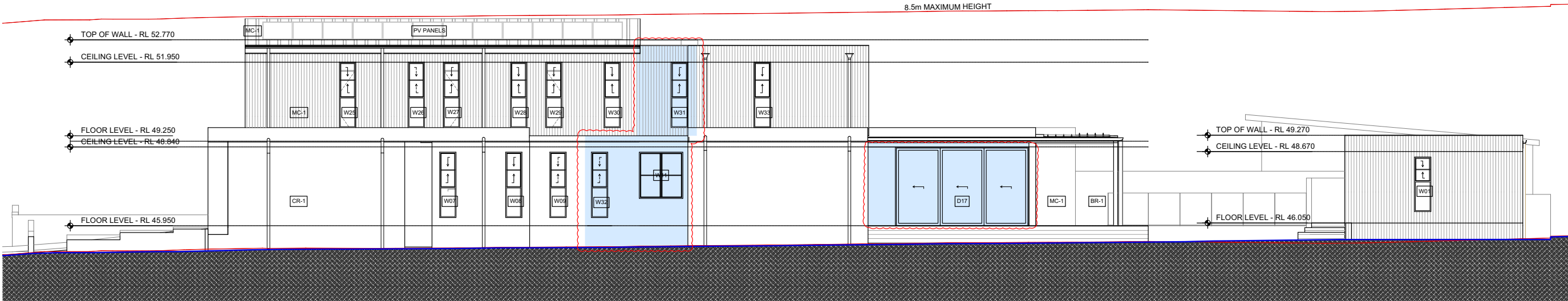
AB-1	ALUMINIUM BATTENS - NIGHT SKY
AB-2	ALUMINIUM BATTENS - TIMBER LOOK
MC-1	METAL CLADDING
PF-1	PAINT FINISH - NIGHT SKY
CR-1	CEMENT RENDER FINISH
BR-1	BRICK TILES

NOTES

Provide mechanical ventilation in accordance with NCC Housing Provisions 2022 Clause 10.6.2

Balustrades/barriers to be constructed and installed in accordance with NCC Housing Provisions 2022 Clause 11.3.4

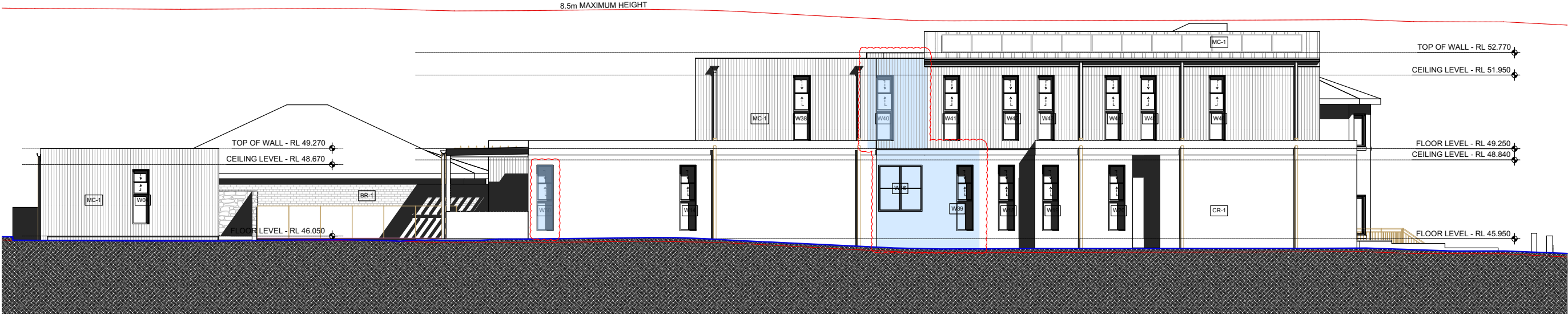
Provide protection of operable windows in accordance with NCC Housing Provisions 2022 Clause 11.3.7



bas&co basandco.com helo@basandco.com @basandco Suite 404 / 24 Montgomery Street, Kogarah, NSW, 2217 ABN: 23 620 360 416	Abbas Yousef Creative Director abbas@basandco.com 0449 015 666 Bachelor of Interior Architecture (Hons) - UNSW Diploma of Architectural Technology - TAFE NSW Accredited DDA Designer Accredited DDA Designer	CLIENT MARK HASSAN CONTACT NUMBER +614 14 076 666 EMAIL MARK.HASSAN@HOTMAIL.COM	GENERAL NOTES THESE DRAWINGS AND DESIGN THEREON ARE COPYRIGHT AND SHALL NOT BE USED OR REPRODUCED WITHOUT THE WRITTEN PERMISSION OF BAS AND CO DESIGN OFFICE UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AS REQUIRED UNDER SECTION 158A OR UNDER THE TRADE PRACTICES ACT. THIS DOCUMENT SHOULD BE CONSIDERED PRIVATE AND CONFIDENTIAL AND MAY NOT BE SHARED WITH ANY THIRD PARTY WITHOUT THE PRIOR WRITTEN PERMISSION OF BAS AND CO DESIGN OFFICE. LARGER SCALE DRAWINGS AND WRITTEN DIMENSIONS TAKE PRECEDENCE. DO NOT SCALE THE DRAWINGS. ALL DIMENSIONS MUST BE CHECKED AND VERIFIED ON SITE. ANY DISCREPANCIES, ERRORS OR OMISSIONS MUST BE REPORTED TO BAS AND CO DESIGN OFFICE. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY BAS AND CO DESIGN OFFICE FOR CONSTRUCTION. ALL CONSTRUCTION TO COMPLY WITH THE AUSTRALIAN BUILDING CODE REQUIREMENTS & RELEVANT AUSTRALIAN STANDARDS. ALL WORKS SHALL BE IN ACCORDANCE WITH THE AUSTRALIAN BUILDING CODE, LOCAL COUNCIL BUILDING CODE AND ALL OTHER GOVERNING AUTHORITIES CONCERNED. ALL MATERIALS AND WORKMANSHIP SHALL BE IN ACCORDANCE WITH RELEVANT CODES OF PRACTICE, AUSTRALIAN STANDARDS OR SPECIFICATION, REGARDLESS OF THEIR INCLUSION IN THE BUILDING CONTRACT. ALL MATERIALS SHALL BE NEW AND OF THE BEST QUALITY OF THEIR RESPECTIVE KINDS EXCEPT WHERE OTHERWISE STATED. THE STANDARD OF QUALITY SHALL BE THAT WHICH WOULD COMPLY WITH RELEVANT CODES OF PRACTICE, THE AUSTRALIAN BUILDING CODE REQUIREMENTS & RELEVANT AUSTRALIAN STANDARDS. ALL PRINTED COLOURS ARE INDICATIVE ONLY. FOR ACCURATE COLOUR REPRESENTATION USE SUPPLIER'S COLOUR SAMPLES.	REV NOTES DATE	DRAWING TITLE ELEVATIONS PROJECT MIMOSA DUPLEX INTERIORS SITE ADDRESS 95 MIMOSA STREET BEXLEY NSW 2207	SCALE 1:100 DRAWN BY AY PROJECT # D251	PAPER SIZE A2 CHECKED BY AY STATUS MODIFICATION	REVISION A PLOT DATE 5/7/2024 SHEET # A107

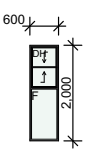
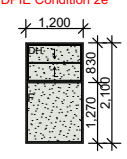
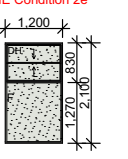
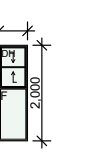
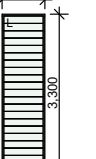
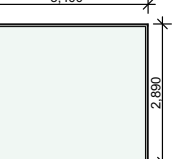
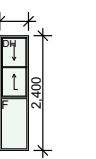
FINISHES KEY:	
AB-1	ALUMINIUM BATTENS - NIGHT SKY
AB-2	ALUMINIUM BATTENS - TIMBER LOOK
MC-1	METAL CLADDING
PF-1	PAINT FINISH - NIGHT SKY
CR-1	CEMENT RENDER FINISH
BR-1	BRICK TILES

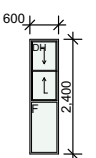
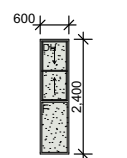
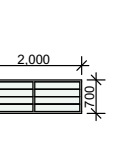
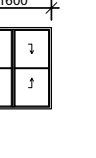
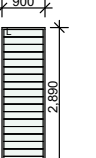
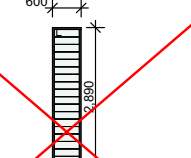
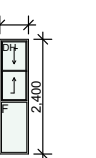
NOTES
Provide mechanical ventilation in accordance with NCC Housing Provisions 2022 Clause 10.6.2
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Provide protection of operable windows in accordance with NCC Housing Provisions 2022 Clause 11.3.7

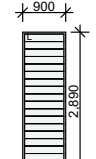
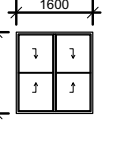
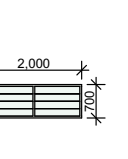
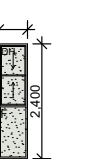
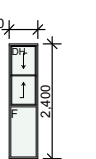
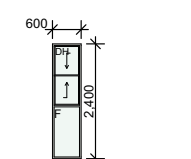



