

## MEETING 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 24 February 2026 at 5:00 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 DA-2025/604 - 51 Johnson Street, Mascot - Development Application ...2
- 6.2 DA-2025/193 - 158 King Street MASCOT - Development Application.119

Meredith Wallace  
**General Manager**

## **Bayside Local Planning Panel - Other Applications**

**24/02/2026**

|                     |   |
|---------------------|---|
| Item No             | 6.1   |
| Application No      | DA-2025/604   |
| Property            | <b>51 Johnson Street, Mascot</b>  |
| Application Type    | Development Application   |
| Proposal            | Alterations and additions to the existing outbuilding and conversion of the first floor into a secondary dwelling |
| Owner               | S Hossain & F Roksana   |
| Applicant           | M Sakalli   |
| Ward                | Ward 2  |
| Lodgement Date      | 3/10/2025   |
| No. of Submissions  | One (1)   |
| Cost of Development | \$55,000.00   |
| Reason Criteria     | Departure from standards  |
| Report by           | Peter Barber, Director City Futures   |

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### **Reason for the Report**

This application has been referred to the Bayside Local Planning Panel for the following reason:

- Departure from development standard, greater than 10%

### **Officer Recommendation**

- 1 That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Clause 53(2)(a) non-discretionary standards - Minimum site area of 450m<sup>2</sup> of State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by cl4.6 of the Bayside Local Environmental Plan 2021.
- 2 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2025/40 for alterations and additions to the existing outbuilding and conversion of the first floor into secondary dwelling at 51 Johnson Street, Mascot by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
- 3 That the submitter be notified of the Panel's decision.

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## Location Plan



## Attachments

- 1  Planning Assessment Report
- 2  Draft Notice of Determination
- 3  Architectural Plans
- 4  Statement of Environmental Effects & Clause 4.6 Submission - minimum lot size

# BAYSIDE COUNCIL

## Planning Assessment Report



### Application Details

|                            |   |
|----------------------------|---|
| <b>Application Number:</b> | DA-2025/604   |
| <b>Date of Receipt:</b>    | 3 October 2025  |
| <b>Property:</b>           | 51 Johnson Street, Mascot<br>Lot 8 Sec 6 DP 1873  |
| <b>Owner:</b>              | S Hossain<br>F Roksana  |
| <b>Applicant:</b>          | M Sakalli   |
| <b>Architect:</b>          | GiantA  |
| <b>Town Planner:</b>       | Quantum QS  |
| <b>Proposal:</b>           | Alterations and additions to the existing outbuilding and conversion of the first floor into a secondary dwelling |
| <b>Recommendation:</b>     | Approval  |
| <b>No. of submissions:</b> | Two (2) submissions received  |
| <b>Author:</b>             | James Martinez  |
| <b>Date of Report:</b>     | 27 January 2026   |

### Key Issues

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

- Site is within an ANEF 25-30 Contour which places strict requirements on the creation of a new dwelling such as a secondary dwelling.
- The minimum Lot size for a secondary dwelling is 450 m<sup>2</sup> however the site is only 334.48 m<sup>2</sup>. Clause 53(2)(a) of the *State Environmental Planning Policy (Housing) 2021* requires a minimum site area of 450 m<sup>2</sup> be provided for secondary dwellings. As part of this application, a Clause 4.6 variation statement has been submitted and is supported by Council. The variation is greater than 10% however and is being submitted to the Local Planning Panel for determination in accordance with the Ministerial Directions.

- The rear balcony presented potential privacy concerns. The balcony has since been removed, removing the rear visual privacy impacts.
- The existing structures contain pop out windows which extend over the property boundary and into the public domain. This was approved by Council on 02/07/2014 under previous development application DA-2014/10013 (as amended). Subsequent modification applications resulted in a final condition of consent that required the applicant to enter into an agreement with Council, with the agreement to be determined by Council's Property team. An agreement was reached in the form of a positive covenant that was established on the subject Lot, and the overhanging elements can therefore be considered acceptable.

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

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

## Recommendation

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1. That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Clause 53(2)(a) non-discretionary standards - Minimum site area of 450m<sup>2</sup> of State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by cl4.6 of the Bayside Local Environmental Plan 2021.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2025/40 for alterations and additions to the existing outbuilding and conversion of the first floor into secondary dwelling at 51 Johnson Street, Mascot by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
3. That the submitters be notified of the Panel's decision.

## Background

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### History

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

- BC-2022/49 – Unapproved Development – Residential Main Building was approved on 1/8/2023.
- DA-2014/10013/B – Modification of Condition 1A Modification of condition 1A to replace requirement for a lease or license agreement to formalise overhang of the window structures over the public road was approved on 4/6/2018.

- DA-2014/10013A – Section 96(2) Application to modify Development Consent No. 14/013 to delete Condition No. 3 and to amend the pop-out windows on the southern elevation. The bottom edge of the pop-out windows in the dwelling house will be at RL9.97 and for the garage/studio at RL9.67 which is 3.75m and 3.45m respectively above the level of the centreline (RL6.22) of the carriage way in Hollingshed Lane was approved on 3/2/2016.
- DA-2014/10013 – Construction of two-storey dwelling with a garage/storage/studio at the rear of the property. The development will have a height of 6.82 metres and a floorspace ratio of 0.84:1 (286.64sqm) was approved on 2/7/2014.

The history of the subject application is summarised as follows:

- 10/09/2025 - The DA was lodged with Council.
- 16/10/2025 to 30/10/2025 – The proposal was notified to surrounding residents.
- 23/10/2025 – Site inspection conducted.
- 30/10/2025 – Additional information was requested by Council.
- 11/11/2025 – Additional information provided by the applicant.
- 05/01/2026 – Additional information (design amendments) requested by Council.
- 13/01/2025 – Additional information provided by the applicant.

## Proposal

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The proposed development is summarised as follows:

### Demolition/Excavation/Tree Removal

- Partial demolition of the existing outbuilding including internal / external walls.

### Construction

- Alteration to the existing garage including replacement of the single approved garage roller door with two roller doors and an entry door.
- Replacement of demolished internal/external walls
- Addition of four (4) new windows on the first floor
- Internal alterations to the outbuilding first floor first floor to provide:
  - 1 x bedroom
  - 1 x dining room
  - 1 x living room
  - 1 x kitchen
  - 1 x bathroom

### Change of Use

- Conversion of the first floor studio/storage into a secondary dwelling.

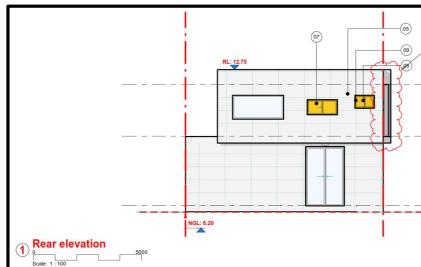


Figure 1-1. Proposed elevation demolition works (facing the principal dwelling).

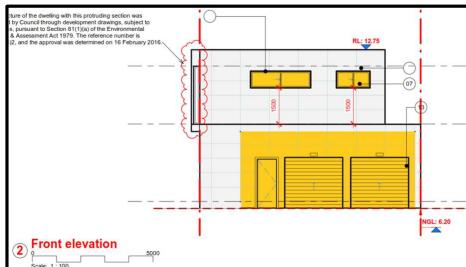


Figure 1-2. Proposed elevation demolition (facing Johnson Lane).

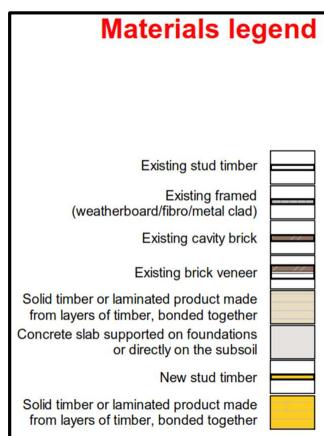


Figure 1-3. Legend for submitted plans.

## Site Location and Context

The subject site is legally identified as Lot 8 Sec 6 DP 1873 and is known as 51 Johnson Street, Mascot. The site is a rectangular shape with front and rear boundary widths of 9.145 metres. The side boundaries are 36.575 metres deep. The site has frontage to Johnson Street, Johnson Lane, and Hollingshed Lane. The total site area is 334.48 m<sup>2</sup>. The topography of the site is relatively flat.

The subject site contains a two-storey dwelling and partially constructed detached garage and first floor studio/storage. The site is located on the eastern side of Johnson Street between Wentworth Avenue, and Hollingshed Street. Adjoining development to the sides includes two storey dwelling on the northern side and a single storey dwelling across Hollingshed Lane to the southern side. A single storey dwelling is situated on the rear adjoining property. There is a mix of single storey and two storey residential buildings within close proximity to the subject property.



Figure 2-1. Aerial view of the site and surround area.



Figure 2-2 & 2-3. Aerial view of the existing outbuilding and adjoining dwellings.



Figure 2-4 & 2-5. Rear and side street view of the existing outbuilding.

There are no trees of significance on the site. There is a street tree on the public domain in front of the site.

The site is impacted by the following conditions:

- Acid Sulphate Soils class 4;
- ANEF 25-30 Contour;
- 20-30 m AHD OLS and PANS-OPS Region;
- 7.61 m Building Height Civil Aviation Regulations;
- Within the notification area for the Moomba to Sydney Ethane and Jemena gas pipelines;
- Indicative absorption area; and
- 1% AEP & PMF flood affected.

## Statutory Considerations

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

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

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

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

The following Environmental Planning Instruments are relevant to this application:

## **State Environmental Planning Policies**

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

The applicant has submitted a BASIX Certificate for the proposed development, Certificate number 1801426S.

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

### **State Environmental Planning Policy (Housing) 2021**

The proposal is for a “Secondary Dwelling”, so the provisions of Chapter 3 (Diverse Housing), Part 1 of this SEPP applies, as the provisions apply to the R2 zone where dwellings are permissible with consent.

The following responds to the provisions of the SEPP.

#### **Clause 51 – No subdivision**

No subdivision is proposed or allowed. A condition of consent specifies the site may not be subdivided.

#### **Clause 52 - Development may be carried out with consent**

The proposal complies with this Clause, as:

- no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land;
- the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument; and
- the total floor area of the secondary dwelling is no more than 60 m<sup>2</sup>, totalling 43.9 m<sup>2</sup>.

#### **Clause 53 - Non-discretionary development standards**

The proposal meets the requirements for parking, as the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.

The proposal does not comply with subclause 2 of Clause 53, as the site does not have a minimum area of 450 m<sup>2</sup>, being only 334.48 m<sup>2</sup>. A 4.6 variation statement has been included as part of this application. An assessment of this statement can be viewed in the assessment against the LEP Clause 4.6.

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

#### **Division 12A / Subdivision 2 – Clause 2.77 - Development Adjacent to Pipeline Corridors**

Clause 2.77 requires the consent authority to:

- (a) *be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development to which the application relates have been identified, and*
- (b) *take those risks into consideration, and*
- (c) *give written notice of the application to the pipeline operator concerned within 7 days after the application is made, and*
- (d) *take into consideration any response to the notice that is received from the pipeline operator within 21 days after the notice is given.*

The proposed development is located approximately 500 metres north of the Moomba to Sydney Ethane Pipeline and approximately 352 metres east of the Jemena gas pipeline at the closest point. The proposal is for the alterations and additions to the existing outbuilding and conversion of the first floor into secondary dwelling which is a sensitive development. The proposal would result in minimal excavation works associated with ground floor garage alterations. In this regard, the proposal will result in minimal potential safety risks. Due to the minor scope of the proposed works to the already established structure, and the distance from both pipelines, the proposal is not considered to result in any potential safety risks to the integrity of the pipeline. The proposal therefore satisfies Clause 2.77 of the SEPP.

The proposal satisfies Clause 2.77 of the SEPP.

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

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

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

The site appears to have been continuously used for residential purposes. The adjoining and adjacent properties are currently used for residential purposes. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in 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 additions and alterations. 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 under the SEPP.

### **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:

| <b>Relevant Clauses</b>                                 | <b>Compliance with Objectives</b> | <b>Compliance with Standard / Provision</b> |
|---|-----------------------------------|---|
| 2.3 Zone and Zone Objectives R2 Low Density Residential | Yes – see discussion              | Not Applicable                              |
| 2.7 Demolition requires consent                         | Not Applicable                    | Yes – see discussion                        |
| 4.3 Height of buildings                                 | Yes – see discussion              | Yes – see discussion                        |
| 4.4 Floor space ratio ("FSR")                           | Yes – see discussion              | Yes – see discussion                        |
| 4.6 Exceptions to development standards                 | Yes – see discussion              | Yes – see discussion                        |
| 5.4 Controls relating to miscellaneous permissible uses | Not Applicable                    | Yes – see discussion                        |
| 5.21 Flood planning                                     | Yes – see discussion              | Yes – see discussion                        |
| 6.1 Acid Sulfate Soil Class 4                           | Yes – see discussion              | Yes – see discussion                        |
| 6.2 Earthworks  | Yes                               | Yes   |
| 6.3 Stormwater and water sensitive urban design         | Yes – see discussion              | Yes – see discussion                        |
| 6.7 Airspace operations                                 | Yes – see discussion              | Yes – see discussion                        |
| 6.8 Development in areas subject to aircraft noise      | Yes – see discussion              | Yes – see discussion                        |
| 6.11 Essential services                                 | Yes – see discussion              | Yes – see discussion                        |

#### **2.3 - Zone**

The subject site is zoned R2 Low Density Residential under the provisions of LEP. The proposal is defined as alterations and additions to the existing outbuilding and conversion of the first floor into secondary 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 low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.
- To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

The proposed development satisfies the objectives of the zone.

#### **2.7 – Demolition requires development consent**

The proposal involves demolition work which may only be carried out with development consent. This application seeks development consent for these works and therefore satisfies this clause.

#### **4.1 – Minimum Subdivision Lot Size**

No subdivision is proposed as part of this application. The proposal is acceptable in the context of the LEP Clause.

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

No change is proposed to the maximum building height as part of this application. The proposal is acceptable in the context of the LEP Clause.

#### **4.4 – Floor Space Ratio**

The site exceeds the maximum permissible GFA which was approved under DA-2014/10013. The proposal does not involve an increase in FSR and the proposed alterations are wholly within the existing structure. The proposal remains acceptable in the context of the LEP Clause.

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

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

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

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

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

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

The applicant is seeking to contravene Clause 53 of the *State Environmental Planning Policy (Housing) 2021*. This clause requires a minimum site area of 450 m<sup>2</sup> for a detached secondary dwelling. The subject site has a site area of 334.48 m<sup>2</sup> which is 115.52 m<sup>2</sup> short of the required area and equates to a 25.7% contravention. A contravention request in accordance with Section 4.6 of the LEP, seeking to justify the proposed contravention, has been prepared by Quantum QS.

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

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

Applicant Comments:

*Strict compliance with the 450m<sup>2</sup> lot size standard is considered unreasonable and unnecessary in this case for the following reasons:*

- *The proposal complies with all other key planning controls applicable to secondary dwellings, including maximum floor area (not exceeding 60 m<sup>2</sup>), building height, setbacks, private open space, and deep soil requirements.*
- *The subject site has sufficient area to accommodate both the principal and secondary dwellings without adverse impacts on residential amenity, built form, or streetscape character.*
- *The 450 m<sup>2</sup> threshold is arbitrary in this context and does not represent a tipping point for site functionality, environmental impact, or neighbourhood amenity.*
- *The proposal remains consistent with the objectives of the standard, being to ensure that lots are of a sufficient size to accommodate a detached secondary dwelling while maintaining local character and amenity. The shortfall is regarded minor, particularly given many surrounding properties that are less than the requirement have been granted approval and the proposal does not compromise the development outcome, and does not defeat the intent of the control.*
- *Numerous consent authorities, including the NSW Land and Environment Court, have found that minor variations to numerical development standards may be considered unreasonable where the development meets the underlying objectives and achieves planning merit.*

Officer Comment:

The submission does not directly demonstrate compliance with the development standard is unreasonable or unnecessary utilising the established methods outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. However, as discussed in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, these are not an exhaustive list of methods.

The submission has outlined that the proposal maintains compliance with the key planning controls applicable to secondary dwellings, whilst preserving local amenity. In this regard, the submission has demonstrated that the site can accommodate a secondary dwelling and

support the underlying objectives, given its compliance with the applicable controls. The submission therefore be considered to have demonstrated that compliance with this development standard is unnecessary in this circumstance.

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

Applicant Comments:

*There are sufficient environmental planning grounds to justify the contravention, including:*

- *The proposed secondary dwelling provides an additional dwelling on a well-located residential allotment without increasing density beyond what is anticipated under the planning controls.*
- *The built form remains consistent with the low-density residential context, does not result in additional visual bulk or overshadowing, and complies with relevant design controls under the DCP.*
- *The development facilitates housing diversity and supports intergenerational living or affordable rental accommodation, consistent with the aims of the SEPP (Housing) 2021.*
- *The proposal enhances land use efficiency on a site already serviced by infrastructure and within walking distance of public transport, schools, and shops.*

Officer Comment:

The Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* indicates that environmental planning “would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3. of the EPA Act.”

The environmental planning grounds provided include the provision of additional housing, which directly relates to the EPA Act objective to “promote the supply, delivery and maintenance of housing, including affordable housing”. This environmental planning ground can be considered to be sufficient in this case, given that it directly relates to the element of the proposal that contravenes the development standard, being the change of use to a secondary dwelling, and directly facilitates housing diversity and supply, which cannot otherwise be provided without contravening this development standard. The submission outlines that this additional housing has been provided whilst maintaining compliance with relevant DCP controls, indicating the capability of accommodating the proposed development. The submission therefore provides sufficient environmental planning grounds to justify contravening the development standard.

**5.4 – Controls relating to miscellaneous permissible uses**

This Clause requires that secondary dwellings cannot have a total floor area greater than the greater of either 60 m<sup>2</sup>, or 20% of the total floor area of the principal dwelling. The total floor area of the principal dwelling is less than 300 m<sup>2</sup>. The secondary dwelling therefore cannot have a total floor area greater than 60 m<sup>2</sup>.

The floor area of the proposed secondary dwelling is 42.1 m<sup>2</sup>, which complies with the provisions of this Clause.

### **5.21 – Flood Planning**

Council records indicate that the lot is subject to flooding in a 1% AEP and PMF event. The floor levels of the development are therefore required to be raised by 500 mm to a level of RL 7.07 m AHD.

The proposal was reviewed by Councils Development Engineer who advised that there is an approved garage with a studio and hence the approved garage level is RL6.4m AHD and as the proposal is to convert the existing first floor studio to a secondary dwelling the existing level is supported.

### **6.1 – Acid Sulphate Soils**

Acid Sulphate Soils (ASS) – Class 4 affect the property by the LEP mapping. The only excavation works proposed are associated with the ground floor garage. As no excavation works beyond 2 metres in depth is proposed, an Acid Sulphate Soils Management Plan is not warranted in this instance, and the proposal is acceptable in the context of the LEP Clause.

### **6.3 – Stormwater and WSUD**

No changes are proposed to the existing stormwater system. The application was reviewed by Councils Development Engineer who had no objections to the proposal.

### **6.7 Airspace operations**

The site is subject to a maximum allowable Obstacle Limitation Surface (OLS) (20-30 m) and a maximum building height (7.61 m) however, no changes are proposed to the maximum building height, with the outbuilding maintaining an approved height of 6.55 m AHD.

As the proposal does not intrude into the prescribed airspace, it is not considered to be a controlled activity under the *Airports Act 1996* and so does not require separate approval.

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

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

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

The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic dated 23/05/2025 which recommended as follows;

- Recommended glazed windows and doors including glazing thickness requirements and minimum  $R_w$  ratings;
- Recommended external wall construction including specifications;
- Recommended entry door requirements including specifications and full perimeter seals;
- Two plasterboard corner design options;
- External roof and ceiling construction including specifications; and
- Mechanical ventilation to be provided for all areas and in accordance with AS1668.2.

The proposal will result in an increased number of dwellings. Table 2.1 (see figure 3-1) of AS 2021—2015 Acoustics – Aircraft noise intrusion – Building siting and construction must be considered as part of this assessment. The proposal is considered unacceptable based on this table. Consent has previously been granted for a studio however, which increases the number of people affected by aircraft noise.

Clause 6.8 (3) (c) additionally requires that a consent authority must be satisfied the proposal to achieve the indoor design sound levels in table 3.3 (see figure 3-2). The submitted acoustic report outlines the requirements in order to achieve these required sound levels and concludes that compliance with the Australian Standard can be achieved by complying with these requirements.

The objectives aim to prevent noise sensitive developments, assist in minimising the impact of aircraft noise, and to ensure development does not have an adverse impact upon the operation of the airport. Based on the previous considerations, and in assessing the proposal against Clause 6.7 previously, no adverse impacts are anticipated to the operation of the airport itself. Noise sensitive development has already been undertaken, the proposal itself will only impact whether the outbuilding is utilized as a studio compared with a secondary dwelling. Therefore, if the proposal can ensure compliance with the indoor sound design sound levels in table 3.3, a requirement for consent to be granted under this clause, then the proposal can be considered to satisfy the requirements of this Clause. Conditions of consent have been included to ensure that the proposal is able to comply with the requirements outlined in the Acoustic Report submitted, and the underlying requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction).

Based on the above consideration, the proposal is satisfactory with respect of the requirements and objectives of this clause, subject to the recommended conditions of consent.

| Building type                        | ANEF zone of site             |                           |                      |
|--------------------------------------|-------------------------------|---------------------------|----------------------|
|                                      | Acceptable                    | Conditionally acceptable  | Unacceptable         |
| House, home unit, flat, caravan park | Less than 20 ANEF<br>(Note 1) | 20 to 25 ANEF<br>(Note 2) | Greater than 25 ANEF |
| Hotel, motel, hostel                 | Less than 25 ANEF             | 25 to 30 ANEF             | Greater than 30 ANEF |
| School, university                   | Less than 20 ANEF<br>(Note 1) | 20 to 25 ANEF<br>(Note 2) | Greater than 25 ANEF |
| Hospital, nursing home               | Less than 20 ANEF<br>(Note 1) | 20 to 25 ANEF             | Greater than 25 ANEF |
| Public building                      | Less than 20 ANEF<br>(Note 1) | 20 to 30 ANEF             | Greater than 30 ANEF |
| Commercial building                  | Less than 25 ANEF             | 25 to 35 ANEF             | Greater than 35 ANEF |
| Light industrial                     | Less than 30 ANEF             | 30 to 40 ANEF             | Greater than 40 ANEF |
| Other industrial                     | Acceptable in all ANEF zones  |                           |                      |

NOTES:

- The actual location of the 20 ANEF contour is difficult to define accurately, mainly because of variation in aircraft flight paths. Because of this, the procedure of Clause 2.3.2 may be followed for building sites outside but near to the 20 ANEF contour.
- Within 20 ANEF to 25 ANEF, some people may find that the land is not compatible with residential or educational uses. Land use authorities may consider that the incorporation of noise control features in the construction of residences or schools is appropriate (see also Figure A1 of Appendix A).
- There will be cases where a building of a particular type will contain spaces used for activities which would generally be found in a different type of building (e.g. an office in an industrial building). In these cases Table 2.1 should be used to determine site acceptability, but internal design noise levels within the specific spaces should be determined by Table 3.3.
- This Standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered.
- In no case should new development take place in greenfield sites deemed unacceptable because such development may impact airport operations.

Figure 3-1. AS 2021-2015 table 2.1. The proposal is considered unacceptable based on this table as it is a house in an ANEF zone greater than 25.

| TABLE 3.3<br>INDOOR DESIGN SOUND LEVELS* FOR<br>DETERMINATION OF AIRCRAFT NOISE REDUCTION |                                   |
|---|-----------------------------------|
| Building type and activity  | Indoor design sound level*, dB(A) |
| Houses, home units, flats, caravan parks  |                                   |
| Sleeping areas, dedicated lounges   | 50                                |
| Other habitable spaces  | 55                                |
| Bathrooms, toilets, laundries   | 60                                |

NOTES TO TABLE 3.3:

- 1 The indoor design sound levels in Column 2 are hypothesized values based on Australian experience. A design sound level is the maximum level (dB(A)) from an aircraft flyover which, when heard inside a building by the average listener, will be judged as not intrusive or annoying by that listener while carrying out the specified activity. Owing to the variability of subjective responses to aircraft noise, these figures will not provide sufficiently low interior noise levels for occupants who have a particular sensitivity to aircraft noise.
- 2 Some of these levels, because of the short duration of individual aircraft flyovers, exceed some other criteria published by Standards Australia for indoor background noise levels (see AS/NZS 2107).
- 3 The indoor design sound levels are intended for the sole purpose of designing adequate construction against aircraft noise intrusion and are not intended to be used for assessing the effects of noise. Land use planning authorities may have their own internal noise level requirements which may be used in place of the levels above.
- 4 For opera and concert halls and theatres, and for recording, broadcast and television studios and similar buildings where noise intrusion is unacceptable, specialist acoustic advice should always be obtained.
- 5 Certain activities in schools may be considered particularly noise sensitive and 50 dB(A) may be a more desirable indoor sound level to select for any teaching areas used for such activities. However, the effect of other noise sources should be considered.
- 6 The provisions of this Standard relating to different internal design sound levels for different indoor spaces could result in the use of different construction and materials in contiguous spaces, and require the construction of substantial barriers between habitable spaces, e.g. heavy self-closing internal doors, detracting from the amenity of the building. Therefore consideration should be given to a uniform perimeter insulation approach.

Figure 3-2. Extract of table 3.3 of AS 2021-2015. The proposal must satisfy these requirements for development consent to be granted.

## **6.11 – Essential Services**

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

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

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

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

The following Development Control Plan is relevant to this application:

### **Bayside Development Control Plan 2022**

The application is subject to the Bayside Development Control Plan 2022 ("the DCP").

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

| Relevant Clauses   | Compliance with Objectives | Compliance with Standard / Provision |
|--|----------------------------|--------------------------------------|
| <b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>                             |                            |                                      |
| 3.1 Site Analysis and Locality   | Yes                        | Yes                                  |
| 3.3 Energy and Environmental Sustainability                                | Yes – see discussion       | Yes – see discussion                 |
| 3.5 Transport, Parking and Access  | Yes – see discussion       | Yes – see discussion                 |
| 3.7 Landscaping, Private Open Space and Biodiversity                       | Yes – see discussion       | Yes – see discussion                 |
| 3.8 Tree Preservation and Vegetation Management                            | Yes – see discussion       | Yes – see discussion                 |
| 3.9 Stormwater Management and WSUD   | Yes – see discussion       | Yes – see discussion                 |
| 3.10 Flood Prone Land  | Yes – see discussion       | Yes – see discussion                 |
| 3.11 Contamination   | Yes – see discussion       | Yes – see discussion                 |
| 3.12 Waste Minimisation and Site Facilities                                | Yes – see discussion       | Yes – see discussion                 |
| 3.13 Areas subject to Aircraft Noise and Airport airspace                  | Yes – see discussion       | Yes – see discussion                 |
| <b>PART 5 – RESIDENTIAL AND MIXED USE DEVELOPMENTS</b>                     |                            |                                      |
| 5.1.2 Ancillary Uses – Additions, Garages, Secondary Dwellings and Studios | Yes – see discussion       | No – see discussion                  |
| 5.2.1 Low Density Residential  | Yes                        | Yes                                  |
| 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       | No – 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                 |
| 5.2.1.6 Parking and Access   | Yes – see discussion       | Yes – see discussion                 |
| 5.2.1.7 Visual and Acoustic Privacy  | Yes – see discussion       | Yes – see discussion                 |

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

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

### **Part 3.3 – Energy and Environmental Sustainability**

The proposal is consistent with the principles of 'green building design' as outlined in this section. The BASIX Certificate submitted with the application confirms the proposal meets the targets specified by the Certificate. The proposal meets the requirements of Part 3.3 of the BDCP 2022.

### **Part 3.5 – Transport, Parking and Access**

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

Table 3 of the DCP stipulates the parking required, based on the proposed use. For this proposal, the proposed secondary dwelling, along with the existing dwelling house, generates a requirement for three (3) car spaces, two (2) for the existing dwelling house, and one (1) for the proposed secondary dwelling. Two (2) car spaces are provided, which are compliant with the relevant Australian Standard. The number provided does not comply with this section of the DCP. However, Clause 53 of the SEPP (Housing) 2021 takes precedent over this control, preventing Council from requiring additional car parking spaces for a proposed secondary dwelling.

The proposal therefore satisfies the transport, access and parking requirements.

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

No changes are proposed to landscaping, private open space or trees on site. The secondary dwelling retains access to the available private open space and is capable of sharing the existing private open space as permitted under this part. This access, however, can only be achieved by passing through the garage and conflicts with Control 14, which requires direct access to be provided. However given that this is an existing structure, and based on the existing door to the rear yard being almost adjacent to where access to the secondary dwelling is provided, this variation is considered acceptable in this case.

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 3.10 – Flood Prone Land**

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

### **Part 3.11 – Contamination**

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

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

A Waste Minimisation and Management Plan prepared by GiantA and dated 26/06/2025 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

An appropriate condition has been included in the recommended conditions.

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

The proposal does not intrude into the Sydney Airport OLS and PANS-OPS. The proposed use is sensitive to aircraft noise and is within the ANEF 20+ noise contour which has been addressed in response to Clause 6.8 of the LEP previously.

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

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

#### **5.1.2.1 - General**

The proposal results in a noncompliance with minimum Lot size for proposed secondary dwellings, being 450 m<sup>2</sup>, however this has been addressed in the submission against, and assessment completed under Clause 4.6 of the Bayside Local Environmental Plan 2021. The proposal otherwise maintains compliance with the relevant other sections of the DCP.

Control 7 requires that secondary dwellings not provide direct access between them and the proposal seeks to have access via the garage which does not comply. This also conflicts with control 14 of section 3.7. In order to address this, a proposed design amendment has been included in the recommended conditions of consent to include a door to provide direct access to the backyard, so that entry to the secondary dwelling via the garage is not required.

The rear structure has an existing nil setback. The DCP permits this where masonry building walls with no eaves, gutters or windows. The proposal introduces a noncompliance here by introducing rear facing windows. The windows are on the first floor which is setback from the rear boundary by 700 mm, 200 mm short of the required distance. The impact of this 200 mm shortfall will be relatively minimal with regards to the visual impact, and amenity impacts are sufficiently mitigated through the design of the proposed windows, complying with the requirements of section 5.2.1.7 – Visual and acoustic privacy, that relate to the design of first floor windows. This variation can therefore be accepted in this instance.

#### **5.1.2.2 - Development on Side and Rear Lanes**

The proposal retains the existing side and rear setbacks and have been supported by Council's Development Engineers.

The alterations proposed do not adversely affect the existing hierarchy, with the secondary dwelling / outbuilding remaining subservient to the principal dwelling. The windows and garage entry alterations are an improved response to the rear lane.

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

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

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

| Exterior finishes schedule |          |  |
|----------------------------|----------|--|
| Images                     | Material | Description  |
|                            | 02       | Colorbond range as selected by owner/or similar material image |
|                            | 04       | Rendered and painted finish to walls/or similar material image |
|                            | 05       | Cladding and painted finish to walls/or similar material image |
|                            | 07       | Glass window, door,skylight, railing/or similar material image |
|                            | 07       | door,skylight, railing/or similar material image               |
|                            | 08       | Frosted glass WC, bath window/or similar material image        |
|                            | 09       | Aluminium, cool gray/or similar material image                 |
|                            | 12       | Aluminium, cool gray/or similar material image                 |
|                            | 13       | Steel, ivory, matte/or similar material image                  |

Figure 3-3. Proposed external finishes and materials.

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 rear outbuilding maintains compliance with the requirements of this Clause. It complies with the maximum permissible height in the Bayside LEP 2021 and remains two storeys.

Control 3 allows secondary dwellings to be located on the first floor above a garage that fronts a rear laneway if it complies with:

- The controls in section 5.1.2;
- The relevant provisions in chapter 3 of the DCP; and
- Other relevant provisions in this section.

The proposal generally complies with these requirements, with the exception of the non-compliances in section 5.1.2 which have been addressed in the respective section of this report. The alterations provide horizontal and vertical articulation to the external walls.

#### 5.2.1.3 – Setbacks

The proposal does not seek to change the existing setbacks or articulation zone and therefore complies with the requirement of this section.

#### 5.2.1.4 - Landscaping and Private Open Space

The landscaping controls in Part 3.7 of the DCP have been addressed previously. The proposal does not include a rooftop terrace.

#### 5.2.1.5 - Solar Access and Overshadowing

No additional overshadowing impacts are anticipated to adjoining dwellings. The proposal includes internal alterations to proposed first floor secondary dwelling, however this is not anticipated to result in any adverse impact towards solar access for habitable living areas,

and will result in increased solar access given the new windows proposed.

#### **5.2.1.6 - Parking and Access**

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

#### **5.2.1.7 - Visual and Acoustic Privacy**

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

The proposed development has been designed and sited to reasonably minimise overlooking to and from adjoining properties, incorporating:

- Highlight windows with a minimum sill height of 1.5 metres;
- Screening opposing windows and balconies (existing for principal dwelling); and
- Windows that are offset from windows at adjacent dwellings.

The original submission included a rear balcony with a transparent balustrade that raised privacy concerns between the subject site and the rear adjoining dwellings. Subsequent amendments have opted to remove this balcony which have alleviated these amenity impacts.

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

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There is no planning agreement applicable to the proposal.

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

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In terms of provisions of the Regulation:

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

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

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

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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. Stormwater and flooding considerations have been assessed by Council's Development Engineers who have supported the proposal subject to suitable conditions which have been included in the recommended conditions of consent.

### **Built Environmental Impacts**

Both structures on site contain pop out windows that overhang into the public domain and were originally approved by Council on 02/07/2014. These overhanging elements present risks to the safety of local residents and pedestrians that pass by these structures. Upon submission of a modification application, a condition of consent was imposed in order to address this overhanging building element. This condition was subsequently modified to read as *"Prior to the issue of the Construction Certificate, the applicant must enter into an Agreement to be determined by Council's Property Section and be guided by legal advice if required."*. This has been satisfied in the form of a positive covenant which formalised this agreement. Some key requirements of this positive covenant include requirements to maintain and keep in good condition these elements and requirements to obtain and maintain public liability insurance.

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

### **Social Impacts**

The social impacts of the proposal are expected to be positive or neutral, with a development that provides reasonable amenity to meet the needs of future residents, 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**

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

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

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### **Public Submissions**

The development has been notified in accordance with the Bayside Council Communications and Engagement Strategy, between 16/10/2025 and 30/10/2025. Two (2) submissions have been received.

The amended plans were not required to be renotified because they have a reduced impact, and no additional adverse impacts on any nearby property.

The issues raised in the submissions are discussed below:

**Issue 1:** The proposed windows and rear balcony will provide the occupants with a close and direct unobstructed view into the neighbours private open space, rear deck and habitable living spaces.

**Comment:** The rear balcony has been removed in the revised plans and no longer impacts visual privacy. The proposed rear windows have been designed in accordance with the requirements of section 5.2.1.7 of the Bayside Development Control Plan 2022 and provide a minimum sill height of 1.5 metres and therefore will provide sufficient visual privacy between the proposed secondary dwelling and neighbouring properties.

Of the two proposed inward facing windows, one is frosted and the other is sufficiently offset from adjoining windows to mitigate any potential visual privacy impacts. The main visual privacy impact is through the existing first floor window, which itself is anticipated to have a reduced visual privacy impact as the window will be associated entirely with a bedroom, rather than a living space.

The principal dwelling on the subject site has sufficient screening to the rear that no adverse visual privacy impacts are anticipated between the secondary and principal dwellings.

**Issue 2:** Noise impacts as a result of the proposed secondary dwelling will impact local amenity which will be worse as it can potentially be utilised as a short-term rental.

**Comment:** The proposed secondary dwelling is to be situated in a detached rear outbuilding, limiting noise transfer that could otherwise occur between attached dwellings. Secondary dwellings are a permitted use within the zone, and do not otherwise generate a level of noise beyond what is expected in a residential setting. The structure itself is required to be sufficiently treated to reduce noise levels in an ANEF 25+ contour, which will provide sufficient acoustic insulation.

The use of the secondary dwelling as a short term rental accommodation is permitted as exempt development under the *State Environmental Planning Policy (Housing) 2021* and has not been proposed as part of this application.

Based on the above considerations, there are no adverse acoustic impacts anticipated beyond what is expected and considered acceptable within a residential setting.

**Issue 3:** Parking is already limited in this location and adding an additional dwelling will further exacerbate this problem.

**Comment:** Clause 53(2)(b) of the *State Environmental Planning Policy (Housing) 2021*, which states that:

*(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

The proposal satisfies this requirement by maintaining two (2) parking spaces. As this is a non-discretionary development standard, a stricter requirement cannot be applied and the DCP requirement for an additional parking space is not applicable. The proposal is therefore not able to be refused on this basis as it meets the requirements of Clause 53(2)(b).

**Issue 3:** The use of the secondary dwelling as an AirBnB platform is a reason for refusal and also impacts safety and comfort.

**Comment:** Short-term rental accommodation is permitted as exempt development if it meets the relevant requirements outlined in the *State Environmental Planning Policy (Housing) 2021*. Development consent has not been sought and is not required. There is no power to refuse the application on this basis.

#### **Referral Comments**

A summary of comments from other agencies or from other Departments within Council is below:

##### Other agencies

Nil

##### Council Departments/Experts

##### **Development Engineer**

Recommended conditions, which have been included as conditions of consent.