1 SOUTH ELEVATION-LOT B
Scale: 1:100

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ELEVATION							
ID	W01	W02	W03	W04	W05	W06	W07
HEAD HEIGHT	2,520	2,520	2,520	2,540	3,300	2,890	2,700
SILL HEIGHT	520	420	420	540	0	0	300
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-1	G-1	G-1	G-1	G-1

ELEVATION							
ID	W08	W09	W10	W11	W12	W13	W14
HEAD HEIGHT	2,700	2,700	1,600	2,700	2,890	2,890	2,700
SILL HEIGHT	300	300	900	900	0	0	300
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-2	G-1	G-1	G-1	G-1	G-1

ELEVATION							
ID	W15	W16	W17	W18	W19	W20	W21
HEAD HEIGHT	2,890	2,700	1,600	2,700	2,700	2,700	2,890
SILL HEIGHT	0	900	900	300	300	300	0
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-1	G-2	G-1	G-1	G-1

NOTES

Provide mechanical ventilation in accordance with NCC Housing Provisions 2022 Clause 10.6.2

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Provide protection of operable windows in accordance with NCC Housing Provisions 2022 Clause 11.3.7

LEGEND

- A AWNING WINDOW
DH DOUBLE HUNG
F FIXED GLASS
L ADJUSTABLE GLASS LOUVRE
S SLIDING SASH

GLASS TYPE

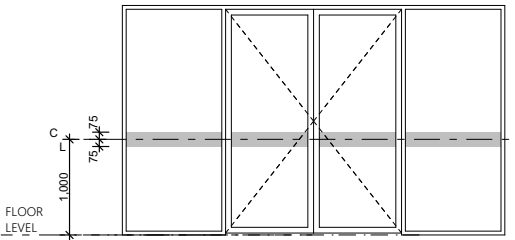
- G-1 SINGLE GLAZED LAMINATED CLEAR - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE
G-2 SINGLE GLAZED LAMINATED OBSCURE - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE

NOTE

ALL DOOR & WINDOW SCHEDULES TO BE READ IN CONJUNCTION WITH THE PLANS, SPECIFICATION & BCA SECTION J REPORT, CHECK SIZES ON SITE PRIOR TO MANUFACTURING

ALL EXTERNAL DOORS TO BE FITTED WITH WEATHER STRIPS

ALL BEDROOM WINDOWS TO COMPLY WITH THE REQUIREMENTS OF CLAUSE 3.9.2.5 OF THE BCA WITH REGARD TO PREVENTION OF FALLS



GLAZING DECAL
TO COMPLY WITH AUSTRALIAN STANDARDS

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Abbas Yousef Creative Director

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Bachelor of Interior Architecture (Hons) - UNSW
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Accredited DDA Designer
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CLIENT

MARK HASSAN

CONTACT NUMBER

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REV

NOTES

DATE

DRAWING TITLE

WINDOW & DOOR SCHEDULE

PROJECT

MIMOSA DUPLEX INTERIORS

SITE ADDRESS

95 MIMOSA STREET BEXLEY NSW 2207

SCALE

1:100

DRAWN BY

AY

PROJECT #

D251

PAPER SIZE

A2

CHECKED BY

AY

STATUS

MODIFICATION

REVISION

A

PLOT DATE

5/7/2024

SHEET #

A113

ELEVATION							
ID	W22	W23	W24	W25	W26	W27	W28
HEAD HEIGHT	3,300	2,700	2,700	2,700	2,700	2,700	2,700
SILL HEIGHT	0	0	0	300	300	300	300
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-1	G-1	G-2	G-1	G-1

ELEVATION							
ID	W29	W30	W31	W32	W33	W34	W35
HEAD HEIGHT	2,700	2,700	2,700	2,700	2,700	2,700	2,700
SILL HEIGHT	300	300	300	300	300	1,200	200
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-1	G-2	G-1	G-1	G-1

ELEVATION							
ID	W36	W37	W38	W39	W40	W41	W42
HEAD HEIGHT	2,700	2,700	2,700	2,700	2,700	2,700	2,700
SILL HEIGHT	200	1,200	300	300	300	300	300
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-1	G-2	G-1	G-1	G-1

ELEVATION							
ID	W43	W44	W45	W46	W47	W48	W49
HEAD HEIGHT	2,700	2,700	2,700	2,700	2,700	2,700	2,700
SILL HEIGHT	300	300	300	300	0	0	0
FRAME	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH	ALUMINIUM FRAME - POWDERCOAT FINISH
GLAZING	G-1	G-1	G-2	G-1	G-1	G-1	G-1

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LEGEND

- A AWNING WINDOW
DH DOUBLE HUNG
F FIXED GLASS
L ADJUSTABLE GLASS LOUVRE
S SLIDING SASH

GLASS TYPE

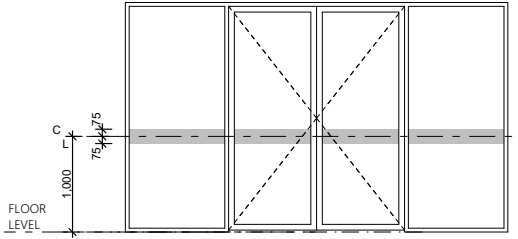
- G-1 SINGLE GLAZED LAMINATED CLEAR - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE
G-2 SINGLE GLAZED LAMINATED OBSCURE - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE

NOTE

ALL DOOR & WINDOW SCHEDULES TO BE READ IN CONJUNCTION WITH THE PLANS, SPECIFICATION & BCA SECTION J REPORT, CHECK SIZES ON SITE PRIOR TO MANUFACTURING

ALL EXTERNAL DOORS TO BE FITTED WITH WEATHER STRIPS

ALL BEDROOM WINDOWS TO COMPLY WITH THE REQUIREMENTS OF CLAUSE 3.9.2.5 OF THE BCA WITH REGARD TO PREVENTION OF FALLS



GLAZING DECAL

TO COMPLY WITH AUSTRALIAN STANDARDS

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REV

NOTES

DATE

DRAWING TITLE

WINDOW & DOOR SCHEDULE

PROJECT

MIMOSA DUPLEX INTERIORS

SITE ADDRESS

95 MIMOSA STREET BEXLEY NSW 2207

SCALE

1:100

DRAWN BY

AY

PROJECT #

D251

PAPER SIZE

A2

CHECKED BY

AY

STATUS

MODIFICATION

REVISION

A

PLOT DATE

5/7/2024

SHEET #

A114

NOTES

Provide mechanical ventilation in accordance with NCC Housing Provisions 2022 Clause 10.6.2

Balustrades/barriers to be constructed and installed in accordance with NCC Housing Provisions 2022 Clause 11.3.4

Provide protection of operable windows in accordance with NCC Housing Provisions 2022 Clause 11.3.7

LEGEND

A
DH
F
L
S

AWNING WINDOW
DOUBLE HUNG
FIXED GLASS
ADJUSTABLE GLASS LOUVRE
SLIDING SASH

GLASS TYPE

G-1
G-2

SINGLE GLAZED LAMINATED CLEAR - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE
SINGLE GLAZED LAMINATED OBSCURE - REFER TO BASIX CERTIFICATION FOR GLAZING TYPE

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ALL EXTERNAL DOORS TO BE FITTED WITH WEATHER STRIPS

ALL BEDROOM WINDOWS TO COMPLY WITH THE REQUIREMENTS OF CLAUSE 3.9.2.5 OF THE BCA WITH REGARD TO PREVENTION OF FALLS

GLAZING DECAL

TO COMPLY WITH AUSTRALIAN STANDARDS

FLOOR LEVEL

<div><div>s&co</div><div>om</div><div>ontgomery Street, Kogarah, NSW, 2217</div><div>410</div></div>	<div><div>Abbas Youssef Creative Director</div><div>abbas@basandco.com 0449 015 666</div><div>Bachelor of Interior Architecture (Hons) - UNSW Diploma of Architectural Technology - TAFE NSW Accredited IDIA Designer Accredited DIA Designer</div></div>	<div><div>CLIENT</div><div>MARK HASSAN</div><div>COUNTACT NUMBER</div><div>+614 14 076 666</div><div>EMAIL</div><div>MARK.HASSAN@HOTMAIL.COM</div></div>	<div><div>GENERAL NOTES</div><div>This drawings and design thereon are copyright and shall not be used or reproduced without the written permission of SAS and CO DESIGN OFFICE UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, AS REQUIRED UNDER SECTION 194A OR UNDER THE TRADE PRACTICES ACT. THIS DOCUMENT SHOULD BE CONSIDERED PRIVATE AND CONFIDENTIAL AND MAY NOT BE SHARED WITH ANY THIRD PARTY WITHOUT THE PRIOR WRITTEN PERMISSION OF SAS AND CO DESIGN OFFICE. LARGER SCALE DRAWINGS AND WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SMALLER SCALE DRAWINGS. ALL DIMENSIONS MUST BE USED AND VERIFIED ON SITE. ANY DISCREPANCIES, ERRORS OR OMISSIONS MUST BE REPORTED TO SAS AND CO DESIGN OFFICE. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY SAS AND CO DESIGN OFFICE FOR CONSTRUCTION. ALL CONSTRUCTION TO COMPLY WITH THE AUSTRALIAN BUILDING CODE REQUIREMENTS & RELEVANT AUSTRALIAN STANDARDS. ALL WORKS SHALL BE IN ACCORDANCE WITH THE AUSTRALIAN BUILDING CODE, LOCAL COUNCIL BUILDING CODE AND ALL OTHER GOVERNING AUTHORITIES CONCERNED. ALL MATERIALS AND WORKMANSHIP SHALL BE IN ACCORDANCE WITH RELEVANT CODES OF PRACTICE, AUSTRALIAN STANDARDS OR SPECIFICATION, REGARDSLESS OF THEIR INCLUSION IN THE BUILDING CONTRACT. ALL MATERIALS SHALL BE NEW AND OF THE BEST QUALITY OF THEIR RESPECTIVE HANDS, EXCEPT WHERE OTHERWISE STATED. THE STANDARDS OF QUALITY SHALL BE THAT WHICH WOULD COMPLY WITH RELEVANT CODES OF PRACTICE. THE AUSTRALIAN BUILDING CODE REQUIREMENTS & RELEVANT AUSTRALIAN STANDARDS. ALL PRINTED COLOURS ARE INDICATIVE ONLY. FOR ACCURATE COLOUR REPRESENTATION USE SUPPLIER'S COLOUR SAMPLES.</div></div>	<div><div>REV</div><div>NOTES</div><div>DATE</div></div>	<div><div>DRAWING TITLE</div><div>WINDOW & DOOR SCHEDULE</div><div>PROJECT</div><div>MIMOSA DUPLEX INTERIORS</div><div>SITE ADDRESS</div><div>95 MIMOSA STREET BEXLEY NSW 2207</div></div>	<div><div>SCALE</div><div>1:100</div><div>DRAWN BY</div><div>AY</div><div>PROJECT #</div><div>D251</div></div>	<div><div>PAPER SIZE</div><div>A2</div><div>CHECKED BY</div><div>AY</div><div>STATUS</div><div>MODIFICATION</div></div>	<div><div>REVISION</div><div>A</div><div>PLOT DATE</div><div>5/7/2024</div><div>SHEET #</div><div>A115</div></div>
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R T P