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

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

#### **S7.11/7.12 - Development Contributions**

The application was referred to Council's Development Contributions Planner who indicated that the S7.11 monetary contribution is levied for an additional dwelling (secondary dwelling) and a total of \$20,000.00 is to be paid to Council.

A condition for the payment of S7.11 Levy has been provided and included in the recommended conditions of consent.

## Housing and Productivity Contribution (HPC)

Housing Productivity Contributions are not applicable to secondary dwellings under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

## Conclusion and Reasons for Decision

The proposed development at 51 Johnson Street, Mascot NSW 2020 has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development, being alterations and additions to the existing outbuilding and conversion of the first floor into secondary dwelling, is a permissible land use within the zone with development consent. In response to the public notification, two (2) submissions have been received. The matters raised in these submissions include impacts to local amenity such as visual privacy, and the use of the site as a short-term rental accommodation. These matters have been discussed and addressed in this report and in this instance do not warrant refusal of the proposal.

The proposal is supported for the following main reasons:

- The proposed contravention to the minimum Lot size for secondary dwellings has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable.
- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of Bayside Development Control Plan 2022 and generally consistent with the relevant requirements of Bayside Development Control Plan 2022.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

## Schedule 1 – Draft Conditions of Consent

Refer to draft conditions attached separately.

## SCHEDULE OF DRAFT CONDITIONS

DA-2025/604 – 51 Johnson Street, Mascot

### General Conditions

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

|    |   |
|----|---|
|    | <p>and a telephone number on which the principal contractor may be contacted outside working hours, and</p> <p>c. stating that unauthorised entry to the work site is prohibited.</p> <p>3. The sign must be—</p> <ol style="list-style-type: none"><li>maintained while the building work, subdivision work or demolition work is being carried out, and</li><li>removed when the work has been completed.</li></ol> <p>4. This section does not apply in relation to—</p> <ol style="list-style-type: none"><li>building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li><li>Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li></ol>   |
|    | <p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>   |
| 3. | <p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ol style="list-style-type: none"><li>BASIX development,</li><li>BASIX optional development, if the development application was accompanied by a BASIX certificate.</li></ol> <p><b>Condition reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>   |
| 4. | <p><b>Notification of Home Building Act 1989 requirements</b></p> <ol style="list-style-type: none"><li>This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li><li>It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—<ol style="list-style-type: none"><li>for work that requires a principal contractor to be appointed—<ol style="list-style-type: none"><li>the name and licence number of the principal contractor, and</li><li>the name of the insurer of the work under the Home Building Act 1989, Part 6,</li></ol></li><li>for work to be carried out by an owner-builder—<ol style="list-style-type: none"><li>the name of the owner-builder, and</li><li>if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li></ol></li></ol></li><li>If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</li><li>This section does not apply in relation to Crown building work certified to comply</li></ol> |

|  | with the Building Code of Australia under the Act, Part 6.  |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|--|---|--|------------------|--------------|-------------|-----------------|----------------|-------------|------------------|-------------------|----------|--------------------|------------|-------------------------------------|------------|----------------|--|--------|------------|----|---|---|--------|------------|----|---|----------------------------------|--------|------------|----|---|------------------|--------|------------|----|---|-----------|--------|------------|----|---|--------------------------|--------|------------|
|  | <b>Condition reason:</b> Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.  |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 5.   | <b>Approved plans and supporting documentation</b>  |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|  | Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise. |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| <p><b>Approved plans</b></p> <table border="1"> <thead> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>04</td> <td>D</td> <td>Site Plan</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>06</td> <td>D</td> <td>Existing/Demolish/Proposed ground floor plan</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>07</td> <td>D</td> <td>Existing/Demolish/Proposed first floor plan</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>08</td> <td>D</td> <td>Front elevation &amp; Rear elevation</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>09</td> <td>D</td> <td>Side elevation/s</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>10</td> <td>D</td> <td>Section/s</td> <td>GiantA</td> <td>12.01.2026</td> </tr> <tr> <td>12</td> <td>D</td> <td>Doors &amp; Windows schedule</td> <td>GiantA</td> <td>12.01.2026</td> </tr> </tbody> </table> |   |  |                  |              | Plan number | Revision number | Plan title     | Drawn by    | Date of plan     | 04                | D        | Site Plan          | GiantA     | 12.01.2026                          | 06         | D              | Existing/Demolish/Proposed ground floor plan | GiantA | 12.01.2026 | 07 | D | Existing/Demolish/Proposed first floor plan | GiantA | 12.01.2026 | 08 | D | Front elevation & Rear elevation | GiantA | 12.01.2026 | 09 | D | Side elevation/s | GiantA | 12.01.2026 | 10 | D | Section/s | GiantA | 12.01.2026 | 12 | D | Doors & Windows schedule | GiantA | 12.01.2026 |
| Plan number  | Revision number   | Plan title                                   | Drawn by         | Date of plan |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 04   | D   | Site Plan                                    | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 06   | D   | Existing/Demolish/Proposed ground floor plan | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 07   | D   | Existing/Demolish/Proposed first floor plan  | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 08   | D   | Front elevation & Rear elevation             | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 09   | D   | Side elevation/s                             | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 10   | D   | Section/s                                    | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 12   | D   | Doors & Windows schedule                     | GiantA           | 12.01.2026   |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| <p><b>Approved documents</b></p> <table border="1"> <thead> <tr> <th>Document title</th> <th>Version number</th> <th>Prepared by</th> <th>Date of document</th> </tr> </thead> <tbody> <tr> <td>BASIX Certificate</td> <td>1801426S</td> <td>Lloyd Anthony Weir</td> <td>25.06.2025</td> </tr> <tr> <td>Aircraft Noise Intrusion Assessment</td> <td>Revision 0</td> <td>Acoustic Logic</td> <td>23.05.2025</td> </tr> </tbody> </table>   |   |  |                  |              |             | Document title  | Version number | Prepared by | Date of document | BASIX Certificate | 1801426S | Lloyd Anthony Weir | 25.06.2025 | Aircraft Noise Intrusion Assessment | Revision 0 | Acoustic Logic | 23.05.2025                                   |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| Document title   | Version number  | Prepared by                                  | Date of document |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| BASIX Certificate  | 1801426S  | Lloyd Anthony Weir                           | 25.06.2025       |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| Aircraft Noise Intrusion Assessment  | Revision 0  | Acoustic Logic                               | 23.05.2025       |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|  | In the event of any inconsistency between the approved plans and documents, the approved Plans prevail.   |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|  | In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.  |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|  | <b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.                            |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
| 6.   | <b>Carrying out of Works Wholly Within the Site</b>   |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |
|  | All approved works shall be carried out inside the confines of the site boundary and not in   |  |                  |              |             |                 |                |             |                  |                   |          |                    |            |                                     |            |                |  |        |            |    |   |   |        |            |    |   |                                  |        |            |    |   |                  |        |            |    |   |           |        |            |    |   |                          |        |            |

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|     | adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.  |
|     | <b>Condition reason:</b> To avoid encroachment of the development beyond the site boundaries.  |
| 7.  | <b>Construction Certificate Required</b><br><br>A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.<br><br>Building work is defined under the <i>Environmental Planning and Assessment Act Part 6</i> .<br><br><b>Condition reason:</b> To ensure that a Construction Certificate is obtained at the appropriate time.  |
| 8.  | <b>Earthworks Not Shown on Plans</b><br><br>No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development.<br><br><b>Condition reason:</b> To avoid changes that may result in adverse impacts without proper assessment.   |
| 9.  | <b>Compliance with previous Development Consent and established Positive Covenant required.</b><br><br>Compliance with the relevant conditions for the Development Consent, as modified, DA-2014/13/B (historically identified as DA No: 14/013/03), and the established positive covenant is required. This includes, but is not limited to: <ul style="list-style-type: none"><li>Requirements relating to the building elements that encroach over Johnson Street, and Hollingshed Lane, Mascot.</li></ul><br><b>Condition reason:</b> To ensure all relevant requirements applicable to the site are adhered to. |
| 10. | <b>Subdivision Not Approved / Permitted</b><br><br>Subdivision does not form part of this consent and is not permitted.<br><br><b>Condition reason:</b> To ensure compliance with relevant standards.  |

## Building Work

### Before issue of a construction certificate

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| 11. | <b>Construction Site Management Plan</b><br><br>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the certifier. The plan must include the following matters:<br><br><ul style="list-style-type: none"><li>a. The location and materials for protective fencing and hoardings on the perimeter of the site;</li><li>b. Location of dedicated washdown areas (located away from drainage lines, stormwater drains and water bodies);</li><li>c. Provisions for public safety;</li><li>d. Pedestrian and vehicular site access points and construction activity zones;</li><li>e. Details of construction traffic management including:<ul style="list-style-type: none"><li>i. Proposed truck movements to and from the site;</li><li>ii. Estimated frequency of truck movements; and</li><li>iii. Measures to ensure pedestrian safety near the site;</li></ul></li><li>f. Details of bulk earthworks to be carried out;</li><li>g. The location of site storage areas and sheds;</li><li>h. The equipment used to carry out works;</li><li>i. The location of a garbage container with a tight-fitting lid;</li><li>j. Dust, noise and vibration control measures;</li><li>k. Details of chemical storage and management;</li><li>l. The location of temporary toilets;</li><li>m. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:<ul style="list-style-type: none"><li>i. AS 4970 – Protection of trees on development sites;</li><li>ii. An applicable Development Control Plan;</li><li>iii. An arborist's report approved as part of this consent</li></ul></li></ul><br>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.<br><br><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction. |
| 12. | <b>Erosion and sediment control plan</b><br><br>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier:<br><br><ul style="list-style-type: none"><li>1. Council's relevant development control plan,</li><li>2. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li><li>3. the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning,</li></ul>  |

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|     | Housing and Infrastructure) (dated 2024, as amended from time to time).  |
|     | <b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.   |
| 13. | <p><b>Waste Management Plan requirements</b></p> <p>Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. The plan must be prepared</p> <ul style="list-style-type: none"> <li>a. in accordance with <ul style="list-style-type: none"> <li>i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and</li> <li>ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and</li> </ul> </li> <li>b. include the following information— <ul style="list-style-type: none"> <li>i. the name and contact details of who is responsible for the plan and management of the waste onsite,</li> <li>ii. the name and contact details of the person(s) removing waste,</li> <li>iii. a description of each different waste type and an estimate of the and quantity of each waste type expected to be produced,</li> <li>iv. how each waste type will be managed onsite and offsite, including whether the waste is expected to be reused, recycled or sent to landfill,</li> <li>v. where any onsite management of waste will occur, such as for consolidation and collection,</li> <li>vi. how each waste type will be characterised and classified for waste management and transport,</li> <li>vii. where each waste type is intended to be transported for disposal or other fate,</li> <li>viii. how the quantity of each waste type will be measured and recorded,</li> <li>ix. how each waste movement will be tracked,</li> <li>x. contingencies including to managing unexpected finds, such as asbestos.</li> </ul> </li> </ul> <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p><b>Condition reason:</b> To ensure waste management practices are undertaken, resource recovery is promoted and local amenity protected during construction site works.</p> |
| 14. | <p><b>Aircraft Noise - Compliance with submitted Report.</b></p> <p>Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Logic shall be included in the construction drawings and in accordance with the provisions of AS 2021 - 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to ensure compliance with the Indoor Design Noise Levels in Table 3.3 of AS 2021.</p> <p>The work detailed in the report includes:</p> <ol style="list-style-type: none"> <li>1. Appropriate acoustic glazing to stated windows and doors;</li> </ol>   |

|   |  |                                    |         |                            |                                |  |            |
|---|--|------------------------------------|---------|----------------------------|--------------------------------|--|------------|
|   | <ol style="list-style-type: none"> <li>2. Detailed roof and ceiling construction;</li> <li>3. Wall and ceiling corner details;</li> <li>4. External door specification; and</li> <li>5. Acoustically treated mechanical ventilation.</li> </ol>  |                                    |         |                            |                                |  |            |
| <b>Condition reason:</b> To minimise adverse amenity impacts to residents within the building.  |  |                                    |         |                            |                                |  |            |
| 15.   | <p><b>Driveway Application</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.</p>   |                                    |         |                            |                                |  |            |
| 16. <b>Encroachment of Structures not Permitted.</b>  |  |                                    |         |                            |                                |  |            |
| <p>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.</p> <p><b>Condition reason:</b> To ensure all development is contained wholly within the site and minimise impacts on surrounding land.</p> |  |                                    |         |                            |                                |  |            |
| 17.   | <p><b>Payment of fees and security deposits.</b></p> <p>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:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Soil and Water Management Sign Fee</td><td style="padding: 5px;">\$27.00</td></tr> <tr> <td style="padding: 5px;">Section 7.11 Contributions</td><td style="padding: 5px;">\$20,000.00 (see condition 18)</td></tr> <tr> <td style="padding: 5px;">Builders Damage Deposit (Security Deposit)</td><td style="padding: 5px;">\$1,425.00</td></tr> </table> <p><b>Note:</b> The amount payable must be in accordance with Council's fees and charges at the payment date.</p> <p><b>Note:</b> At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.</p> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p> | Soil and Water Management Sign Fee | \$27.00 | Section 7.11 Contributions | \$20,000.00 (see condition 18) | Builders Damage Deposit (Security Deposit) | \$1,425.00 |
| Soil and Water Management Sign Fee  | \$27.00  |                                    |         |                            |                                |  |            |
| Section 7.11 Contributions  | \$20,000.00 (see condition 18)   |                                    |         |                            |                                |  |            |
| Builders Damage Deposit (Security Deposit)  | \$1,425.00   |                                    |         |                            |                                |  |            |

|  |   |                      |            |                           |             |                      |            |                |          |
|--|---|----------------------|------------|---------------------------|-------------|----------------------|------------|----------------|----------|
| 18.  | <p><b>Payment of Section 7.11 Contributions.</b></p>  |                      |            |                           |             |                      |            |                |          |
| <p>A Section 7.11 contribution of \$20,000.00 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below. Copies of the Contribution Plan can be inspected at the Council's Customer Services Centre, Administration Building, 444449 Princes Highway, Rockdale.</p> |   |                      |            |                           |             |                      |            |                |          |
| <table border="1"> <tr> <td data-bbox="271 676 843 720">Community Facilities</td><td data-bbox="843 676 1160 720">\$1,744.44</td></tr> <tr> <td data-bbox="271 720 843 765">Recreation and Open Space</td><td data-bbox="843 720 1160 765">\$14,490.27</td></tr> <tr> <td data-bbox="271 765 843 810">Transport Facilities</td><td data-bbox="843 765 1160 810">\$3,605.28</td></tr> <tr> <td data-bbox="271 810 843 855">Administration</td><td data-bbox="843 810 1160 855">\$160.01</td></tr> </table>  |   | Community Facilities | \$1,744.44 | Recreation and Open Space | \$14,490.27 | Transport Facilities | \$3,605.28 | Administration | \$160.01 |
| Community Facilities   | \$1,744.44  |                      |            |                           |             |                      |            |                |          |
| Recreation and Open Space  | \$14,490.27   |                      |            |                           |             |                      |            |                |          |
| Transport Facilities   | \$3,605.28  |                      |            |                           |             |                      |            |                |          |
| Administration   | \$160.01  |                      |            |                           |             |                      |            |                |          |
| <p><b>Condition reason:</b> To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.</p>  |   |                      |            |                           |             |                      |            |                |          |
| 19.  | <p><b>Property Address Allocation - Secondary dwellings, Dual Occupancies and Semi-Detached</b></p> |                      |            |                           |             |                      |            |                |          |
| <p>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 commercial tenancy and the residential dwellings within the mixed use development in accordance with Section 5.2 of the NSW Address Policy and User Manual dated October 2024.</p>  |   |                      |            |                           |             |                      |            |                |          |
| <p>The form is available for download at:<br/> <a href="https://www.bayside.nsw.gov.au/sites/default/files/2025-07/2025-2026%20Property%20Address%20Allocation%20Application.PDF">https://www.bayside.nsw.gov.au/sites/default/files/2025-07/2025-2026%20Property%20Address%20Allocation%20Application.PDF</a></p> <p>Derivation and production of address data components is governed by the NSW Address Policy and User Manual October 2024 to ensure consistency of application.</p> <p><a href="https://www.nsw.gov.au/sites/default/files/noindex/2024-11/NSW%20Address%20Policy%20and%20User%20Manual_2024.pdf">https://www.nsw.gov.au/sites/default/files/noindex/2024-11/NSW%20Address%20Policy%20and%20User%20Manual_2024.pdf</a></p>   |   |                      |            |                           |             |                      |            |                |          |
| <p><b>Condition reason:</b> To ensure property addresses are allocated in accordance with relevant standards</p>   |   |                      |            |                           |             |                      |            |                |          |
| 20.  | <p><b>Sydney Water Tap-in</b></p>   |                      |            |                           |             |                      |            |                |          |
| <p>Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.</p>  |   |                      |            |                           |             |                      |            |                |          |
| <p>Sydney Water's Tap inTM online service is available at:</p>   |   |                      |            |                           |             |                      |            |                |          |

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|--|---|
|  | <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a> |
|  | <b>Condition reason:</b> To ensure compliance with Sydney Water requirements.   |

## Before building work commences

|    |   |
|----|---|
| 21 | <b>Deliveries</b><br><br>While site work is being carried out, deliveries of material and equipment must only be carried out between –<br><br>7:00am to 5:00pm on Monday to Saturday. No deliveries to be carried out on Sunday and public holidays.<br><b>Condition reason:</b> To protect the amenity of neighbouring properties.   |
| 22 | <b>Erosion and sediment controls in place</b><br><br>Before any site work commences, the principal certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan which was provided to the principal certifier are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the erosion and sediment control plan.<br><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways. |
| 23 | <b>Protection of adjoining areas</b><br><br>Before work commences, a temporary hoarding or temporary construction site fence must be erected around the work site perimeter and must be kept in place until after the work is completed.<br><b>Condition reason:</b> To protect land uses and amenity and ensure safety on an operating farm.   |
| 24 | <b>Notice of commencement for demolition</b><br><br>At least one week before demolition work commences, written notice must be provided to Council and the occupiers of neighbouring premises of the work commencing. The notice must include: <ol style="list-style-type: none"><li>1. Name;</li><li>2. Address;</li><li>3. Contact telephone number;</li><li>4. License type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor;</li></ol>   |

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|  | <p>5. The contact telephone number of Council; and<br/>6. The contact telephone number of SafeWork NSW (4921 2900)</p> |
| <p><b>Condition reason:</b> To advise neighbours about the commencement of demolition work and provide contact details for enquiries</p> |  |

### During building work

|    |   |
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| 25 | <p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times:</p> <p>For building work, demolition or vegetation removal from 7:00am to 5:00pm on Monday to Saturday. No works to be carried out on Sunday and public holidays.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a Police Officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>                                  |
| 26 | <p><b>Implementation of the site management plans</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"><li>1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times; and</li><li>2. a copy of these plans must be kept on site at all times and made available to Council officers upon request.</li></ol> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p> |
| 27 | <p><b>Procedure for critical stage inspections</b></p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><b>Condition reason:</b> To require approval to proceed with building work following each critical stage inspection.</p>   |
| 28 | <p><b>Responsibility for changes to public infrastructure</b></p> <p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p>   |

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|    | <b>Condition reason:</b> To ensure payment of approved changes to public infrastructure.   |
| 29 | <p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. all waste management must be undertaken in accordance with the waste management plan; and</li> <li>2. upon disposal or removal of the waste, records of the disposal or other fate (such as re-use on site) must be compiled and provided to the principal certifier, detailing the following:             <ol style="list-style-type: none"> <li>a. The name and contact details of the person(s) who removed the waste,</li> <li>b. The waste carrier vehicle registration,</li> <li>c. The date and time of waste collection,</li> <li>d. A description of the waste (type of waste, classification and estimated quantity) and whether the waste is to be reused, recycled, go to landfill or other fate.</li> <li>e. The contact details and address of the disposal location or other offsite location(s) where the waste was taken,</li> <li>f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.</li> </ol> </li> <li>3. The waste generated on site during construction must be classified in accordance with the Environment Protection Authority's Waste Classification Guidelines, 2014 (as amended from time to time) and disposed of to an approved waste management facility or otherwise lawfully managed.</li> </ol> <p>If waste has been removed from the site where the waste is under an Environment Protection Authority Resource Recovery Order or Exemption, records in relation to and required by that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p><b>Condition reason:</b> To require records to be provided, during site work, documenting the lawful disposal of waste.</p> |
| 30 | <p><b>Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land</b></p> <p>During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the <i>Roads Act 1993</i> and <i>Local Government Act 1993</i>. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:</p> <ul style="list-style-type: none"> <li>• Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or</li> </ul>  |

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.

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|    | <p><b>Condition reason:</b> To ensure appropriate permits are applied for and comply with the Roads Act 1993.</p>  |
| 31 | <p><b>Approved Plans kept on Site</b></p> <p>A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.</p> <p><b>Condition reason:</b> To ensure relevant information is available on site.</p>  |
| 32 | <p><b>Construction Activities - Minimise Pollution</b></p> <p>The following conditions are necessary to ensure minimal impacts during construction:</p> <p>(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</p> <p>(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</p> <p>(c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and</p> <p>(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</p> <p>(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</p> <p>(f) Windblown dust from stockpile and construction activities shall be minimised by one or more of the following methods:</p> <ul style="list-style-type: none"> <li>(i) spraying water in dry windy weather, and</li> <li>(ii) cover stockpiles, and</li> <li>(iii) fabric fences.</li> </ul> <p>(g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and</p> <p>(h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and</p> |

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|    | <p>(i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works.</p> <p><b>Condition reason:</b> To protect neighbourhood amenity and the quality of the waterways.</p>  |
| 33 | <p><b>Demolition Requirements During Works</b></p> <p>Demolition is to be carried out in the accordance with the following:</p> <p>(a) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, <i>Work Health &amp; Safety Act 2011 (NSW)</i>, <i>Work Health &amp; Safety Regulation 2011 (NSW)</i> and the requirements of the NSW WorkCover Authority, and</p> <p>(b) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and</p> <p>(c) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and</p> <p>(d) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and</p> <p>(e) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and</p> <p>(f) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and</p> <p>(g) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and</p> <p>(h) Care must be taken during demolition, excavation or erection of structures to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Please contact Before You Dig (Website: <a href="http://www.byda.com.au">www.byda.com.au</a>) or phone 1100 before commencement of works. Any damage caused to existing services must be repaired by the relevant authority at the Applicant's expense, and</p> <p>(i) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and</p> <p>(j) Any material containing asbestos found on site during the demolition process shall be</p> |

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|    | <p>removed and disposed of in accordance with WorkCover NSW requirements. <i>Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation</i> and 'Waste Classification Guidelines 2014' prepared by the NSW Office of Environment and Heritage. <b>Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.</b></p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p>  |
| 34 | <p><b>Implementation of Soil and Water Management Plan</b></p> <p>All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.</p> <p>Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.</p> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>  |
| 35 | <p><b>Noise during Construction</b></p> <p>The following shall be complied with during construction and demolition:</p> <p>(a) Construction Noise</p> <p>Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>(b) Level Restrictions</p> <p>Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>(c) Out of hours work</p> <p>For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.</p> <p>(d) Silencing</p> |

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|    | <p>All possible steps should be taken to silence construction site equipment.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood.</p>   |
| 36 | <p><b>Protection of Council's Property</b></p> <p>During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation, and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Bayside Council.</p> <p><b>Condition reason:</b> To ensure public safety at all times and to protect the function and integrity of public infrastructure.</p> |
| 37 | <p><b>Site Fencing</b></p> <p>The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p>  |
| 38 | <p><b>Site Management - Principal Certifier Inspections</b></p> <p>Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:</p> <ul style="list-style-type: none"> <li>(a) Sediment control measures, and</li> <li>(b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and</li> <li>(c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.</li> </ul> <p><b>Condition reason:</b> To protect public safety and water quality around building sites.</p>  |
| 39 | <p><b>Toilet Facilities</b></p> <ul style="list-style-type: none"> <li>(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</li> </ul>  |

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

### Before issue of an occupation certificate

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| 40 | <b>Certification of acoustic measures</b><br><br>Before the issue of an occupation certificate, a suitably qualified person must provide details demonstrating compliance to the principal certifier that the acoustic measures have been installed in accordance with the acoustic report approved under this consent.<br><br><b>Condition reason:</b> To ensure that the secondary dwelling complies with the indoor design sound levels contained within AS2021-2015.   |
| 41 | <b>Removal of waste upon completion</b><br><br>Before the issue of an Occupation Certificate:<br><br><ul style="list-style-type: none"> <li>a. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and</li> <li>b. written evidence of the waste removal must be provided to the satisfaction of the <b>principal certifier</b>.</li> <li>c. Any chemical waste generated throughout construction must be disposed of to an approved waste management facility or otherwise lawfully managed.</li> </ul><br><b>Condition reason:</b> To ensure waste material is appropriately disposed or satisfactorily stored. |
| 42 | <b>Repair of infrastructure</b><br><br>Before the issue of an Occupation Certificate:<br><br><ol style="list-style-type: none"> <li>1. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must</li> </ol>  |

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|   | <p>be fully repaired to the written satisfaction of Council, and at no cost to Council; or</p> <p>2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</p>                |
| <b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.      |   |
| 43  | <p><b>BASIX / Energy Efficiency Commitments.</b></p> <p>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 <b>BASIX / Energy Efficiency Report</b> listed under "Approved Plans and Supporting Documents" condition prior to the issue of any Occupation Certificate.</p> |
| <b>Condition reason:</b> To ensure BASIX and Energy Efficiency commitments are fulfilled. |   |
| 44  | <p><b>Occupation Certificate.</b></p> <p>The Occupation Certificate must be obtained prior to any use or occupation of the building / development <b>or part thereof</b>. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.</p>   |
| <b>Condition reason:</b> To ensure that an Occupation Certificate is obtained.            |   |

### Occupation and ongoing use

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| 45   | <p><b>Release of securities</b></p> <p>When Council receives an Occupation Certificate, an application may be lodged to release the securities held in accordance with councils' fees and charges for development.</p>  |
| <b>Condition reason:</b> To allow release of securities where the terms and conditions for the securities have been met to Council's satisfaction. |   |
| 46   | <p><b>Noise from Air-Conditioning Units</b></p> <p>Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the <i>Environment Operations Act 1997</i> or contravene provisions of the <i>Protection of the Environment (Noise Control) Regulation 2008</i> where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.</p> |
| <b>Condition reason:</b> To manage noise from air-conditioning units so that adverse impacts to the locality are minimised.                        |   |

### **General advisory notes**

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

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

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

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

## Dictionary

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

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

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

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

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

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

**Council** means BAYSIDE COUNCIL.

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

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

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

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

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

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

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

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

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

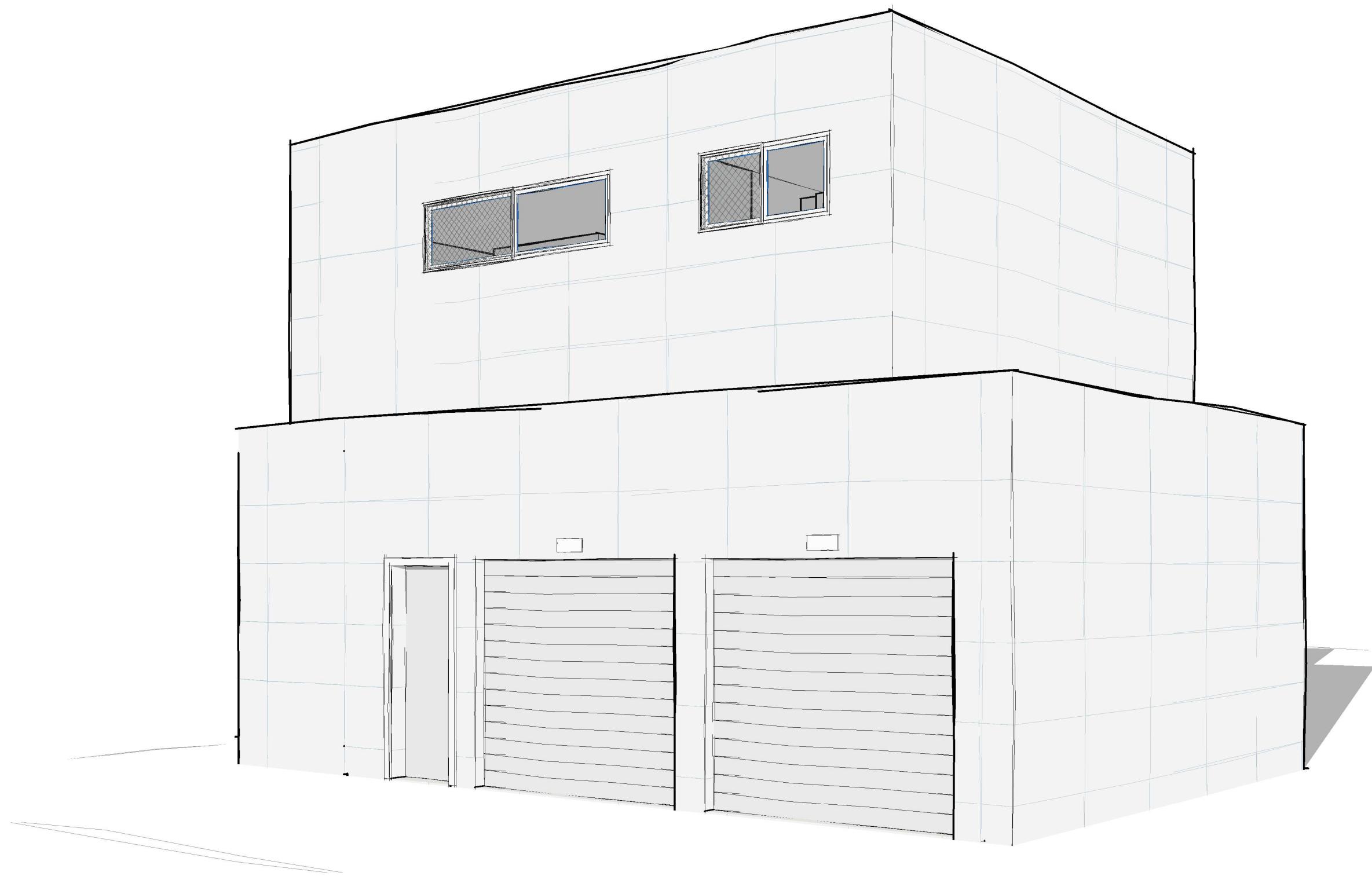
building work, subdivision work, demolition work, clearing of vegetation or remediation work.

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

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

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

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



Sheet list

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| Development Control Plans                    | 000 |
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The drawing is for **Development application only (DA)**  
For any further inquiries please contact us for property advice

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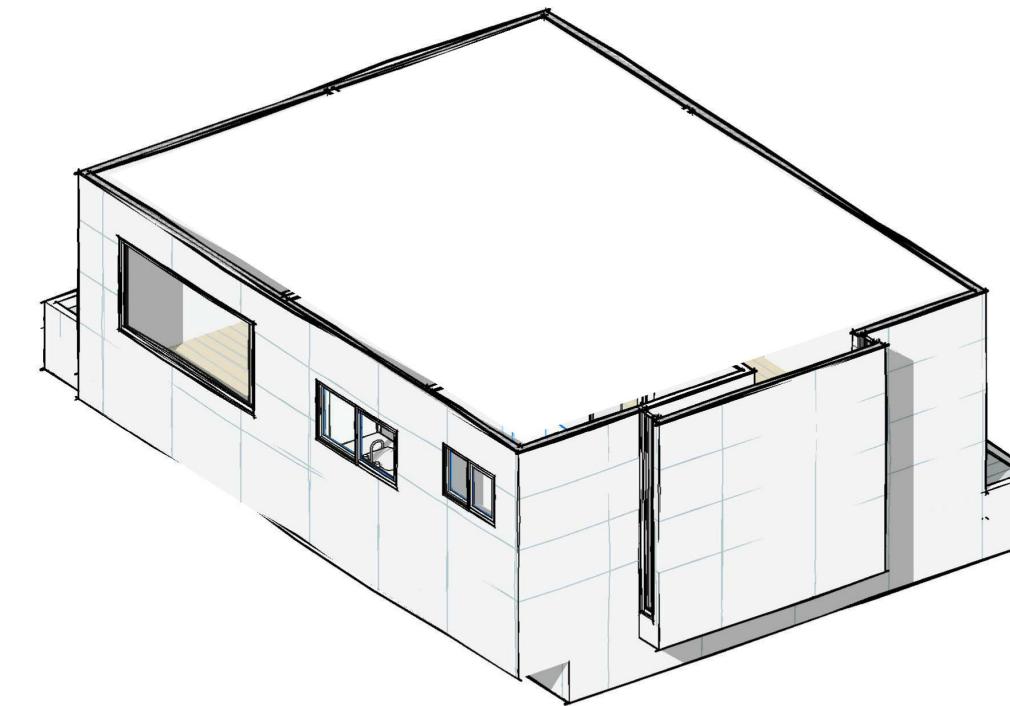
Project number

**S03953**

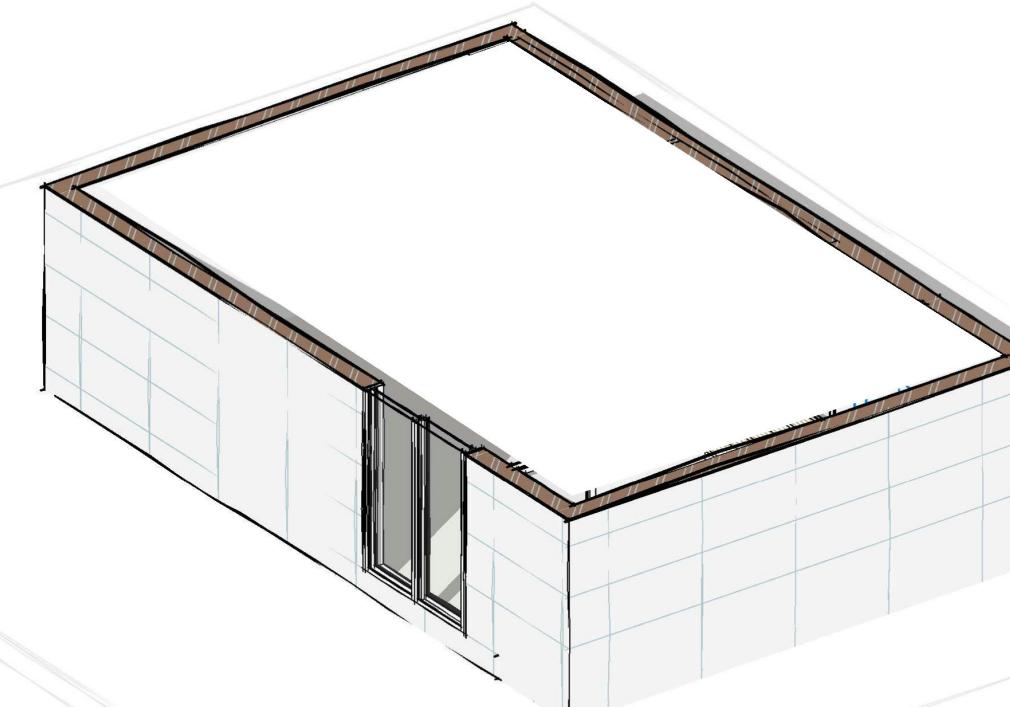
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**Internal axonometric first floor**



**Internal axonometric ground floor**

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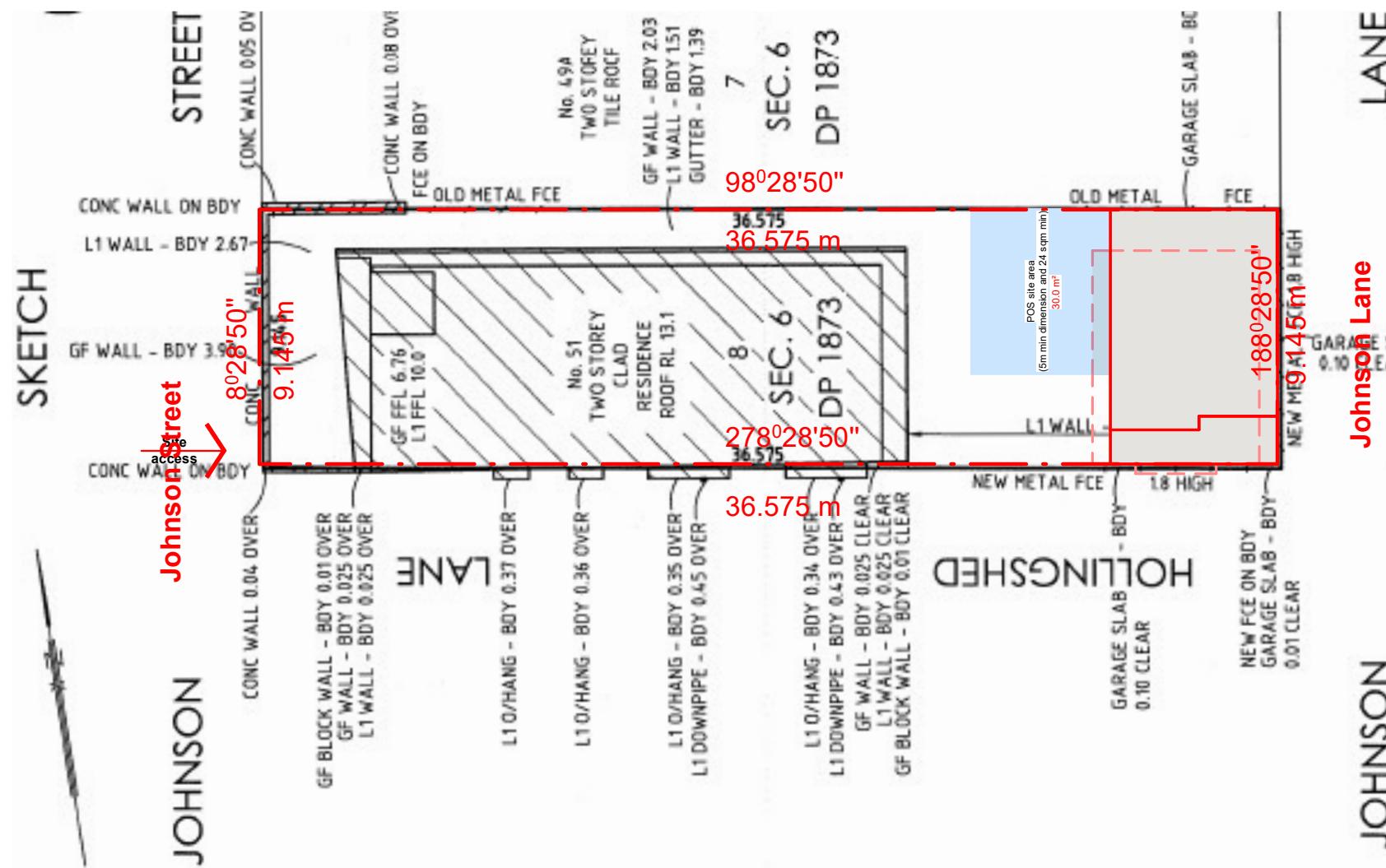
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Logo of  
associate  
entity