ROCKEMAN TOWN PLANNING

Statement of Environmental Effects Section 4.55 Modification Application



No.95 Mimosa Street, Bexley

Retrospective approval for alterations and
additions to the existing dwelling

Amended July, 2025

Prepared by:

ROCKEMAN TOWN PLANNING

ABN 25163862020

Contents

Introduction

Site Location and Description

Locality

Site Description

Surrounding Development

Development Proposal

Overview

Detailed Description

Materials and Finishes

Access and Parking

Landscaping

Solar Access

Privacy

Waste Management

Statutory Planning Framework

State Environmental Planning Policy Building Sustainability Index (BASIX)

Bayside Local Environmental Plan 2021

Bayside Development Control Plan 2022

Section 4.15 Evaluation

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

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

The suitability of the site for the development

Any submissions received in accordance with this Act or the regulations

The public interest

Conclusion

Annexure Survey Plan

Annexure Architectural Plans

Annexure Structural Adequacy Certificate

Introduction

This Statement of Environmental Effects has been prepared on behalf of the client. This Statement has been prepared pursuant to Section 4.55 of the Environmental Planning and Assessment Act (EPA Act), 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000.

This Statement accompanies a Modification Application for the retrospective approval for building alterations to the existing dwelling at No.95 Mimosa Street, Bexley. The application is a response to the email received from Council's compliance department requiring a modification application to be lodged prior to the building information certificate already lodged to be assessed. A modification application is required because the current development has not been completed or received an Occupation Certificate.

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

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

Relevant History

The existing dwelling has been approved under • DA-2021/488 - Demolition of existing structures and construction of a two (2) storey attached dual occupancy with detached secondary dwellings, inground swimming pool and Torrens Title Subdivision into two (2) lots, the subject of this application determined 03/06/2022.

A modification application Modification to DA-2021/488 including internal and external amendments to the approved dual occupancy and changes to stormwater management system has been lodged for the alterations and additions and use of the enclosed which were approved on 07/11/2024. The approval included minor internal fit-out changes to the approved principal and secondary dwellings including filling in the ground floor void in the principal dwelling on Lot B (southern lot), adding a new window to the south-eastern elevation of the Lot B principal dwelling, adding new bathroom windows to the rear elevations of both secondary dwellings and a new stormwater management system to replace the one approved under DA2021/488, removing the need for a stormwater detention system.

The subject application is for retrospective approval of the infill of the u-shaped recesses along the side elevations to incorporate a ground floor walk-in pantry and a first floor ensuite. The proposed development is permissible with consent and compliant with the development standards under BLEP 2021.

Site Location and Description

Site Description and Locality

The site is legally described as Lot 15 DP 3579 and is known as No.95 Mimosa Street, Bexley. The site is located near the intersection of Mimosa Street and Forest Road. The site is located in the suburb of Bexley which resides to the south of Sydney. The subject site is within the Bayside local government area. An aerial map of the site is shown in Figure 1 below.



Figure 1: Aerial Map

Source: Six Maps, 2024

The site is a regular shaped allotment with a frontage along Mimosa Street and has a site area of 859.4 square metres and a frontage of 15.24 metres at the front boundary. The site is currently occupied by a two (2) storey dual occupancy currently under construction with swimming pools and secondary dwellings. The existing building is not identified as a heritage item or within a conservation item under the Bayside Local Environmental Plan 2021.

Mimosa Street and the surrounding area is characterised by predominately existing detached Californian bungalows and newly developed dwellings within a transitioning locality, front fences, landscaping and on-street parking. Images of the site and the surrounding locality are shown below in Figures No. 2-5.



Figure 2: Subject site – front elevation
Source: Google Maps



Figure 3: Ground floor walk-in pantry
Source: RTP



Figure 4: First floor ensuite

Source: RTP



Figure 5 and 6: Existing side elevations

Source: RTP

Development Proposal

The subject development application seeks retrospective approval for alterations and additions to the existing dwelling at No.95 Mimosa Street, Bexley.

The proposal specifically seeks consent for the following:

Ground floor and first floor

- Infill of the 'u-shaped' indentations along the western and southern facades of 2.126m x 3.636m for a walk-in pantry on the ground floor of both dwellings;
- Associated windows;



First Floor

- Infill of the 'u-shaped' indentations along the western and southern facades of 2.2m 3.636m for an ensuite on the first floor; and
- Associated windows;



Roof

- Infill pitched roof form over ensuite.

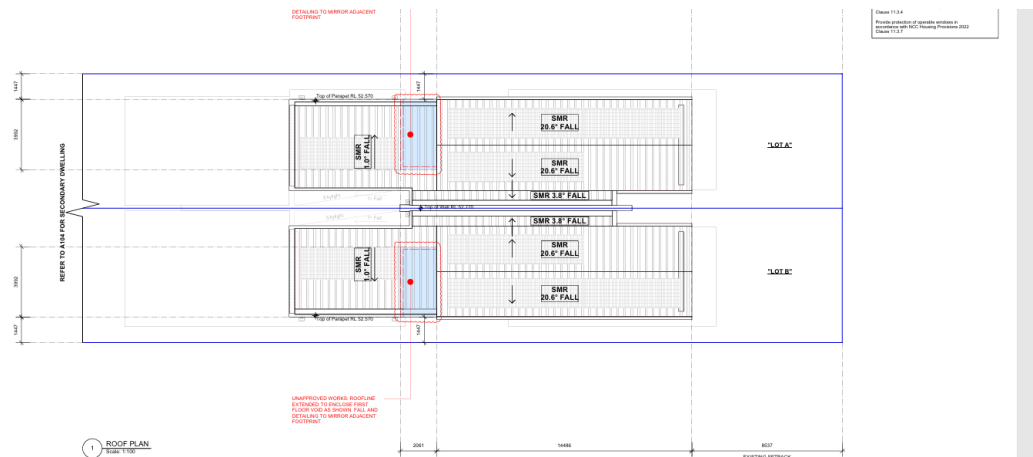


Figure 9: Roof level



Figure 10 and 11: As-built side elevations.

Building Configuration and Mix

Element	Proposed
Site Area	859.4m ²
Approved Gross Floor Area	517.6m ² (0.602:1) <i>Note: the approved gross floor area was not relied upon for the as-built calculations and based off the previously approved development application.</i>
Additional Gross Floor Area	8.5m ² x 4 (infill sections on the ground and first floor) = 34m ² maximum
Proposed Gross Floor Area	570.5m ² (0.66:1) <i>Note: based on as-built calculations</i>
Height	No change – infill roof form to match approved building height of 8.4m Lot 1 and 8.2m Lot 2
Storeys	Two (2)
Front Setback	No change
Side Setbacks (basement, ground floor and first floor)	No change – except for the infill of the indentation portion of the southern and western walls maintaining a 1.5m wide side setback.
Rear Setback	No change to the rear façade
Private Open Space	No change
Car parking spaces	No change – single car garage per dwelling.

Detailed Description

The proposal is for alterations to the existing approved Torrens title dual occupancy which includes the infill of the 'u-shaped' indentations on the southern and western walls on the ground floor and first floor to include a walk-in pantry and first floor ensuite. The floor plans and building envelope remains the same as approved/ constructed under MDA-2021/488 with the exception of the infill of the 'u-shaped' indentations. The development maintains an articulated form along the side boundaries with a small recess and different colours on the ground and first floor to maintain a balanced massing and scale.

Cut and Fill – No proposed changes

Windows – The changes includes an updated window schedule to include a ground floor window and first floor double hung window to match the existing facades for the ground floor WIP and the first floor ensuite.

Materials and Finishes - The proposal includes brick, render, and glass materials to create a modern style dwelling. The palette of colours and finishes are considered to complement the approved facades. The two tones on the ground and first floor aim at balancing the scale of the building.

Access and Parking

The application does not include changes to access and parking.

Landscaping

The proposal does not reduce landscaping on site. It is not clear if the infill portions on the side facades were originally included in the landscaping calculation. It can be noted that if this portion was included in landscaping it has a deep orientation to the south and west and will not achieve sunlight. The area will remain as dead space that achieves no improvement to the amenity of the site. The north facing landscaped area to the rear will improve on-site amenity.

Solar Access

The subject application will not impact the approved solar access of the dwelling or adjoining properties as the rear of the properties façade north. The side elevations in which the indentations have been infilled are orientated towards the west and south which will not achieve any sunlight. incorporating low trafficable habitable spaces like a walk-in pantry and ensuite would be a more suitable design outcome than a small indentation along the side facades.

Privacy

The amendment to the side facades will not impact the privacy of the adjoining properties with the installed windows being obscured and complementing the existing window schedule. The proposed uses are low-trafficable space and are not considered to have any visual or acoustic impacts.

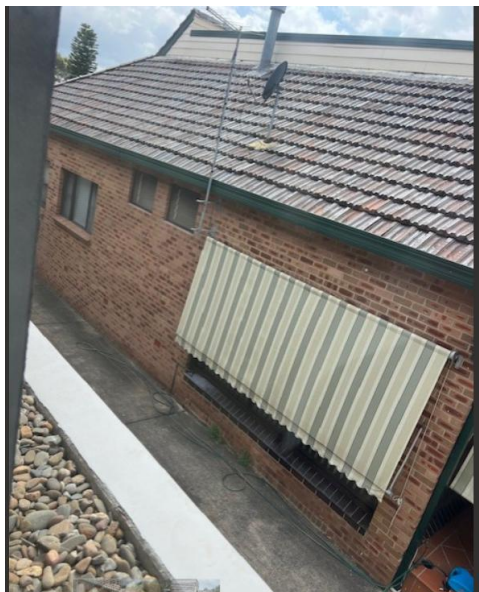


Figure 12: Adjoining side elevation of neighbour

Streetscape Impact

The proposal is compatible with the transitioning character of the area, maintains a building that has a compatible built form and enhances residential amenity. The development has been sited, designed and constructed to have a proportionate, functional and sympathetic development from the streetscape and along the side boundaries. The infill development will not contribute to the overall bulk and scale of the development as the 2m wide indentation provided little relief in the massing of the side elevations that expands for 23m. The side boundaries have a length of 56.39m and the increase in building along the side elevations is offset by the elongated length of the boundaries along the site. The approved development has a similar length and scale to the adjoining properties and the 2m wide 'u-shaped' indentation provided a negligible break in the approved mass. The proposal will not impact the streetscape as the infill works are contained to the side façades. The infill development includes a walk in pantry and ensuite with obscured windows that will now impact on the privacy of the adjoining properties.

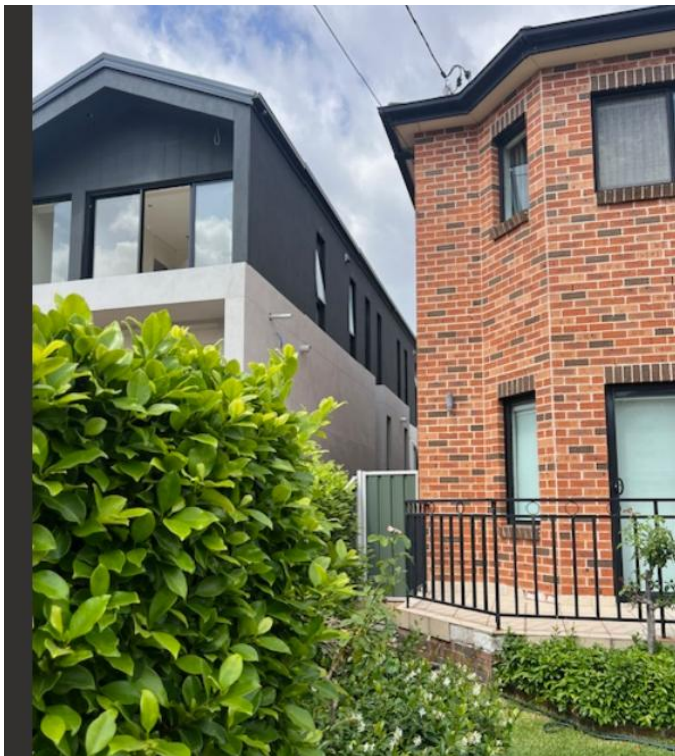


Figure 13: Infill development cannot be viewed from the streetscape

Statutory Planning Framework

Environmental Planning and Assessment (EPA) Act 1979

Section 4.55 - Modification of consents — generally

(2) *Other modifications* A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: When assessing an application for modification the consent authority must be satisfied that the development as modified is “*substantially the same*” development as the originally approved as set out in Section 4.55(2)(a) of the *Environmental Planning and Assessment Act 1979*.

The relevant tests to demonstrate that a development as modified is substantially the same can be found in the findings of the Land and Environment Court case, *Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280*. This case establishes two (2) elements to determine if the development is substantially the same as initially approved. The elements to be satisfied is whether the proposal is qualitative and quantitatively the same development as approved.

Moreover, recently in *Arrage v Inner West Council [2019] NSWLEC 85*, Preston J found that there was no legal obligation to consider the circumstances in which the development consent was granted when comparing the approved development and the proposed modified development, or to consider the material or essential elements of the original development consent, neither of which are mandatory relevant matters. Rather it is the statutory provision of Section 4.55 which provides the relevant test.

The development as approved included DA-2021/488 - Demolition of existing structures and construction of a two (2) storey attached dual occupancy with detached secondary dwellings, inground swimming pool and Torrens Title Subdivision into two (2) lots, the subject of this application determined 03/06/2022. The proposed modifications maintain the type of development, building envelope with the exception to the 2m wide infill on the side boundaries, storeys and levels, setbacks, landscaping and overall scale. The building has been updated to achieve positive design improvements in relation to floor plan layouts. The proposal does not impact the amenity of the adjoining properties in relation to solar access and privacy.

The development as modified is considered to improve the development as consented without resulting in extreme or overbearing changes to the extent of the built form nor result in adverse material impact to surrounding properties, streetscape or environment.

The modification maintains the same overall building scale as approved and the setbacks remain compliant. The amendments do not change the appearance of the building, improves the functionality of the approved building and floor plans and the general form and scale of the approved development is not altered.

Therefore, the building envelope remains compatible with the approved plans. The amendments do not change the appearance of the building, improves the functionality of the approved building and floor plans and the general form and scale of the approved development is not altered. The massing and scale of the infill of the side ‘u-shaped’ portions are justified by the balance in the

elongated length of the site. The overall building length is not impacted and remains at 23m which is approximately half of the site length. The infill of the narrow and deep indentations along the side boundaries improve internal amenity for the occupants of the dwellings without impacting external amenity on the adjoining properties such as solar access and privacy.

The changes are not considered to constitute a radical transformation of the originally approved development. The proposal is in essence the same development as approved and maintains use as a residential flat building with elements of an approved and compliant floor plans.

The proposal does not result in any additional quantifiable or material impact. The principal and essential features of the original approval are maintained. For these reasons, the consent authority can be satisfied that the modified development is qualitative and quantitatively the same development as approved. Therefore, the modified development is considered to be substantially the same development.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: Not applicable. The modification does not seek to amend any condition imposed as a requirement of concurrence or in accordance with the general terms by an approval body or authority.

(c) it has notified the application in accordance with—

- (i) the regulations, if the regulations so require, or***
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

Comment: Any submissions received as a result of notification will be considered.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: Noted.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment: Section 4.15 of the EPA Act 1979 is addressed in this Statement below .

Environmental Planning and Assessment Regulation 2021

Part 5 Modification of development consents—the Act, ss 4.55, 4.56 and 4.57

Clause 100 Content of modification application

(1) A modification application must contain the following information—

*(a) the name and address of the applicant, - **provided***

*(b) a description of the development that will be carried out under the development consent, - **provided above***

*(c) the address and folio identifier of the land on which the development will be carried out, - **provided***

*(d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved, - **provided within architectural plans. All plans shown with purple annotations and highlight include changes to the floor plans or facades.***

*(e) whether the modification is intended to— (i) merely correct a minor error, misdescription or miscalculation, or (ii) have another effect specified in the modification application, - **not applicable***

*(f) a description of the expected impacts of the modification, - **provided above.***

*(g) an undertaking that the modified development will remain substantially the same as the development originally approved, - **provided above in EPA Act 1979 assessment***

*(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information, - **N/A***

*(i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application, - **provided***

*(j) whether the modification application is being made to— (i) the Court under the Act, section 4.55, or (ii) the consent authority under the Act, section 4.56. – **Council***

*(2) Subsection (1)(i) does not apply if the consent of the owner is not required under section 98. – **N/A***

*(3) If a modification application under the Act, section 4.55(1A) or (2) relates to BASIX development, or BASIX optional development if the development application was accompanied by a BASIX certificate, the application must be accompanied by— (a) the BASIX certificate, or (b) a new BASIX certificate if the current BASIX certificate is no longer consistent with the development. - **provided***

Bayside Local Environmental Plan 2021

Zoning

The site is zoned R3 – Medium Density Residential, as prescribed by the Bayside LEP Zoning Map.