Email address of associate entity

| Drawing | Internal axonometric | Date     | S     | R  | Issued                                |
|---------|----------------------|----------|-------|----|---------------------------------------|
| Project | S03953               | 25.06.23 | 1     | A  |                                       |
|         |                      | 25.06.26 | 2     | B  | As email on 25.06.26                  |
|         |                      | 25.07.28 | 3     | C  | As email on 25.07.28                  |
|         |                      | 26.01.12 | 4     | D  | As email on 26.01.05                  |
|         |                      |          | Sheet | 02 | SizeA3                                |
|         |                      |          |       |    | Address 51 Johnson Street Mascot 2020 |

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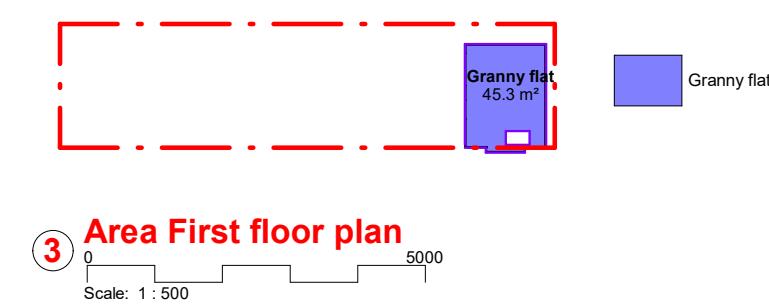
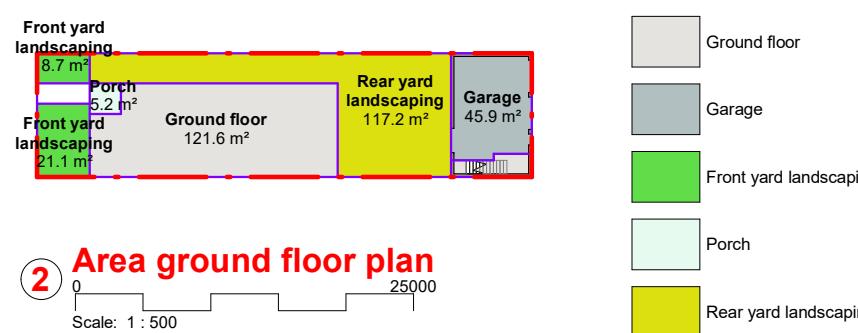
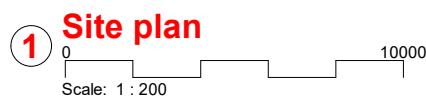


### Site legend

- Site access
- Boundary line
- The sewer line
- Roof/skylight/structure above
- To be demolished
- Existing footprint/works/building envelope
- Proposed footprint/works/building envelope
- Private open space



### Location plan



### Area schedule

| Name                   | Area                 |
|------------------------|----------------------|
| Garage                 | 45.9 m <sup>2</sup>  |
| Granny flat            | 45.3 m <sup>2</sup>  |
| Ground floor           | 8.7 m <sup>2</sup>   |
| Ground floor           | 121.6 m <sup>2</sup> |
| Rear yard landscaping  | 117.2 m <sup>2</sup> |
| Front yard landscaping | 8.7 m <sup>2</sup>   |
| Front yard landscaping | 21.1 m <sup>2</sup>  |
| Porch                  | 5.2 m <sup>2</sup>   |

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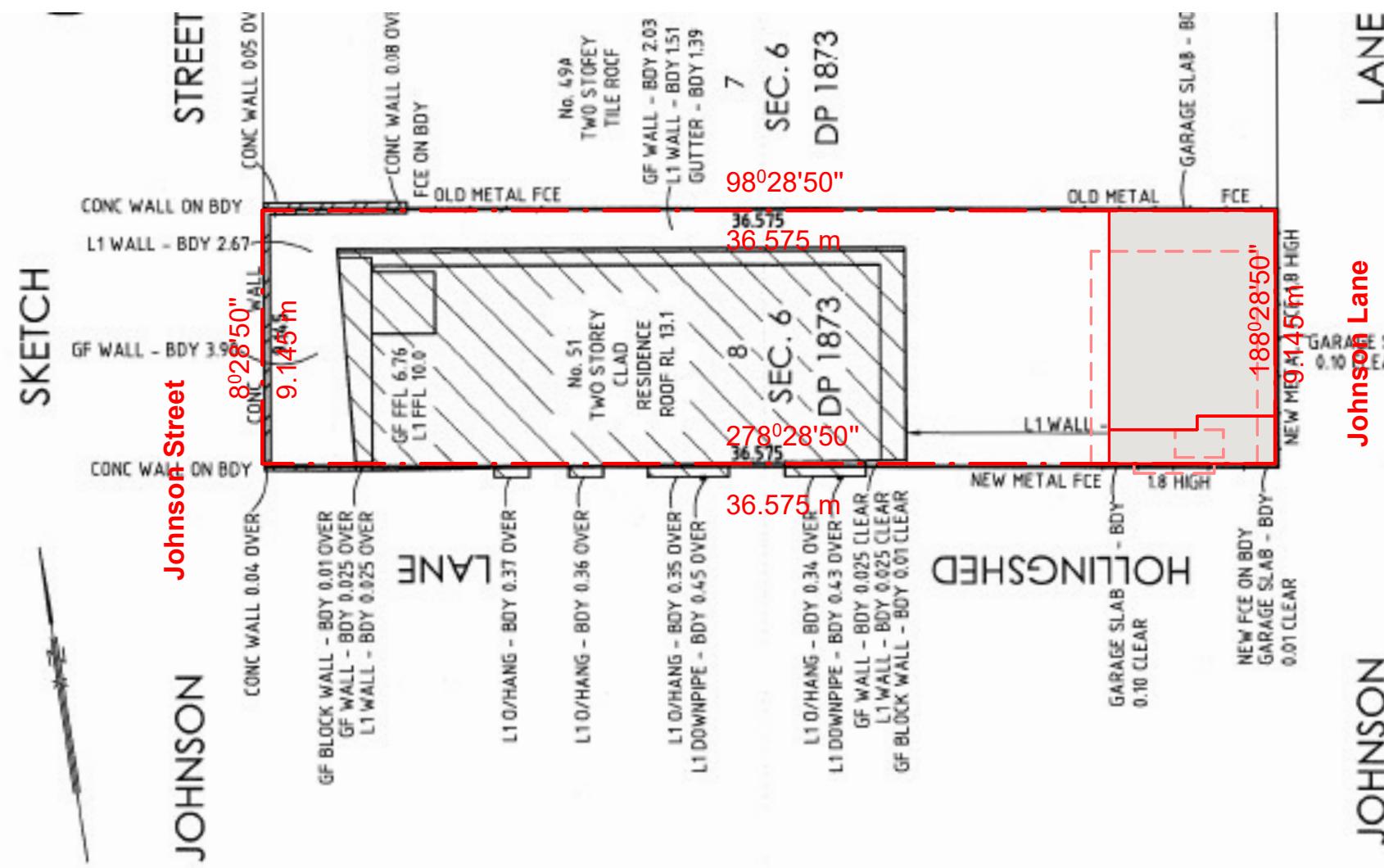
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Drawing Site plan

Project S03953

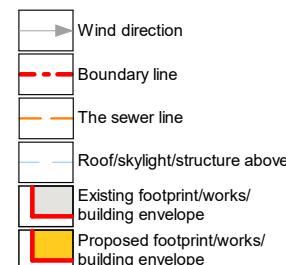
Sheet 04 SizeA3

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25.06.23 1 A  
25.06.26 2 B As email on 25.06.26  
25.07.28 3 C As email on 25.07.28  
26.01.12 4 D As email on 26.01.05



## 1 Site analysis plan

## Site analysis legend



## Note

- The wind rose shown corresponds with the 12 months in the year
- The lines are read in a clockwise direction
- The length of the line is proportionate to the frequency (% of time) of the wind from that direction in that month
- 9am shown in black & 1pm shown in red
- The sun path diagram shown in the centre of the wind rose indicates the path scribed by the sun during different periods of the year
- The hours of the day are shown in blue
- The months of the year are indicated using the red lines
- The concentric circles indicate the angles of the sun
- The Compass is based upon 'True North', from the Map Grid Australia (MGA)
- True North based on survey completed by "surveyor" surveying "date" comments are for Sydney Basin

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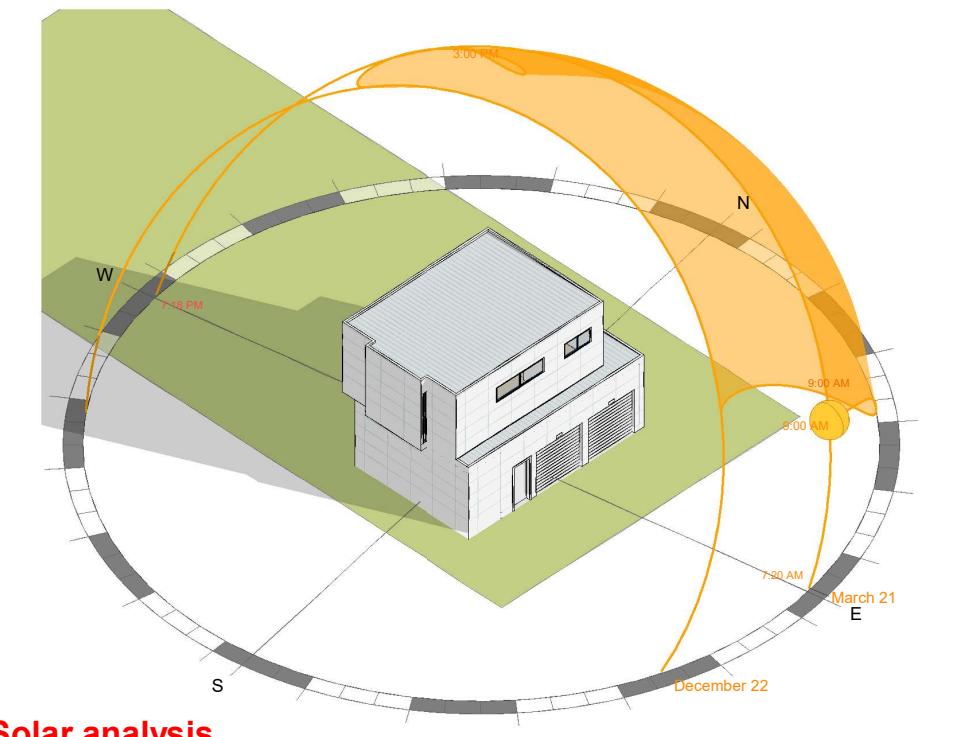
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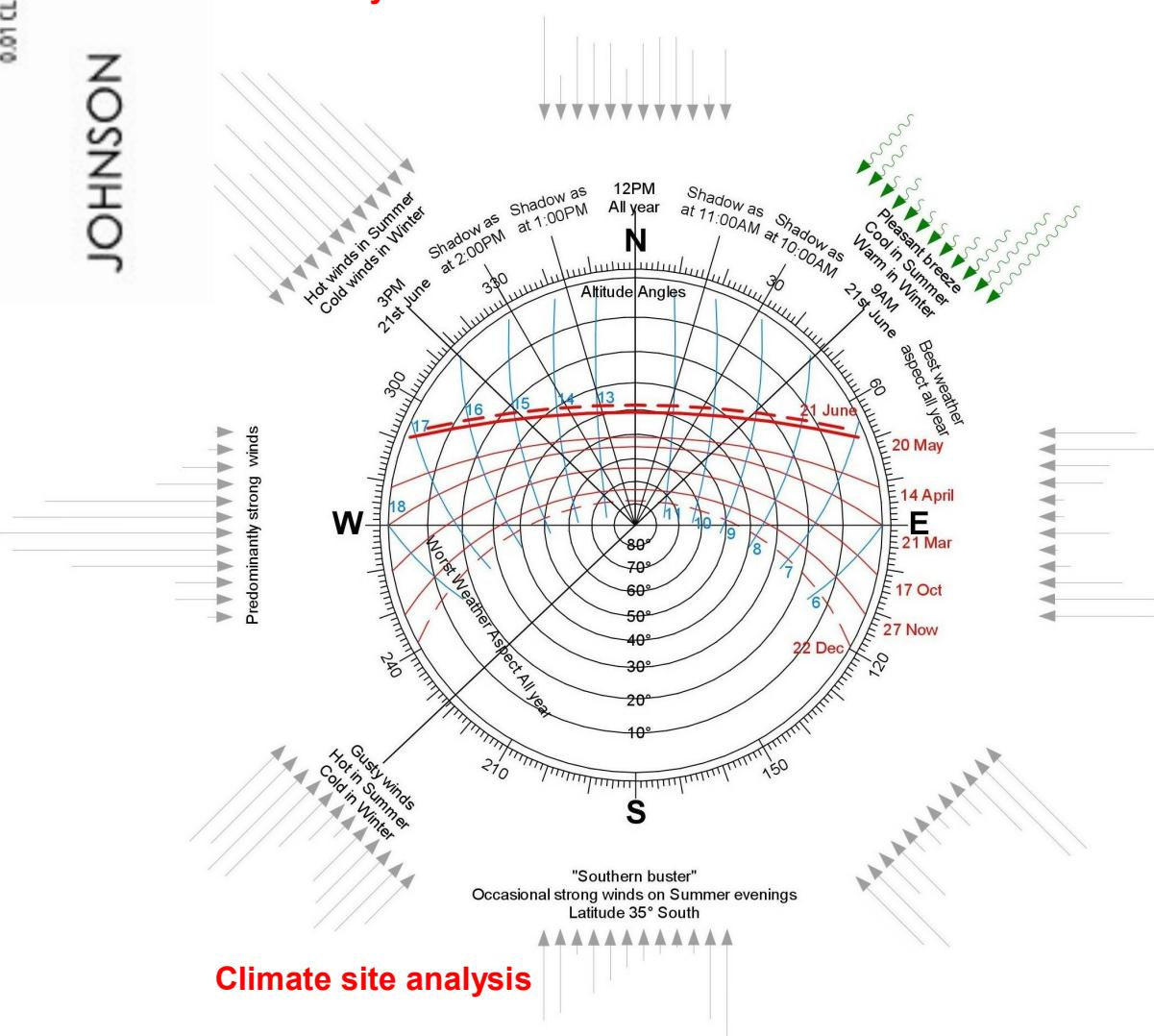
## Drawing Site analysis plan

Project **S03953**

|       |    | Date     | S | R | Issued               |
|-------|----|----------|---|---|----------------------|
| Sheet | 05 | 25.06.23 | 1 | A |                      |
|       |    | 25.06.26 | 2 | B | As email on 25.06.26 |
|       |    | 25.07.28 | 3 | C | As email on 25.07.28 |
|       |    | 26.01.12 | 4 | D | As email on 26.01.05 |



## Solar analysis



## Climate site analysis

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### Materials legend

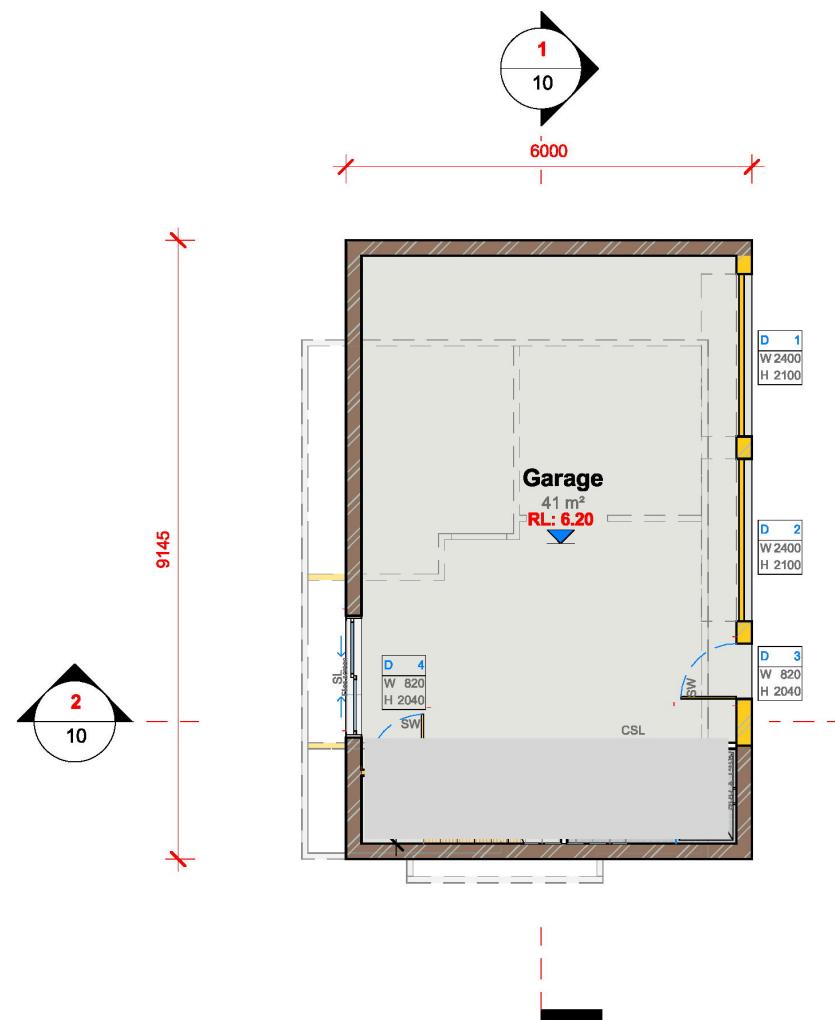
|   |  |
|---|--|
| Existing stud timber  |  |
| Existing framed (weatherboard/fibro/metal clad)                               |  |
| Existing cavity brick   |  |
| Existing brick veneer   |  |
| Solid timber or laminated product made from layers of timber, bonded together |  |
| Concrete slab supported on foundations or directly on the subsoil             |  |
| New stud timber   |  |
| Solid timber or laminated product made from layers of timber, bonded together |  |