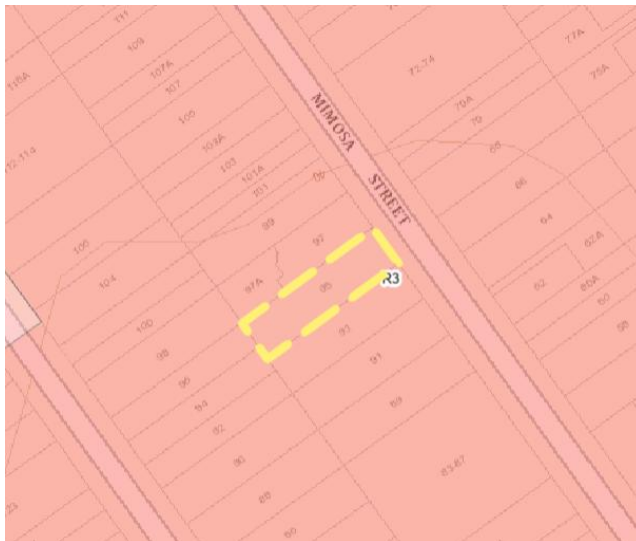


Figure 14: Zoning map extract

Source: Bayside LEP 2021

The objectives of this zone are:

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium 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 to minimise impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

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

4 Prohibited

Any other development not specified in item 2 or 3

The proposed development for the existing dual occupancy maintains and achieves the objectives of this zone and is permissible with consent because it provides a development that facilities the requirements of the occupants of the proposed dwellings with a compliant dwelling design.

Height

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

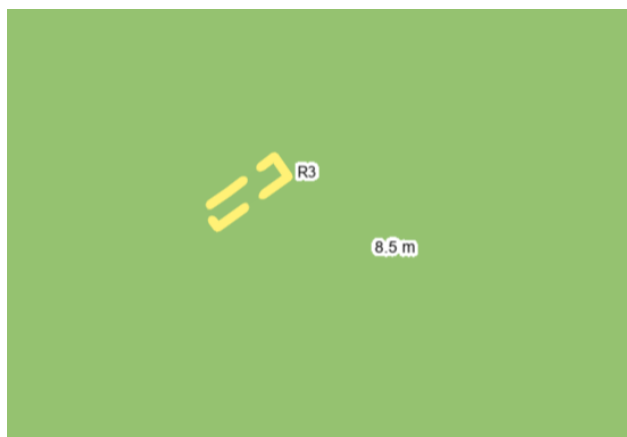


Figure 15: Height map extract
Source: Bayside LEP 2021

4.3 Height of buildings

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

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

(2A)

(2B)

The development is approved with a maximum ridge height of 8.4 metres (RL53.553). The proposal does not impact the approved height limit. The proposal includes new walls and roof over the infill development to enclose the indentations and provide a compatible roof form.

Floor Space Ratio

The prescribed floor space ratio for the site is 0.6:1.



Figure 16: Floor Space Ratio map extract
Source: Bayside LEP 2021

4.4 Floor space ratio

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

- (a) to establish standards for the maximum development density and intensity of land use,
- (b) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,
- (e) to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).
- (2A) Despite subclause (2), if an area of land in Area 1 identified on the [Floor Space Ratio Map](#) has a site area exceeding 1,900 square metres, the floor space ratio of a building on that land may exceed the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) but must not exceed 0.65:1.
- (2B) Despite, subclause (2), the maximum floor space ratio for a building permitted under Schedule 1, clause 14 on land identified as Area 3 on the [Floor Space Ratio Map](#) must not exceed 1.5:1.
- (2C) Despite subclause (2), the floor space ratio for a building may exceed the maximum floor space ratio allowed under that subclause by up to—
- (a) (Repealed)
- (b) 1:1—if the building is in Area 6 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 2,000 square metres,
- (c) 0.5:1—if the building is in Area 7 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 1,200 square metres,
- (d) 2:1—if the building is in Area 8 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 1,000 square metres,
- (e) 0.5:1—if the building is in Area 10 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 600 square metres,
- (f) 0.7:1—if the building is in Area 11 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 600 square metres and contains one or more pedestrian arcades,
- (g) 0.5:1—if the building is in Area 13 identified on the [Floor Space Ratio Map](#) and on a lot having an area of at least 800 square metres.
- (2D) Despite subclause (2), the floor space ratio of all buildings, or parts of buildings, that are residential accommodation on land identified as Area 14 on the [Floor Space Ratio Map](#) must not exceed 2.25:1.
- (2E) Despite subclause (2), the floor space ratio for a building on land that is in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential on land identified as Area 15 on the [Floor Space Ratio Map](#) must not exceed 0.55:1 if the land has an area of less than 460 square metres.**

The site is located within Area 15 and is subject to subclause 4.4 (2E) and therefore the permissible FSR for the site is 0.55:1 because the approved dual occupancy includes Torrens Title subdivision. The increase per dwelling is 34m² and therefore the proposed gross floor areas for the existing dwellings as-built are per the following:

Lot A –

Area 429.7

Ground floor – 139.4m²

First Floor – 103.2m²

Secondary Dwelling – 39.3m²

Total – 281.6m²/0.65:1

Lot B –

Area 429.7

Ground floor – 146.1m²

First Floor – 103.2m²

Secondary Dwelling – 39.3m²

Total – 288.6m²/ 0.67:1

The approved floor space ratio is 0.602:1 or 517.6m². The proposed gross floor area includes the enclosure of the indentation on the south and west facades on the ground and first floors for walk-in pantry and ensuites. The dwellings have been constructed in variation to the approved plans and exceeds the current permissible floor space ratio. Compliance with the development standard would be unreasonable or unnecessary because the variation would have a negligible impact as the approved development would maintain the same bulk and scale when viewed from the streetscape and does not pose any additional adverse impacts on to the adjoining property. The development application responds to the objectives of Clause 4.4 of the BLEP 2021 and has been designed to ensure the proposal does not pose any adverse impacts on to the adjoining neighbours and streetscape. The infill development will not contribute to the overall bulk and scale of the development as the 2m wide indentation provided little relief in the massing

of the side elevations that expand for 23m. The side boundaries have a length of 56.39m and the increase in building mass within two thirds of the building envelope along the side elevations is offset by the elongated length of the boundaries along the site. The visual relationship between the approved development and as-built building is relatively the same and achieves the same bulk and scale. The design maintains a medium-density character consistent with the existing, desired and transitioning outcome of the planned locality, incorporates a compatible building mass, compliant setbacks which responds to the sites context, has a negligible impact on solar access and the proposal remains within the public interest due to the lack of impact and overall compliance with the remaining development standards and controls. The proposal complies with the objectives of the zone and floor space ratio development standard.

Further planning justifications can be provided as follows:

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

- The proposal is a permissible form of development in the R3 Medium Residential zone and complies with the objectives of the development standard and zone;
- The variation of the proposed additional gross floor area is due to the additional gross floor area created by the enclosure of the indentations to make provision for additional internal amenities such as first floor ensuites and ground floor walk-in pantries creating a more useable space for the occupants of the site and removes the privacy impact on to the adjoining neighbours;
- Solar access is maintained for adjoining neighbours as north is located towards the rear boundary;
- The existing approved dual occupancy has an FSR that exceeds the permissible FSR prescribed to the site;
- The bulk and scale of the development remains reflective of the approved dwelling and consistent within the streetscape;
- The development maintains a density reflective of the approved dual occupancy;
- The proposal is compatible with the established front building alignment and the side and rear setback controls, ensuring that the proposed additional floor space maintains adequate building separation, access, privacy, natural lighting and ventilation;
- The bulk, scale and massing of the proposal maintain the characteristics of the streetscape;
- The proposed design complies with the required development standards and controls, with the exception to FSR, and responds to the sites context and positioning providing a functional and proportionate development;
- The proposal remains within the public interest because it includes an articulated development design that works to alleviate impacts on to the adjoining neighbours and provides for a compatible design and harmonious balance between the current streetscape and the transitioning desired residential accommodation.

however the following provides sufficient environmental planning grounds to justify contravening the development standard:

The matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (30 January 2015) provides some supportive guidance on the principal of “environmental planning grounds” and in accordance with Commissioner Pearson’s comments, we therefore acknowledge that “environmental planning grounds” must be specific to the proposed development on the subject site and would be matters arising from S.4.15 Evaluation Criteria in the EPA Act, 1979.

Based on that methodology, the environmental planning ground which support variation to the standard in this instance are:

- The development application responds to the objectives of Clause 4.4 of the BLEP 2021 and has been designed to ensure the proposal does not pose any adverse impacts on to the adjoining neighbours and streetscape;
- The variation of the infill of the indentation on the ground and first floor make provision of low trafficable spaces to increase the amenity of the dwellings for the occupants rather than solid walls that do not serve a design purpose;
- The bulk, scale and massing of the proposal would maintain a density that is reflective of the approved dwelling and within the locality;
- The proposed works are permissible in the zone and suitable for the subject site;
- The variation will not impact any local heritage, environmental significance or view corridor;
- Strict compliance with the standard would be unreasonable considering the proposed development remains within the approved development envelope and would constitute a development outcome creating a development that remains within the public interest;
- The proposal achieves the objectives and the key provisions of the DCP;
- The character of the area remains unaffected as the resultant development;
- The design maintains a low-density character consistent with the existing, desired and transitioning outcome of the planned locality;
- The design incorporates a compatible building mass, compliant setbacks which responds to the sites context on the western facade;
- The proposal has a negligible impact on solar access;
- The site demonstrates potential for an increase in FSR whilst maintaining a compatible building envelope; and
- The proposal remains within the public interest due to the lack of impact and overall compliance with the remaining development standards and controls.

Heritage

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

Minimum Lot Size

The prescribed minimum lot size for the site is 450m². No change proposed.

Bayside Development Control Plan 2021

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

Standard	Requirement	Proposal	Comply
Bayside DCP 2022			
3 General Development Provisions			
3.5.3 On-site Car Parking Rates	<p>C1. Development is to provide on-site car parking in accordance with the car parking rates outlined in Table 3 below.</p> <p>C2. Council may reduce car parking provision in certain circumstances, as follows:</p> <ul style="list-style-type: none"> a. Peak Parking and traffic activity occurs during periods where surrounding parking demand is lowest b. Existing site and building constraints make provision of car parking impractical c. Located adjacent to high frequency public transport services and/or urban services d. Includes management regimes to minimise car use, such as Workplace "Green" Travel Plans or on-site car share schemes e. Provides a business or social service that benefits the local community and contributes to the vitality of the area f. Safety of motorists, pedestrians and cyclists is unduly compromised by the provision of car parking g. Development contributes to heritage conservation of the building and setting <p>Any request for a reduced car parking provision is to be accompanied by a traffic and parking impact assessment report.</p> <p>C3. No additional parking is required for a change of use involving commercial uses on existing sites that are less than 100m² GFA.</p> <p>C4. A 20% reduction in the "non-residential" component of the parking requirement shall be applied to any development within the Rockdale Town Centre, Arncliffe/Banksia Town Centre and Wolli Creek Town Centre.</p> <p>C5. Where a development involves a change of use or alterations/additions that would generate a greater car parking requirement than existing, additional</p>	No change proposed. On-site parking remains the same.	N/A

	<p>parking is required to be provided equivalent to the difference between the two parking requirements.</p> <p>Note: Any historical deficiency in parking for the existing use can be applied as a credit to the parking calculation.</p> <p>C6. In the case of substantial alterations and additions that effectively involve the virtual reconstruction of a building, the historical deficiency will not be permitted to be credited to the parking calculation.</p> <p>C7. For alterations and additions to single dwellings, where the existing parking facilities on the site are not considered to be functional and designed as per Australian Standards, those areas will not be considered as existing parking spaces and as such, a historical shortfall will apply.</p> <p>C8. Council may waive the requirement for onsite parking for single dwellings, where such provision (in the form of a garage, carport, or handstand area) would:</p> <ol style="list-style-type: none"> adversely impacts on the existing streetscape adversely impacts a Heritage Item or Heritage Conservation Area be inconsistent with the Desired Future Character of the area <p>C9. Where a contribution has previously been made to Council towards the provision of car parking in respect of a particular property, such contribution is to be taken into account when assessing the parking requirement for any redevelopment of the land.</p> <p>C10. The number of parking spaces for small cars (as defined in AS2890.1) is not to exceed 10% of the total car parking spaces.</p> <p>C11. For all multi-unit development with at least 5 dwellings, one (1) car wash bay is to be provided for every 60 dwellings or part thereof. The car wash bay can either be a dedicated space or shared with a visitor parking space. The dimensions of each car wash space are to be at least 3.5m wide and 5.4m long.</p> <p>C12. Car wash bays are to be fully bunded and discharge only to the sewer in accordance with Sydney Water requirements. Each car wash bay is to be covered, appropriately signposted, have a cold-water tap (typically connected to the rainwater tank) and a waterproof power</p>		
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	<p>outlet.</p> <p>C13. Shared parking concession for mixed use development may be considered, where:</p> <ul style="list-style-type: none"> a. the applicant provides justification for all temporal parking demand assumptions applied within the Shared Parking Register; b. all residential parking is freely accessible to residents at all times and not used for any other use on the site; c. land uses and subsequent peak parking demand periods are included within the Shared Parking Register; d. the minimum parking requirement as per the Shared Parking Register is the absolute minimum and should not necessarily be the acceptable minimum provided on-site. Consideration must be taken into account for future changes of use within the development and conservative variations within the peak times. <p>Note: The method of completing the shared parking register is outlined in Bayside Technical Specification - Traffic, Parking and Access.</p>		
3.5.8 Basement Parking	<p>C1. Basement car parking is preferred for large scale residential and commercial development. C2. For single dwelling development with basement parking spaces, the basement shall be designed to enable forward entry and exit from each space to ensure sightlines and pedestrian safety is maintained.</p> <p>C3. Ventilation grills and screening devices of car park openings are to be integrated into the overall façade and landscape design of the development.</p> <p>C4. Natural light and ventilation must be introduced into semi-basement parking, where possible.</p> <p>C5. Basement parking areas are to be:</p> <ul style="list-style-type: none"> a. adequately ventilated, preferably through natural ventilation and provided with daylight where feasible b. located within the building footprint to maximise opportunities for deep soil planting c. located fully below natural ground level d. Where site conditions mean that locating the basement fully below natural ground level is unachievable, the maximum 	Garage parking remains the same existing.	N/A

	<p>basement elevation above natural ground level is to be 1m at any point on the site, or in flood prone areas, to the minimum floor level required by Council</p> <p>e. designed for safe and convenient pedestrian movement and to include separate pedestrian access points to the building that are clearly defined and easily negotiated</p> <p>C6. Above ground parking areas are to be:</p> <p>a. Sleeved with active uses/ retail/lobbies/residential units etc.</p> <p>b. Have sufficient floor to ceiling heights that allow the area to be adapted into other uses.</p> <p>C7. Dense vegetation, solid fences, and unnecessary structures along the perimeter of the car parking area is not permitted.</p> <p>C8. Parking spaces shall be designed to provide effective sightlines from moving cars, and between parked cars to enhance pedestrian safety.</p> <p>C9. Entry to basement parking areas will be through security access via the main building. This access will be fitted with a one-way door from the foyer into the basement.</p> <p>C10. Access to car parks from common areas are to be secured by lockable doors.</p> <p>C11. For multi-storey car parking, stairwells are to be open or see through to enable informal surveillance to be provided to and from the public areas.</p> <p>C12. Car parking pedestrian entry and exit points shall be located on the street level to maximise pedestrian flow and natural surveillance from active uses on the ground floor.</p> <p>C13. The number of pedestrian entry and exit points for multi-storey car parks are to be minimised.</p> <p>C14. For residential developments, accesses to car parks from common areas are to be secured by lockable doors.</p>		
3.7.1 Landscaping	<p>C1. Development must comply with Council's Technical Specification – Landscape and documentation is required to be submitted in accordance with Schedules – Chapter 9.3 of this DCP.</p> <p>C2. For all development the layout and design of driveways, pedestrian entries and services maximises deep soil and retention</p>	No change proposed – building envelope remains the same and landscaping within the front	N/A

	<p>of existing trees and planting of new trees. The location and use of outbuildings, swimming pools and spa pools should not impact on landscaped area / areas for tree planting and the amenity of adjoining private and public open space.</p> <p>C3. Landscaping is primarily located in larger, useable areas preferably located to the front and / or rear of buildings. (Note: council will not support small, narrow, fragmented or otherwise unsuitable areas being counted to achieve minimum landscape requirements).</p> <p>C4. At least 20% of the front setback area of a residential development is to be provided as landscaped area.</p> <p>C5. Side setbacks included in the landscape area shall be maximum 20% of the total landscape area provision.</p> <p>C6. Landscaped areas located between driveways/ pathways and side boundaries have a minimum width of 1.0m at the narrowest dimensions and a minimum of 75% landscaped area must consist of planting, grass and trees, but not gravel/paving.</p> <p>C7. A minimum of one tree in front setback and one tree in the rear open space in scale with the proposed built form shall be included in low and medium density residential developments.</p> <p>C8. For residential accommodation on a site having an area greater than 500sqm, the rear yard must include at least one medium or large canopy tree.</p> <p>C9. When site constraints associated with more urban contexts such as local centres and active frontages do not enable achievement of the minimum landscape area required, the development shall incorporate ecologically sustainable approaches such as extensive or intensive green roofs (with a detention layer), roof gardens, green walls. The extension and quality of the approach shall be evaluated by Council for each development.</p> <p>C10. The arrangement of buildings, secondary dwellings, pods, car parks, driveways, ancillary building and paved vehicle/other circulation spaces must consider existing trees and incorporate them into the site layout. Permeable paving surfaces to driveways, car parking</p>	and rear yard is existing.	
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	<p>bays and paved areas should be priorities over non-permeable.</p> <p>C11. Each property should have at least 1 tree (within the property boundary) where practicable. Where this cannot be achieved, compensatory planting bond / fund must be established.</p> <p>C12. The minimum amount of landscaped area within the site is as follows:</p> <table><tr><th>Development Type</th><th>Min. landscaped area (of the site area)</th></tr><tr><td>Low and medium density residential</td><td>25%</td></tr><tr><td>Residential flat buildings</td><td>15%</td></tr><tr><td>Mixed use (with shop top housing)</td><td>10%</td></tr><tr><td>Highway commercial</td><td>10%</td></tr><tr><td>Industrial</td><td>10%</td></tr><tr><td>Child care centres</td><td>20%</td></tr></table> <p>Table 7: Minimum Landscaped Area</p> <p>Note: Further details about the amount of landscaped area for specific development types is provided below.</p> <p>C13. If an Arborist Report / Tree Assessment is required, it must comply with the relevant other requirements of this DCP and use an appropriate replacement ratio and appropriate species. Refer to 3.8.2 (C3) for replacement ratio.</p> <p>C14. Street trees are to be provided in accordance with Council’s Street Tree Masterplan.</p> <p>Note: Council may require that all street trees be planted at the Site Establishment Phase or during Stage 1 of a staged development so that trees become established and soften the development by practical completion.</p> <p>C15. Existing trees, including street trees, and natural formations including rock formations must be preserved where possible. The development proposal must demonstrate all efforts have been done to preserve significant features, like trees or outcrops.</p> <p>C16. Landscaped areas to the rear of a property should adjoin the landscaped area of neighbouring properties and shall assist with provision of privacy between dwellings and provide a contiguous corridor of landscape and vegetation.</p>	Development Type	Min. landscaped area (of the site area)	Low and medium density residential	25%	Residential flat buildings	15%	Mixed use (with shop top housing)	10%	Highway commercial	10%	Industrial	10%	Child care centres	20%		
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Highway commercial	10%																
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Child care centres	20%																
4 Subdivision, Consolidation and Boundary																	