### Annotate legend

|   |  |
|---|--|
| Fix   |  |
| Awning  |  |
| Sliding window                                    |  |
| Highlight window                                  |  |
| Bi-fold   |  |
| Sliding   |  |
| Cavity sliding                                    |  |
| Single swing                                      |  |
| Double swing                                      |  |
| Overheadroller                                    |  |
| Floor waste                                       |  |
| Exhaust fan                                       |  |
| Mechanical ventilation as per part 3.8 of the BCA |  |
| Reduced level                                     |  |
| Smoke alarm                                       |  |
| To be demolished                                  |  |
| Roof/skylight/structure above                     |  |
| Floor/void/walls below/above                      |  |
| Revision cloud                                    |  |
| D : Door  |  |
| W : Window  |  |
| H : Height  |  |
| A : Revision number                               |  |
| yy.mm.dd : Revision date                          |  |

### 1 Existing/Demolish/Proposed ground floor plan

Scale: 1 : 100



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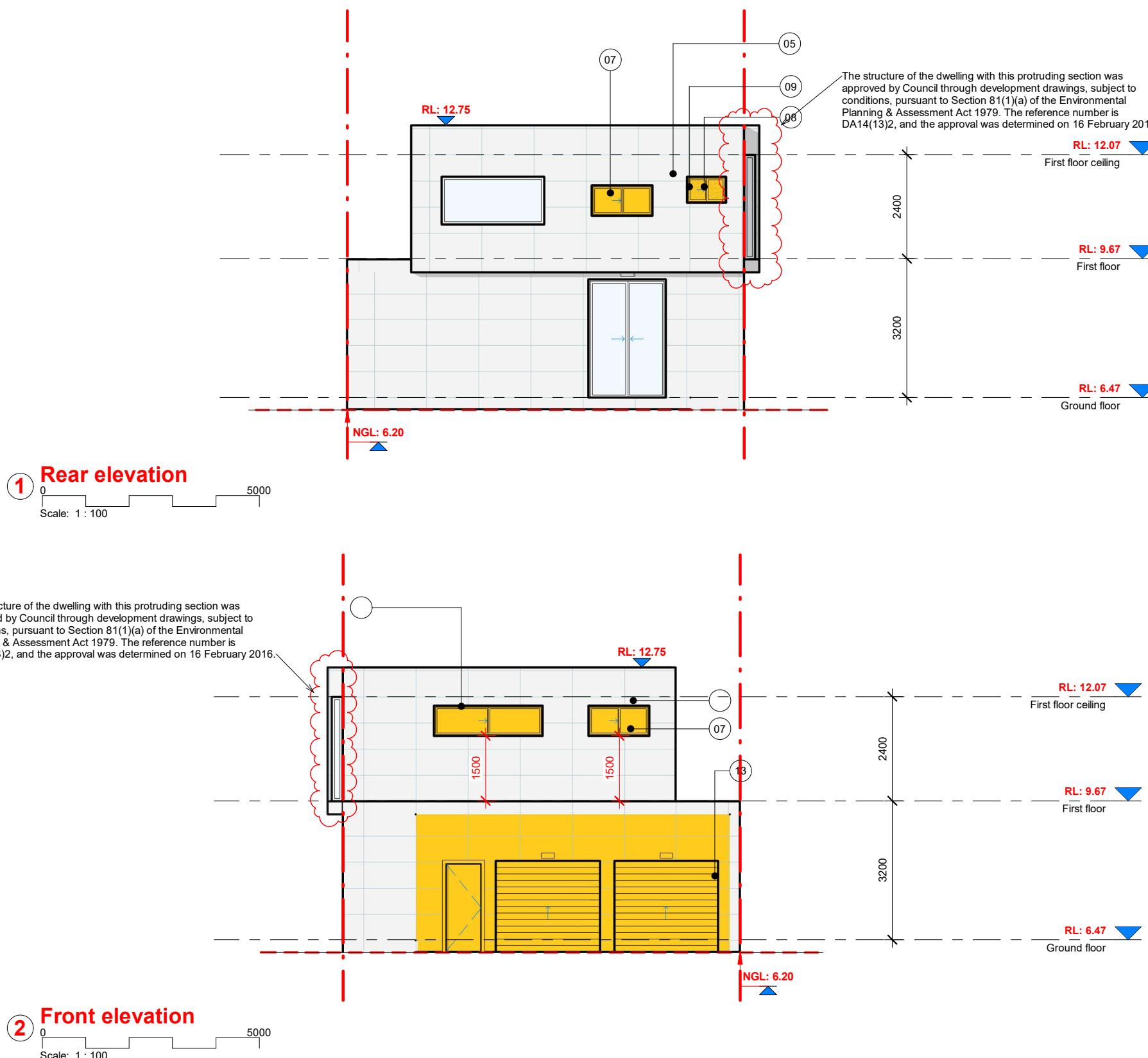
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Logo of  
associate  
entity

Email address of associate entity

| Drawing Existing/Demolish/Proposed ground floor plan |                               | Date     | S  | R    | Issued               |
|--|-------------------------------|----------|----|------|----------------------|
| Project  | S03953                        | 25.06.23 | 1  | A    |                      |
|  |                               | 25.06.26 | 2  | B    | As email on 25.06.26 |
|  |                               | 25.07.28 | 3  | C    | As email on 25.07.28 |
|  |                               | 26.01.12 | 4  | D    | As email on 26.01.05 |
| Address  | 51 Johnson Street Mascot 2020 | Sheet    | 06 | Size | A3                   |



### Exterior finishes schedule

| Images | Material | Description   |
|--------|----------|---|
|        | 02       | Colorbond range as selected by owner or similar material image  |
|        | 04       | Rendered and painted finish to walls or similar material image  |
|        | 05       | Cladding and painted finish to walls or similar material image  |
|        | 07       | Glass window, door, skylight, railing or similar material image |
|        | 08       | Frosted glass WC, bath window or similar material image         |
|        | 09       | Aluminium, cool gray or similar material image                  |
|        | 12       | Aluminium, cool gray or similar material image                  |
|        | 13       | Steel, ivory, matte or similar material image                   |

### Materials legend

|                             |  |
|-----------------------------|--|
| Existing brick wall         |  |
| Existing cladding wall      |  |
| Existing render finish wall |  |
| Existing tile roof          |  |
| Existing colourbond roof    |  |
| New brick wall              |  |
| New cladding wall           |  |
| New render finish wall      |  |
| New colourbond roof         |  |
| Window/s privacy screen     |  |

### Annotate legend

|                                       |  |
|---------------------------------------|--|
| Slope                                 |  |
| Reduced level                         |  |
| New ground level                      |  |
| Boundary line                         |  |
| New ground line                       |  |
| Natural ground line                   |  |
| Approximate fill region shown hatched |  |
| Approximate cut region shown hatched  |  |
| Revision cloud                        |  |
| A : Revision number                   |  |
| yy.mm.dd : Revision date              |  |

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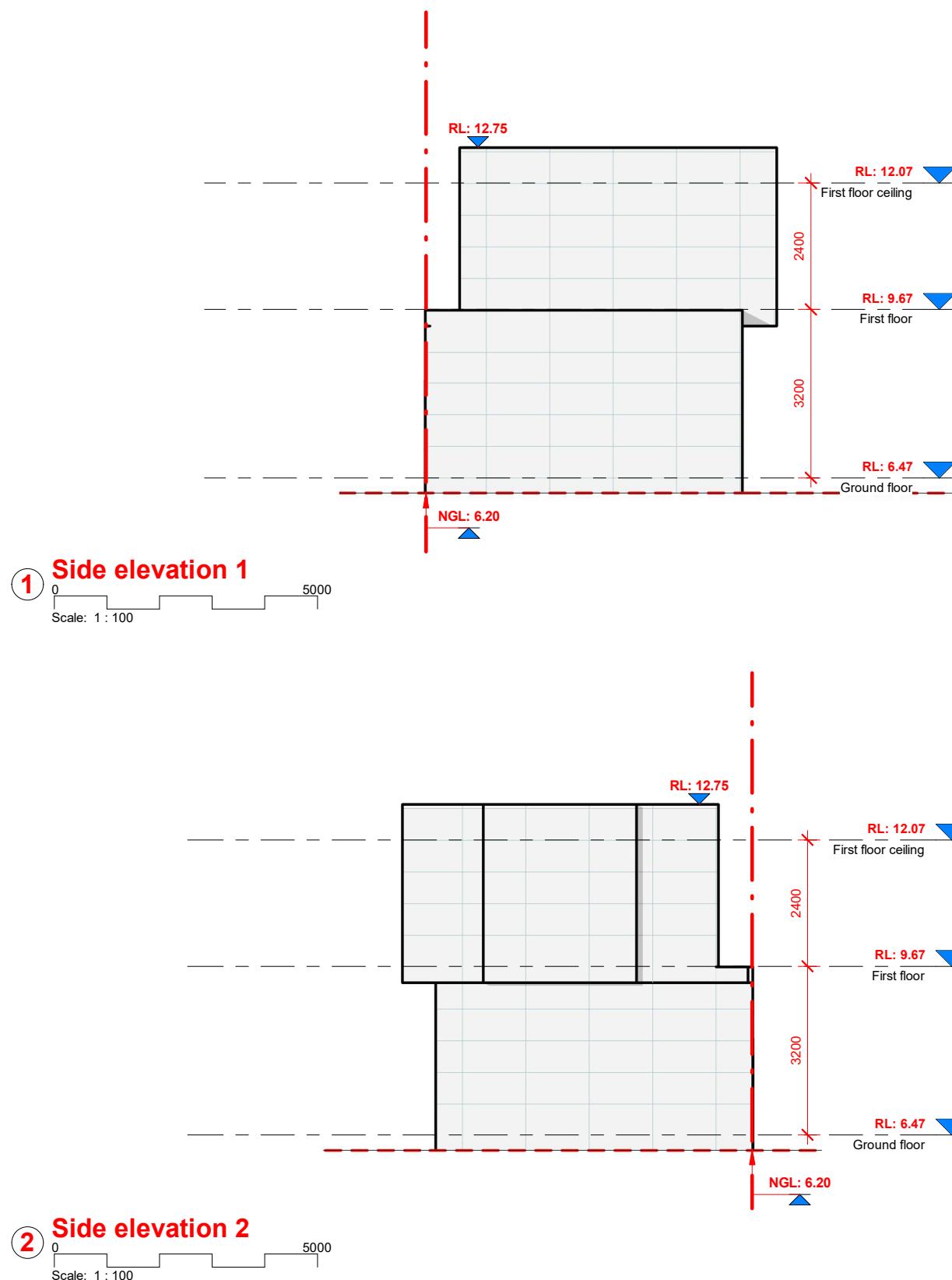
Email address of associate entity

Logo of associate entity

| Drawing Front elevation & Rear elevation |  | Date     | S | R | Issued               |
|--|--|----------|---|---|----------------------|
| Project <b>S03953</b>                    |  | 25.06.23 | 1 | A |                      |
|  |  | 25.06.26 | 2 | B | As email on 25.06.26 |
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Address 51 Johnson Street Mascot 2020

Sheet **08** SizeA3  
26.01.12 4 D As email on 26.01.05



### Materials legend

|                             |  |
|-----------------------------|--|
| Existing brick wall         |  |
| Existing cladding wall      |  |
| Existing render finish wall |  |
| Existing tile roof          |  |
| Existing colourbond roof    |  |
| New brick wall              |  |
| New cladding wall           |  |
| New render finish wall      |  |
| New colourbond roof         |  |
| Window/s privacy screen     |  |

### Annotate legend

|                                       |  |
|---------------------------------------|--|
| Slope                                 |  |
| Reduced level                         |  |
| New ground level                      |  |
| Boundary line                         |  |
| New ground line                       |  |
| Natural ground line                   |  |
| Approximate fill region shown hatched |  |
| Approximate cut region shown hatched  |  |
| Revision cloud                        |  |
| A : Revision number                   |  |
| yy.mm.dd : Revision date              |  |

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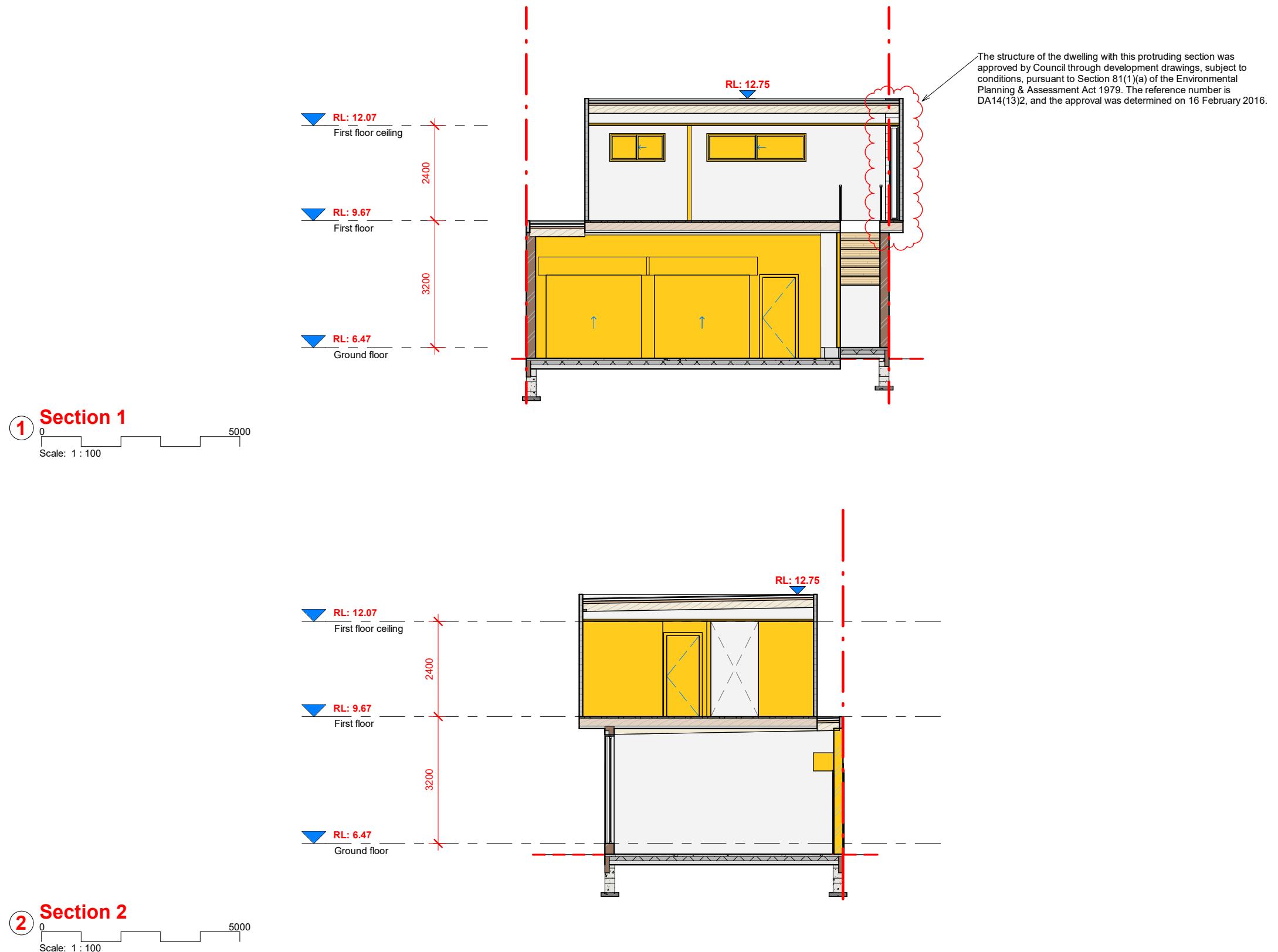
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| Drawing        | Side elevation/s | Date     | S       | R                             | Issued               |
|----------------|------------------|----------|---------|-------------------------------|----------------------|
| Project S03953 |                  | 25.06.23 | 1       | A                             |                      |
|                |                  | 25.06.26 | 2       | B                             | As email on 25.06.26 |
|                |                  | 25.07.28 | 3       | C                             | As email on 25.07.28 |
|                |                  | 26.01.12 | 4       | D                             | As email on 26.01.05 |
|                |                  |          | Sheet   | 09                            | Size A3              |
|                |                  |          | Address | 51 Johnson Street Mascot 2020 |                      |



The structure of the dwelling with this protruding section was approved by Council through development drawings, subject to conditions, pursuant to Section 81(1)(a) of the Environmental Planning & Assessment Act 1979. The reference number is DA14(13)2, and the approval was determined on 16 February 2016.