Adjustments			
4.1 General	<p>C1. Subdivision or amalgamation must not compromise any significant features of the existing or adjoining sites including streetscape character, landscape features or trees.</p> <p>C2. Where no minimum lot size exists for a site under Bayside Local Environmental Plan 2021, any proposed subdivision or amalgamation must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation. Note: Council generally considers the 'prevailing subdivision pattern' to be the typical characteristic of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. Properties located in the surrounding streets do not usually form part of the streetscape character and are therefore not taken into consideration when determining the prevailing subdivision pattern.</p> <p>C3. Subdivision results in a density of dwellings that is consistent with that prevailing in the surrounding area.</p> <p>C4. Applications must demonstrate that the following has been considered:</p> <ul style="list-style-type: none"> a. site topography and other natural and physical features b. existing services c. existing vegetation d. existing easements or the need for new easements e. vehicle access f. any land dedications required (e.g. road widening) g. existing vegetation h. potential flood affectation and stormwater management requirements i. contamination of the land j. existing buildings or structures k. heritage Items, Conservation Areas and adjoining Heritage Items <p>Note: Development Applications for subdivision where in the Council's opinion will create a new lot that contains significant features, such as streetscape character, landscape features or trees, the DA is to include the construction of any buildings on the new allotment and the</p>	<p>No subdivision or consolidation proposed.</p>	<p>N/A</p>

	residual allotment.		
4.2 Residential Subdivision	<p>C1. Each allotment in a proposed Torrens, Strata or Community title subdivision for dwelling houses, attached dwellings and semi-detached dwellings must have a frontage to a public road under the Local Government Act which has a width greater than 6m.</p> <p>C2. Battle-axe subdivision patterns are discouraged within residential zones unless it can be demonstrated that it is part of the prevailing subdivision pattern.</p> <p>C3. Battle-axe subdivision patterns must result in one (1) or more allotments fronting the street and only one (1) allotment being serviced by a driveway access corridor.</p> <p>C4. Any proposed battle-axe allotment without a frontage to the street must have a minimum site area of 450m² and width of 12m.</p> <p>Note: Battle-axe lots which are serviced via an access corridor are considered to be allotments without a frontage to the street. Where the access corridor is less than 8m wide, it shall not be included in the calculation of the minimum allotment area for either lot.</p> <p>C5. The width of an access corridor to a battle-axe lot shall be at least 3.5m.</p> <p>C6. Access corridors are to be located to ensure existing street trees are retained.</p>		N/A
5 Residential & Mixed-Use Developments			
5.1.1 Fences and Retaining Walls – General Controls	<p>C1. The maximum height of front fences are: a. 1.5m if at least 50% transparent b. 1.2m if less than 50% transparent (Refer to Figure 15)</p> <p>NB: Council may consider taller fences where properties adjoin significantly busy or hostile road corridors. The visual impacts of taller fencing must be offset by means of additional landscaping provision.</p> <p>C2. For dwelling houses, the top 50% of a front fence is to be transparent or open style to allow for passive surveillance.</p> <p>C3. The maximum height of a fence along a road is: a. 1.5m along a road other than a classified road, where C1 is met b. 1.5m along a classified road c. 1.8m where at least 30% transparent along a classified</p>	No change proposed	N/A

	<p>road</p> <p>C4. Fencing located along side boundaries tapers down from the front building line to the street frontage.</p> <p>C5. The height of a fence and/or wall along a sloping street shall be: a. a maximum combined height of 2.0m, regularly stepped so there is a maximum height above footpath level of 1.2m C6. The maximum height of a fence along a side or rear boundary is 1.8m.</p> <p>C7. Fences do not cause unreasonable amenity impacts on adjoining land, in particular in relation to solar and daylight access, natural ventilation, outlook or views.</p> <p>C8. The maximum height of retaining walls along a road is 1m.</p> <p>C9. Retaining walls along a road are located to allow site responsive tree planting within the setback.</p> <p>C10. Retaining walls do not cause unreasonable amenity impacts on adjoining land, in particular in relation to solar and daylight access, natural ventilation, ponding, outlook or views.</p> <p>C11. Fence controls for Heritage Items and in Heritage Conservation Areas must be consistent with the requirements of Section 3.4 (Heritage) of this DCP.</p>		
5.1.3 Swimming Pools, Spa Pools, and Child-Resistant Barriers	<p>C1. Swimming pools and spa pools are sited to minimise unreasonable impact on the following: a. natural landform b. habitable rooms and the principal private open space of adjoining properties</p> <p>C2. Swimming pools, spa pools and associated structures such as decks or coping are: a. located at ground level b. where a site slopes, have a maximum height above existing ground level of 500mm</p> <p>C3. Swimming pools and spa pools are not located within the front setback.</p> <p>C4. Minimum setbacks for swimming pools and spas to side and rear boundaries from the coping are:</p> <p>a. 1m</p> <p>b. where adjoining a habitable room of a neighbouring dwelling, a setback greater than 1.5m may be required in order to protect the amenity of residents</p> <p>C5. Pumps, filters and other noise emitting devices are located away from habitable</p>	Existing swimming pool – no change proposed.	N/A

	<p>rooms and the principal private open space of adjoining dwellings and/or enclosed or screened by appropriate, visually unobtrusive noise mitigating devices. Any devices are located and designed in accordance with the offensive noise provisions of the Protection of the Environment Operations Act 1997.</p> <p>C6. Water discharged from pools during maintenance or cleaning does not cause unreasonable nuisance or harm to adjoining properties.</p> <p>C7. Setbacks may be required to protect existing trees including their root systems, as well as trees on adjoining properties.</p> <p>C8. A geotechnical report is required where the site is located in a groundwater exclusion zone. C9. Any structure that is elevated above ground level is suitably screened by planting.</p> <p>Note: Planting details are to be provided on the landscape plan.</p> <p>C10. Swimming pools are to be sited to maximise solar access.</p> <p>Note: Locating pools in this manner reduces reliance on energy systems to provide water heating.</p> <p>C11. Water tanks are installed to provide water for pools as follows: a. pool size up to 20,000 litres: 1,000 litre tank b. pool size of 20,000 to 40,000 litres: 2,000 litre tank c. pool size over 40,000 litres: complies with BASIX</p> <p>C12. Where swimming pools are proposed on Flood Prone Land 1, swimming pools and associated structures achieve the following:</p> <ul style="list-style-type: none"> a. do not obstruct a floodway b. do not exacerbate flooding into neighbouring properties c. do not drain to the properties external stormwater network d. drain into the sewer network <p>C13. The surrounds or concourse of a swimming pool shall have a minimum 1% grade towards the pool to prevent surface waters (e.g. from rainfall) overflowing into the adjoining properties. In some instances, additional surface drains may be required.</p>		
5.2.1 Low-density residential (dwellings, dual occupancy, semi-	C1. Development is to be designed to reflect the relevant local character in Chapter 7 and reinforce the architectural	The proposal includes an updated	Yes

detached dwellings)	<p>features and identity which contribute to the desired future character of the area.</p> <p>C2. Development is oriented to be parallel with the primary road. Development sites with two or more frontages should address both frontages. Note: Council may vary this control where the lot has an irregular boundary to the primary road. C3. Proposed materials for low density dwellings should not include extensive areas of glass sheeting and glass blocks. Painting, rendering, or bagging of any original unpainted masonry or sandstone surfaces or cladding that provides a positive contribution to the streetscape character and requires maintenance is not permitted.</p> <p>C4. Where alterations or additions are proposed, the materials must be compatible with those of the existing building and/or desired future character of the streetscape.</p> <p>C5. Elevations should avoid large expanses of blank walls through the following:</p> <ul style="list-style-type: none"> a. a harmonious composition of varied building elements b. recesses and projections c. changes in texture, material, detail and colour <p>Note: for Dwelling Houses, Semi-Detached Dwelling and Secondary Dwellings, completely rendered buildings with a box shape envelope will not be supported.</p> <p>C6. Development on sites with two or more frontages should address both frontages.</p>	window schedule on the side boundaries, maintains the same building envelope and updated schedule of finishes to be consistent with the approved development.	
5.2.1.2 Built Form Controls	<p>C1. Maximum building height above ground level in metres complies with clause 4.3 of the Bayside LEP 2021.</p> <p>C2. Maximum building height above ground level (existing) in storeys excluding basements is:</p> <ul style="list-style-type: none"> a. for a Dwelling House, Semi Detached Dwelling and Dual Occupancy: 2 storeys b. for a Secondary Dwelling: 1 storey c. for any of the above uses located at the rear of a site or on a battle axe: 1 storey. <p>C3. A Secondary dwelling may be located at first floor level above a garage or outbuilding which fronts a rear lane or side street subject to compliance with:</p> <ul style="list-style-type: none"> a. outbuilding controls in Sub-section 5.1.2 b. relevant provisions in Chapter 3 – General 	The proposed HOB of the new roof is to match the approved height of building of 8.2m and 8.4m - RL53.533	Yes

	<p>c. other relevant provisions in this section</p> <p>C4. Maximum building length is compatible with that of adjoining sites.</p> <p>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.</p> <p>Note: For Secondary Dwellings the total length of both the Secondary Dwelling and Dwelling House is to be considered.</p> <p>C5. Buildings must provide horizontal and vertical articulation of external walls to create visual interest and reduce building bulk.</p> <p>C6. Where roof forms in a streetscape are predominantly pitched, roof pitches are to be between 22.5 degrees and 40 degrees.</p> <p>C7. Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from the streetscape.</p> <p>C8. Pitched roofs must have a minimum eave overhang of 450mm (excluding gutters).</p> <p>C9. An attic may be used as a habitable room provided that:</p> <ul style="list-style-type: none"> a. it is part of the dwelling immediately below b. it is incapable of being used as a separate dwelling c. it is contained wholly within a roof space above the ceiling line of the storey immediately below, except for minor elements such as dormer windows d. windows are limited to small dormer windows <p>C10. Voids are to connect related uses and spaces and should not compromise the useability of spaces or result in an unreasonable loss of amenity for the residents.</p> <p>C11. Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported. Similarly, the infill of any existing void must not result in overdevelopment of the site by exceeding the maximum permitted FSR.</p>		
5.2.1.3 Setbacks	<p>C1. Minimum building setback to a primary road is either:</p>	No change to the building	N/A

	<p>a. the average of the dwellings on adjoining lots; b. otherwise, 6m.</p> <p>C2. Minimum building setback to a secondary road is 1.5m</p> <p>C3. Minimum building setback to a rear lane is:</p> <p>a. where habitable: 1.5m</p> <p>b. where non-habitable: 1m</p> <p>C4. Minimum building setback to a road identified as a Key Freight Route may be required to have a greater setback. Key Freight Routes are identified at: https://data.datahub.freightaustralia.gov.au/ne/dataset/national-key-freight-routes-map</p> <p>C5. Minimum building setback to a rear boundary is 5m.</p> <p>C6. Minimum building setback to a side boundary is 0.9m (ground floor) and 1.5m (first storey and above).</p> <p>C7. A dwelling house with a setback from a primary road of at least 3m may have an articulation zone that extends up to 1.2m forward of the minimum required setback from the primary road.</p> <p>C8. The following ground-floor building elements may be located in the articulation zone:</p> <p>a. an entry feature or portico</p> <p>b. a balcony, deck, pergola, terrace or verandah</p> <p>c. a window box treatment</p> <p>d. a bay window or similar feature</p> <p>e. an awning or other feature over a window</p> <p>f. a sun shading feature</p> <p>g. an eave</p> <p>h. any other small scale building element that in the opinion of council provides visual interest to the elevation</p> <p>Note: The maximum total area of all building elements in the articulation zone, other than a building element specified in e), f) or g), does not comprise more than 25% of the area of the articulation zone.</p> <p>C9. Minimum building setback for an awning or verandah is:</p> <p>a. to classified roads: 1.5m</p> <p>b. to local roads that intersect with classified roads: 1.5m for a distance of 100m from the intersection with the classified road</p> <p>c. to any signalised intersection: 1.5m for a</p>	<p>envelope or setbacks. The infill of the indentation maintains a 1.5m side setback on the ground and first floors.</p>	
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	distance of 100m from the signalised intersection		
5.2.1.4 Landscaping and Private Open Space	<p>C1. New development must comply with the minimum private open space and landscaping provisions contained within Section 3.7 (Landscaping and Biodiversity).</p> <p>C2. The maximum area of a rooftop terrace is 24m² and should not represent the principal private open space for a dwelling. The roof top terrace is to be enclosed by in-built planter boxes.</p> <p>C3. The rooftop terrace must be oriented to minimise impacts on the visual and acoustic privacy of adjoining sites.</p> <p>C4. Where part of a rooftop terrace is oriented to a side boundary, its perimeter must be bordered screening vegetation. The floor of the rooftop terrace area must be differentiated from the rest of the flat roof. The enclosure of the roof top terrace area with built-in planter boxes may be required.</p> <p>C5. Roof terrace balustrades must not be transparent.</p> <p>C6. The trafficable area of the roof top terrace and balustrade shall be setback at least 1.5m from the building edge.</p> <p>C7. The roof top entry point should not be excessive in size and should only be used as access to the terrace area.</p> <p>C8. Overlooking into the internal private and external open space of adjoining neighbours should be avoided.</p>	No change to landscaping or POS.	N/A
5.2.1.5 Solar Access and Overshadowing	<p>C1. Dwellings within the development site and adjoining properties should receive a minimum of 2 hours direct sunlight in habitable living areas (family rooms, rumpus, lounge and kitchen areas) and in at least 50% of the primary private open space between 9am and 3pm in mid-winter. Council may grant consent to a development that does not comply with the 2 hours of solar access requirement. However, Council must not grant consent, unless the applicant has satisfactorily addressed the questions identified in the Land and Environment Court Sunlight Planning Principle. The Planning Principle is updated by Court decisions and is available to view on the Land and Environment Court's website (www.lawlink.nsw.gov.au/lec). For</p>	The subject application will not impact the approved solar access of the dwelling or adjoining properties as the rear of the properties façade north. The side elevations in which the indentations have been infilled are orientated towards the	Yes

	<p>development adjoining a semi-detached dwelling, first floor additions may need to be setback in order to provide adequate solar access to the living areas within the adjoining dwellings and their primary open space areas.</p> <p>C2. Consideration must be given to neighbouring properties' solar panels and the loss of sunlight to these panels as a result of any development proposal.</p>	<p>west and south which will not achieve any sunlight.</p> <p>incorporating low trafficable habitable spaces like a walk-in pantry and ensuite would be a more suitable design outcome than a small indentation along the side facades.</p>	
5.2.1.6 Parking and Access	C1. Development must be consistent with the requirements in Section 3.5 (Transport, Parking and Access).	No change	N/A
5.2.1.7 Visual and Acoustic Privacy	<p>C1. Habitable room windows above the ground floor, which face side or rear boundaries that adjoin a residential property, must provide:</p> <ul style="list-style-type: none"> a. offsetting of the edge of one window to the edge of the other window by a sufficient distance to limit views; or b. sill heights 1.5m above the floor level of that storey; or c. opaque glazing in any part of the window below 1.5m above floor level; or d. fixed external screens with 50% transparency or less. <p>C2. Balconies, terraces, and the like should be located to minimise overlooking of an adjoining property's open space or windows. Techniques such as recessing, screens or landscaping may be used to prevent direct views into habitable rooms or private open spaces.</p> <p>C3. The form and placement of attic windows must respect the visual privacy of neighbouring properties and minimise overlooking.</p> <p>C4. Access to attics must be provided by internal, not external, stairs.</p> <p>C5. First floor rear balconies are only permitted adjacent to a bedroom and must be contained wholly above the building footprint of the ground floor.</p>	<p>The amendment to the side facades will not impact the privacy of the adjoining properties with the installed windows being obscured and complementing the existing window schedule. The proposed uses are low-trafficable space and are not considered to have any visual or acoustic impacts.</p>	Yes

Section 4.15 Evaluation

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

The development proposal is pursuant to Bayside LEP and DCP. The assessment shows that the proposed development is generally consistent and compliant with the objectives, performance criteria and the controls of the LEP and DCP. Where a variation is sought a justification has been provided.

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

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

Access, transport and traffic

No changes proposed.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

No changes proposed.

Waste collection

Normal domestic waste collection applies to this development.

Natural hazards

The site is not affected by any known hazards.

Economic impact in the locality

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

Site Design and Internal Design

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

Construction

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

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

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

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

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

The proposed development is considered to be compatible with the surrounding development and is consistent with the objectives of the relevant planning controls. The development is compliant with buildings height, setbacks and floor space ratio prescribed for the site and will not pose any

environmental impacts on the occupants of the site or adjoining properties due to the simple and compliant nature of the development. The proposed development is considered to be consistent with the objectives of the R2 zone, permissible with consent and compliant with the numerical requirements relating to bulk and scale of the development. The development is considered to have a negligible impact on overlooking, overshadowing, noise and visual impact on the street and adjoining properties. The proposed development is considered to be a suitable, functional and permissible use on the site. Therefore approval of the proposal is considered to be within the public interest.

Conclusion

The proposed Modification Application for the retrospective approval for building alterations to the existing dual occupancy at No.95 Mimosa Street, Bexley.

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

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