### Materials legend

|   |  |
|---|--|
| Existing stud timber                            |  |
| Existing framed (weatherboard/fibro/metal clad) |  |
| Existing concrete block/plasterboard            |  |
| Existing structure panel system                 |  |
| Existing cavity brick                           |  |
| Existing brick veneer                           |  |
| Existing fireproof                              |  |
| Existing tile roof                              |  |
| Existing colourbond roof                        |  |
| Existing concrete floor                         |  |
| Existing timber floor                           |  |
| New stud timber                                 |  |
| New framed (weatherboard/fibro/metal clad)      |  |
| Concrete block/plasterboard                     |  |
| New structure panel system                      |  |
| New Cavity brick                                |  |
| New brick veneer                                |  |
| CSR 2357 or higher to FRL 60/60 fire wall       |  |
| New tile roof                                   |  |
| New colourbond roof                             |  |
| New concrete slab                               |  |
| New timber floor                                |  |

### Annotate legend

|                                       |  |
|---------------------------------------|--|
| Reduced level                         |  |
| New ground level                      |  |
| Boundary line                         |  |
| New ground line                       |  |
| Natural ground line                   |  |
| Approximate fill region shown hatched |  |
| Approximate cut region shown hatched  |  |
| Revision cloud                        |  |
| A : Revision number                   |  |
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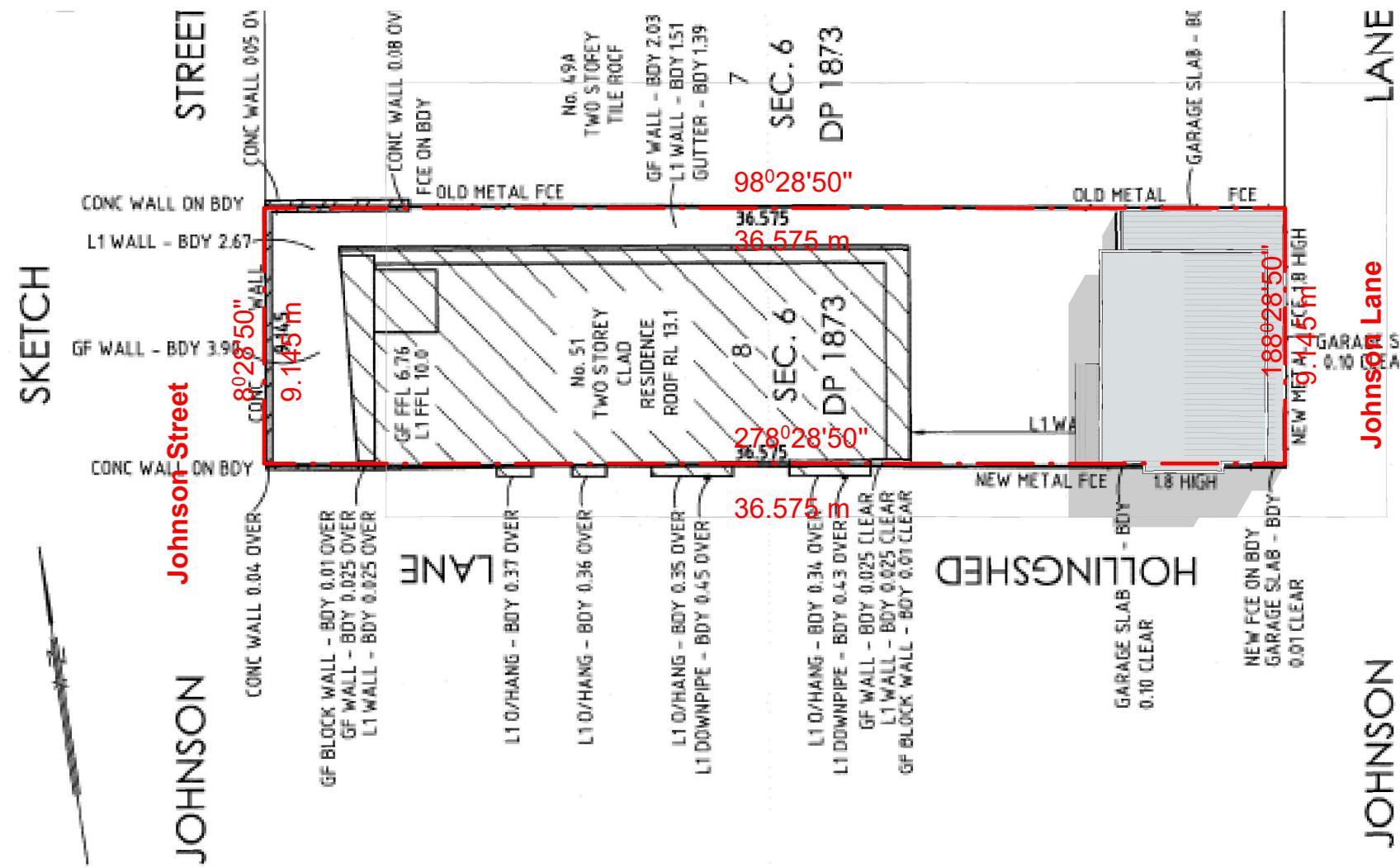
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| Drawing        | Section/s        | Date     | S | R | Issued               |
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|                |                  | 26.01.12 | 4 | D | As email on 26.01.05 |

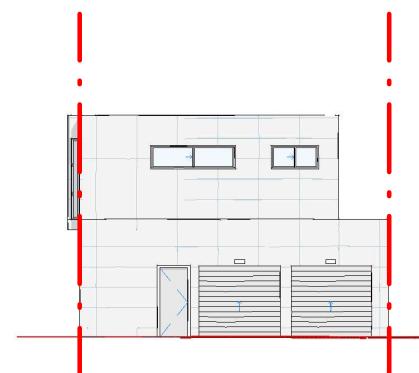
Address 51 Johnson Street Mascot 2020



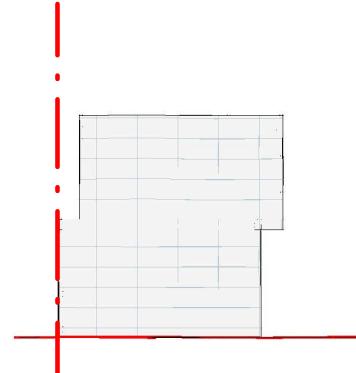
## Site plan



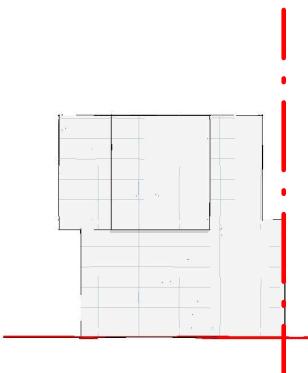
## Rear elevation



## Street elevation



## Side elevation 1



## Side elevation 2

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| Drawing | Notification plans |        |           | Date     | S        | R | Issued                 |
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| Project | <b>S03953</b>      | Sheet  | <b>15</b> | Size A3  | 25.06.26 | 2 | B As email on 25.06.26 |
|         |                    |        |           |          | 25.07.28 | 3 | C As email on 25.07.28 |
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25 JULY 2025

# Statement of Environmental Effects

## **51 Johnson Street, Mascot NSW 2020**

“Proposal to convert the approved, existing upper-level studio/storage area located above the garage and its associated Fully Enclosed Covered Area (FECA) - into a secondary dwelling.

The conversion will utilise the existing footprint and is entirely contained within the current approved built form, with no changes to the building envelope or any increase to the Council approved Floor Space Ratio (FSR)”.

Version 01

Applicant: Mr Mursel Sakalli



July 25, 2025

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## INTRODUCTION

### **Statement of Environmental Effects**

Subject Site: 51 Johnson Street, Mascot NSW 2020. Site zoning; R2 Low Density Residential, the title details: Lot 8 in Deposited Plan (DP) 1873, Section 6.

This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) submitted to Bayside Council for the proposed conversion of an existing, council-approved studio into a secondary dwelling (granny flat) above the garage enclosed area at 51 Johnson Street, Mascot, NSW 2020 (hereafter referred to as 'the subject site').

This application is made pursuant to Section 4.15 of the State Environmental Planning and Assessment Act 1979, and has been prepared in accordance with the following planning instruments:

- State Environmental Planning Policy (Housing) 2021,
- The Bayside Local Environmental Plan 2021 (BLEP 2021),
- The Bayside Council Development Control Plan 2022 (BDCP 2022),
- Clause 2(4) of Schedule 1 of the Environmental Planning and Assessment Regulation 2021.

In accordance with the Environmental Planning and Assessment Regulation 2021, this SEE addresses the matters required by the Regulation:

- a) The environmental impacts of the development,
- b) How the environmental impacts of the development have been identified,
- c) Steps to be taken to protect the environment and minimise potential harm,
- d) Any matters required to be addressed in accordance with guidelines issued by the Secretary for the purposes of this clause.

The environmental impacts of the proposed development, including measures taken to protect or lessen the expected harm to the environment, are addressed throughout this report.

### Overview of the Proposed Development

*Development Type:* Secondary dwelling (conversion of an existing studio above an existing detached and isolated garage).

### Scope of Proposed Works:

- No extension to the existing detached garage footprint.
- Internal reconfiguration of the existing upper-level studio and integration of the associated Fully Enclosed Covered Area (FECA) to facilitate conversion into a secondary dwelling (granny flat).
- All associated structural, plumbing, and electrical works required for the conversion of studio FECA into the secondary dwelling (granny flat).



Key Features:

- Minimal impact on streetscape and surrounding properties,
- Designed to maintain privacy and amenity for both dwellings,
- Compliant with relevant planning controls and development standards,
- Conversion of the approved studio into a self-contained secondary dwelling, incorporating; bedroom, living area, kitchen, and bathroom facilities with a small balcony facing Johnson Lane.

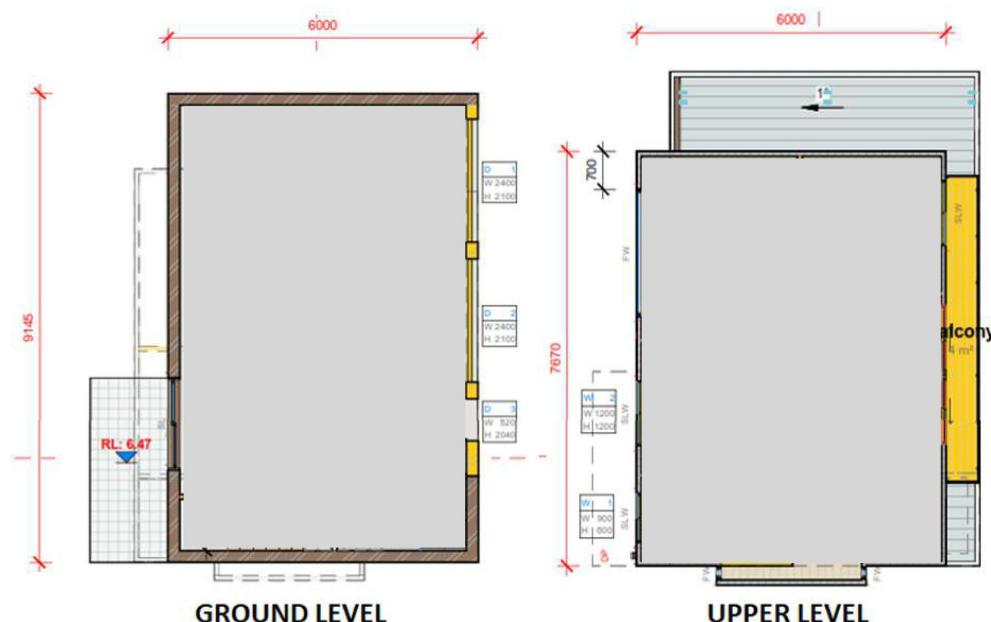


Figure 1 – The proposal does not involve any changes to the existing building footprint. It includes the conversion of the approved studio above the detached garage into a self-contained secondary dwelling, incorporating a balcony as part of the design.

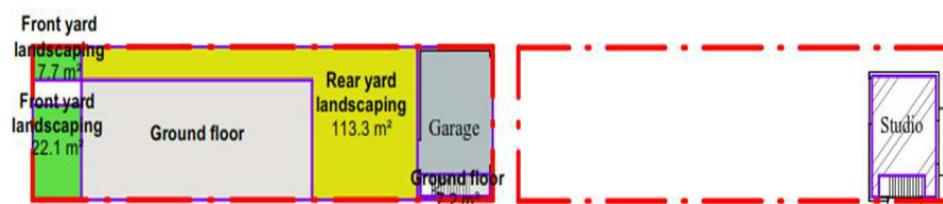


Figure 2 - The proposed layout provides clearly defined private open space areas for both the existing principal dwelling and the proposed granny flat, in accordance with the Bayside DCP 2022 requirements.



## LOCALITY ANALYSIS

The locality surrounding 51 Johnson Street, Mascot NSW 2020 is characterised by a mix of residential dwellings and nearby commercial development, reflecting the area's evolving urban landscape. Located in Sydney's inner-south, Mascot offers a balance between urban convenience and a suburban lifestyle, making it an increasingly desirable location for both families and working professionals. The area benefits from close proximity to public transport, retail amenities, and employment hubs, contributing to its ongoing residential growth and appeal.

**Surrounding Environment:** The surrounding environment comprises a diverse mix of detached dwellings, townhouses, and multi-storey apartment buildings, reflecting the area's gradual urban consolidation. The streetscape is generally well-maintained, featuring established gardens and green spaces that contribute to a pleasant residential character. The locality also benefits from its proximity to Botany Bay, enhancing the area's natural amenity and overall appeal.

**Accessibility:** Mascot is well-serviced by a range of public transport options, including frequent bus routes along Botany Road and train services from Mascot Railway Station, providing direct connections to the Sydney CBD and surrounding suburbs. The area also benefits from its proximity to major arterial roads, offering convenient access to Sydney Airport, the city centre, and the broader Sydney metropolitan area, making it highly accessible for both residents and visitors.

**Amenities:** Residents of Mascot enjoy access to a wide range of local amenities, including reputable schools such as Mascot Public School and J. J. Cahill Memorial High School. The area also features numerous parks, shops, cafés, and restaurants, contributing to a vibrant and convenient lifestyle for the local community. Additionally, larger shopping centres and recreational facilities are located within a short drive, catering to a variety of household needs and lifestyle preferences.

**Community Features:** Mascot offers a vibrant and inclusive community atmosphere, supported by a range of cultural and recreational activities. Community engagement is actively encouraged through local events and initiatives, contributing to a strong neighbourhood identity. The suburb is also well-equipped with recreational facilities, including parks, children's playgrounds, and open spaces that cater to the needs of families and residents of all ages.

**Future Development Potential:** Mascot demonstrates strong potential for future residential development, supported by ongoing infrastructure upgrades and government initiatives aimed at increasing housing supply within Sydney's inner suburbs. The local council encourages well-considered development that enhances the existing neighbourhood character, while ensuring the provision of adequate green spaces, community amenities, and sustainable urban design outcomes.

Overall, 51 Johnson Street is situated in a dynamic and well-connected locality, offering a broad range of amenities and strong community features. This makes it a suitable and supportive environment for the proposed secondary dwelling, while also aligning with the area's potential for long-term growth and development.

The development proposal for the site at 51 Johnson Street, Mascot, involves the conversion of an existing, approved studio above the detached double garage (with rear lane access) into a self-contained secondary dwelling (granny flat). This is not new construction, but a reconfiguration and change of use within the existing approved built form. The proposal is comparable to the recently approved conversion of a studio into a secondary dwelling at 5A Alfred Street. This initiative aims to provide flexible accommodation options, enhance the utility and value of the site, and align with applicable planning controls while respecting the established character of the local area.





#### OVERVIEW OF EXISTING CONDITIONS OF ORIGINAL DEVELOPMENT

The existing subject site is located at 51 Johnson Street, Mascot NSW 2020. The current site zoning is classified as an R2 - Low Density Residential, and the title details are noted as Lot 8 in Deposited Plan (DP) 1873, Section 6.

The subject site is located at the eastern side of Johnson Street between Hollingshed Street to the north, Hollinhshed Lane to the south and Johnson Lane to the east.

The site is regular in shape with an area of 334.48 m<sup>2</sup>, and a 9.14m frontage to Johnson Street. The site is relatively flat and currently accommodates a two-storey brick dwelling house, and a detached brick double garage with a studio above with access to Johnson Lane at the rear.

The land is categorised as Acid Sulfate Soil Class 4, and is located within the 25-30 Australian Noise Exposure Forecast Contour (2033) for aircraft noise. Johnson Street is characterised by narrow residential allotments (9m-10m), one and two-storey dwellings and garages located along Johnson and Hardies Lanes.

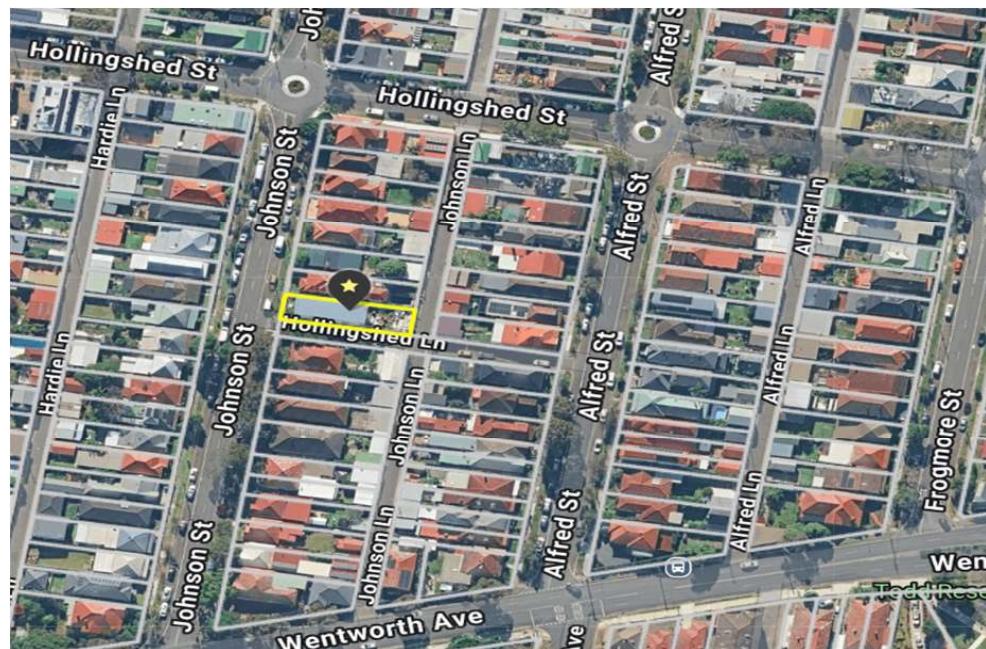


Figure 3 - Site and Locality layout (site highlighted in yellow).





Figure 4 - Front view from Johnson Street of the subject site.



Figure 5 - Rear view from Johnson Lane showing the approved studio located above the detached double garage. The proposal seeks a change of use to a secondary dwelling (granny flat) with no increase to the existing building footprint or GFA.





The subject site is not heritage listed, nor is it located in proximity to any heritage items or heritage conservation areas under the Bayside Local Environmental Plan 2021.

The original Development Application (DA) for the primary dwelling was lodged in 2014, followed by a Section 96 modification and a subsequent amendment to Condition 1A. The approval was for the construction of a two-storey dwelling with a garage, storage, and studio located at the rear of the property. The approved development has a height of 6.82 metres and a Floor Space Ratio (FSR) of 0.84:1, equating to approximately 286.64 m<sup>2</sup>. The DA was approved, as documented in Bayside Council's DA Tracker (refer to Figure 6 Bayside Council's DA abstract below).

51 Johnson Street MASCOT NSW 2020 Search

3 applications found

**DA-2014/13**

Development Application - Construction of two-storey dwelling with a garage/storage/studio at the rear of the property. The development will have a height of 6.82 metres and a floorspace ratio of 0.84:1 (286.64sqm)  
Address: **51 Johnson Street MASCOT NSW 2020**

Lodged: 28/01/2014 ( **Approved** : 02/07/2014 by Council )  
Applicant : Planning Urban Earth Pty Ltd  
Private Certifier : To Be Advised

**DA-2014/13/A**

Development Application - Section 96(2) Application to modify Development Consent No. 14/013 to delete Condition No. 3 and to amend the pop-out windows on the southern elevation. The bottom edge of the pop-out windows in the dwelling house will be at RL9.97 and for the garage/studio at RL9.67 which is 3.75m and 3.45m respectively above the level of the centreline (RL6.22) of the carriage way in Hollingshed Lane.

Address: **51 Johnson Street MASCOT NSW 2020**

Lodged: 02/09/2015 ( **Approved** : 03/02/2016 by Council )  
Applicant : Planning Urban Earth Pty Ltd  
Private Certifier : To Be Advised

**DA-2014/13/B**

Development Application - Modification of Condition 1A Modification of condition 1A to replace requirement for a lease or license agreement to formalise overhang of the window structures over the public road  
Address: **51 Johnson Street MASCOT NSW 2020**

Lodged: 08/05/2018 ( **Approved** : 04/06/2018 by Delegated Authority )  
Private Certifier : To Be Advised

**Figure 6 – Approval of existing Development Application – Source Bayside DA Tracker platform.**

To confirm compliance with current planning controls, the applicant has engaged Quantum QS, a Chartered and Certified Quantity Surveying firm, to undertake an independent assessment of the LEP Gross Floor Area (GFA) in accordance with:

- The Australian Institute of Quantity Surveyors (AIQS) Measurement Guidelines
- The Property Council of Australia's Method of Measurement
- Relevant definitions under the LEP and Bayside Local Environmental Plan 2021

Following this assessment, the total LEP-compliant Gross Floor Area (GFA) has been accurately identified as approximately 266.83 m<sup>2</sup>, which is significantly less than the originally deemed DA area of 286.64 m<sup>2</sup> (refer to the following measured schedule of areas (SoA) for further details).





The proposal will not alter or add any additional footprint to the existing approved built form. The double garage at ground level will remain unchanged (45.93 m<sup>2</sup>). The works involve the internal reconfiguration of the existing upper-level studio and the integration of the associated Fully Enclosed Covered Area (FECA) to facilitate its conversion into a secondary dwelling (granny flat), with a total area of approximately 34.31 m<sup>2</sup>.

The garage, staircase, voids etc spaces are non-habitable and serve ancillary functions, as such they are excluded from the LEP-GFA calculation in accordance with the definition of GFA under the Bayside Local Environmental Plan 2021 (BLEP 2021). These areas are considered within the maximum permitted garage area of 40 m<sup>2</sup> and therefore do not contribute to GFA for the purpose of Floor Space Ratio (FSR) compliance.

#### SCHEDULE OF AREAS (SOA) GROSS FLOOR AREA ANALYSIS

The area analysis is tabulated below which is measured in accordance with the following:

- The Australian Institute of Quantity Surveyors (AIQS) Measurement Guidelines,
- The Property Council of Australia's – the Method of Measurement & Guidelines,
- This supports compliance with FSR relevant definitions and controls under BLEP 2021.

Under the Standard Instrument LEP definition - which applies to Bayside LEP 2021 - car parking areas required by Council (including the access to that parking) are explicitly excluded from Gross Floor Area (GFA) calculations. This means spaces for garages and associated access are not counted towards Floor Space Ratio (FSR), even if they form part of a building envelope.

In addition, plant rooms, basements used for parking/storage, lift shafts, stairwells, and unenclosed balconies, terraces, or voids under 1.4 m high are also excluded. Bayside Council also supports this approach in practice, typically allowing up to 40 m<sup>2</sup> of garage/car parking area to be excluded from GFA for residential developments. As a result, the proposed secondary dwelling above an existing garage, including a slight extension for storage, can be classified as non-GFA up to that limit. This supports compliance with FSR controls under BLEP 2021.

In short, non-habitable, service, and outsourced open structural elements are not counted toward GFA. Only enclosed habitable floor areas are included, which helps reduce the calculation for things like voids, stairs, parking, and outdoor living spaces.

Therefore, the total LEP Gross Floor Area (GFA), inclusive of the proposed conversion of the studio to a secondary dwelling, is approximately 267 m<sup>2</sup> (rounded). Based on the site area, this results in a revised Floor Space Ratio (FSR) of 0.80:1. It is noted that the original Development Application (DA) was approved with a GFA of approximately 286.64 m<sup>2</sup>, equating to an FSR of 0.84:1.





| Functional Areas                           | FECA (Garage) (/m <sup>2</sup> ) | FECA (Living/Habitable) (/m <sup>2</sup> ) | UCA (Porch/Balcony) (/m <sup>2</sup> ) | Total Built Area (FECA + UCA) (/m <sup>2</sup> ) |
|--|----------------------------------|--|--|--|
| Ground Floor (GF) – Existing Main House    | 45.93                            | 112.87                                     | 5.23                                   | 163.73   |
| First Floor (FF) – Existing Main House     | -                                | 119.96                                     | -                                      | 119.96   |
| First Floor (FF) – Existing Studio/Storage | -                                | 34.31                                      | -                                      | 34.31  |
| <b>TOTAL LEP-GFA EXISTING SPACE</b>        | <b>45.93</b>                     | <b>266.33</b>                              | <b>5.23</b>                            | <b>317.99</b>                                    |
| Additional Balcony to proposed Granny Flat | -                                | 3.00                                       | 3.00                                   | 3.00   |
| <b>TOTAL (rounded)</b>                     | <b>46.00</b>                     | <b>267.00</b>                              | <b>8.00</b>                            | <b>321</b>                                       |

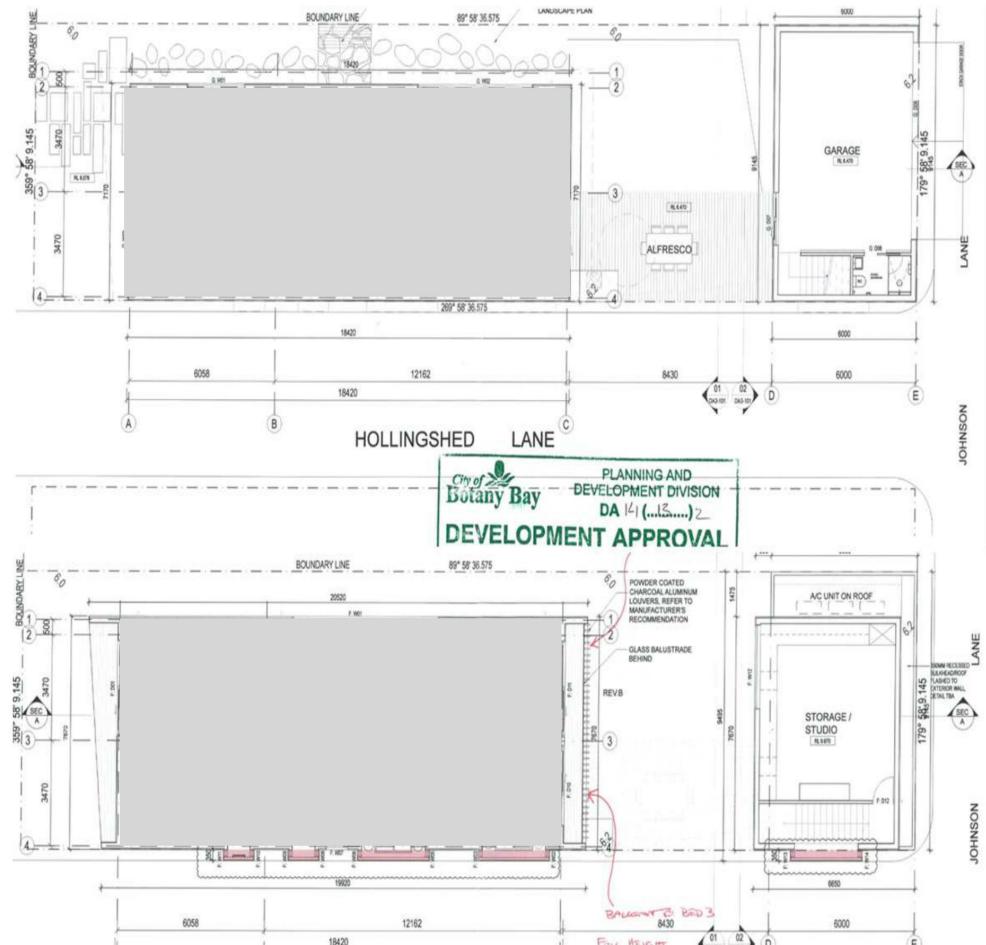
Measurement Notes:

**F.E.C.A (Fully Enclosed Covered Area):** The sum of all such areas at all building floor levels, including basements (except unexcavated portions), floored roof spaces and attics, garages, penthouses, enclosed porches and attached enclosed covered ways alongside building, equipment rooms, lift shafts, vertical ducts, staircases and any other fully enclosed spaces and useable areas of the building, computed by measuring from the normal inside face of exterior walls but ignoring any projections such as plinths, columns, piers and the like which project from the normal inside face of exterior walls. It shall not include open courts, light wells, connecting or isolated covered ways and net open areas of upper portions of rooms, lobbies, halls interstitial spaces and the like which extend through the storey being computed.

**U.C.A (Unenclosed Covered Area):**

The sum of all such areas at all building floor levels, including roofed balconies, open veranda's, porches and porticos, attached open covered ways alongside buildings, under-crofts and useable space under buildings, unenclosed access galleries (including ground floor) and any other trafficable covered areas of the building which are not totally enclosed by full height walls, computed by measuring the area between the enclosing walls or balustrade (i.e. from the inside face of the UCA excluding the wall or balustrade thickness). When the covering element (i.e. roof or upper floor) is supported by columns, is cantilevered or is suspended, or any combination of these, the measurements shall be taken to the edge of the paving or to the edge of the cover, whichever is the lesser. UCA shall not include eaves overhangs, sun shading, awnings and the like where these do not relate to clearly defined trafficable covered areas, nor shall it include connecting or isolated covered ways.





Figures 7 – 51 Johnson Street - Original Approved DA Drawings.





#### RECENTLY APPROVED SIMILAR DEVELOPMENT APPLICATION AT NEARBY SITES

##### Planning History - 5A Alfred Street Mascot:

- On 7 November 2000, development consent DA-2000/483 was granted by Council for the construction of a two-storey dwelling and detached garage to the rear of the property.
- On 28 May 2014, development consent DA-2013/204 was granted for the construction of a garage with a first-floor study.
- On 11 January 2019, development consent DA-2018/1064 was granted for alterations and additions to the existing outbuilding, including the conversion of the first-floor study into a secondary dwelling.

Note: The 2019 consent included a non-compliant Floor Space Ratio (FSR) exceedance. Additionally, the site is identified as flood-affected, and the existing Finished Floor Level (FFL) of the garage is below the 1% AEP flood level.

##### Planning History – 17 Alfred Street Mascot:

- On 20 January 2016, development consent DA-2015/105 was granted by Council for alterations and additions to the rear of the existing dwelling.
- On 27 February 2018, development consent DA-2017/1181 was granted by Council for alterations and an attic addition to the existing dwelling.

##### Planning History – 63 Alfred Street Mascot:

- On 22 March 2018, development consent DA-2017/1215 was granted by Council for the construction of a new two-storey dwelling with a detached rear double garage, including an attic over the garage.

Other nearby residential properties within a 300-metre radius of the subject site have received approval for secondary dwellings constructed above existing garages. As supporting evidence, we are providing the relevant property addresses and photographic captures below for reference (refer to Figures 8 to 14).



Figure 8 - 5A Alfred Street, approved conversion of an existing studio into a secondary dwelling (granny flat) above a detached double garage.





Figure 9 - 154 King Street, secondary dwelling above garage.



Figure 10 – 63 Frogmore St (red) and 67 Alfred St (green), the secondary dwellings are built above garage.

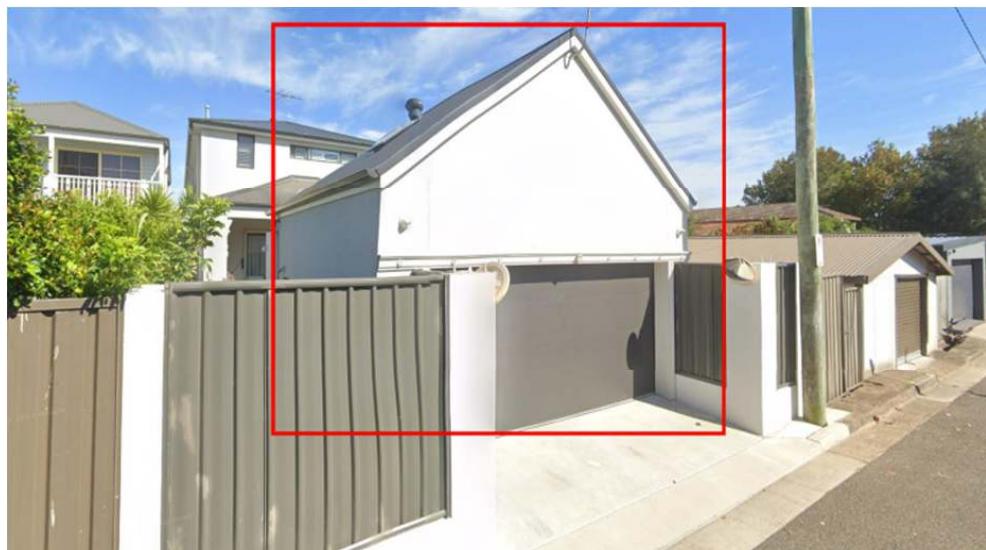


Figure 11 – 63 Alfred Street, approved attic above the existing garage (red).



Figure 12 - 67 Hardie Street, secondary dwelling above the garage, eastern view from Hardie Lane.





Figure 13 – 32 Johnson Street, secondary dwelling above the garage, western view from Hardie Lane.



Figure 14 – 68 Hardie Street, secondary dwelling above the garage, western view from Botany Lane.





## DEVELOPMENT PROPOSAL

This Statement is prepared in support of the proposed secondary dwelling, involves the conversion of an existing, approved upper-level studio into a self-contained living space above the detached garage. As no changes are proposed to the external built form or building footprint, the visual impact on the streetscape and surrounding properties is minimal.

The proposal involves the conversion of an existing, approved upper-level studio into a compact one-bedroom secondary dwelling (granny flat) above the detached double garage. The structure maintains a building height of 7.15 metres (RL 13.35) for the main and 6.55 metres (RL 12.75) for the detached structure at the rear, which are below the 9-metre height limit applicable to the site. The design is consistent with the local character and complies with all relevant planning controls. The internal layout will be reconfigured to optimise the available space, incorporating essential amenities including a kitchen, living area, bathroom, and bedroom. In addition, a minimum of 50 m<sup>2</sup> of private open space is provided in accordance with planning requirements, enhancing amenity and delivering a functional and comfortable living environment for future occupants.

There are no changes proposed to the building footprint of either the principal dwelling or the detached garage with the existing studio above. The numerical elements of the proposal are as below. The LEP-GFA for existing and proposed have been calculated by Quantum QS:

- Site area: 334.48 m<sup>2</sup>, (max. FSR classified as site area "H" is 0.70:1 = 234.14 m<sup>2</sup>, Sheet FSR 008,
- Existing LEP-GFA as calculated by Quantum QS: 266.83 m<sup>2</sup>, DA Approved GFA is ~ 286.64 m<sup>2</sup>,
- Proposed studio conversion LEP Gross Floor Area (GFA), as calculated by Quantum QS is 34.31 m<sup>2</sup>.  
The total proposed LEP-GFA (including the existing main house GFA and the proposed studio conversion) is 266.83 m<sup>2</sup>. Kindly note, that there is no increase to the approved building footprint.
- Therefore, the overall proposal complies with the applicable Floor Space Ratio (FSR) and LEP Gross Floor Area (GFA) controls, as no additional built area is proposed. The works involve a conversion and change of use from an approved studio to a secondary dwelling, with no increase in the existing building footprint.

This SEE should be read in conjunction with Design Plans prepared by 'giantA' submitted with the Development Application (DA).

Ground Floor Level (Garage) - at the rear of the site between the existing principal dwelling and the existing detached garage

- Retain existing detached double-garage as current with no addition works,

First Floor Level (Above Garage) – Convert studio space into the secondary dwelling above the existing rear detached double garage.

- Conversion of the existing approved studio space into a self-contained secondary dwelling, comprising the following functional areas:
  - Kitchen,
  - Bedroom,
  - Living Space,
  - Bathroom, with a small balcony looking overlooking Johnson Lane.





Following this assessment, the total LEP-compliant Gross Floor Area (GFA) has been accurately identified as circa ~266.83.22 m<sup>2</sup>, which is significantly less than the originally approved DA area of 286.64 m<sup>2</sup> (refer to Figure 6 DA-2014/13 as well as the measurement of the "Schedule of Areas (SoA)" for further details).

The proposal will not alter or add any additional footprint to the existing approved built form. The double garage at GL will remain unchanged (45.93 m<sup>2</sup>). The works involve the internal reconfiguration of the existing upper-level studio and the integration of the associated Fully Enclosed Covered Area (FECA) to facilitate its conversion into a secondary dwelling (granny flat), with a total area of approximately 34.31 m<sup>2</sup>.

As these spaces are non-habitable and serve ancillary functions, they are excluded from the GFA calculation in accordance with the definition of GFA under the Bayside Local Environmental Plan 2021 (BLEP 2021). These areas are considered within the maximum permitted garage area of 40 m<sup>2</sup> and therefore do not contribute to GFA for the purpose of Floor Space Ratio (FSR) compliance.



Figure 15 – Originally Approved Double Garage with Studio Above.

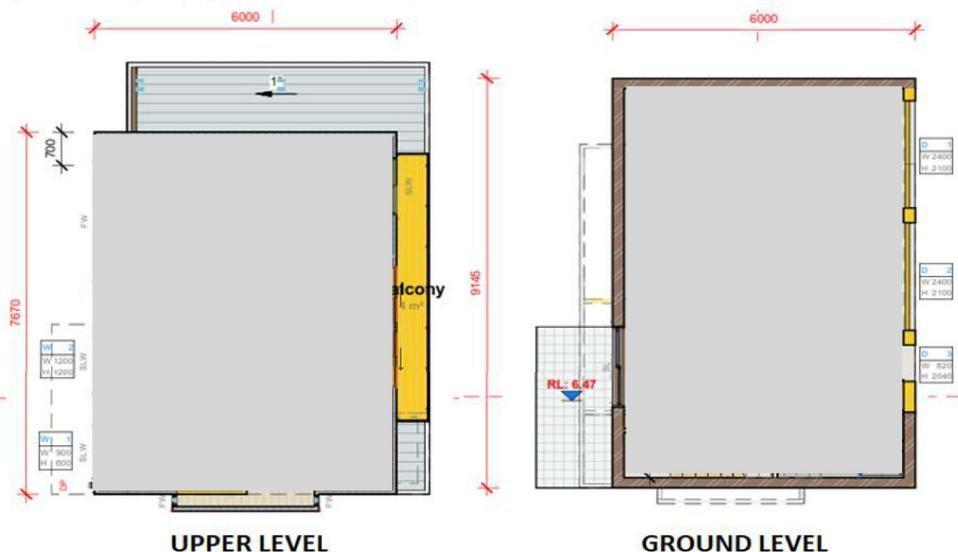


Figure 16 - The proposal involves the conversion of the approved upper-level studio into a self-contained secondary dwelling. The ground floor garage will remain unchanged and is to be retained as per the existing approval.



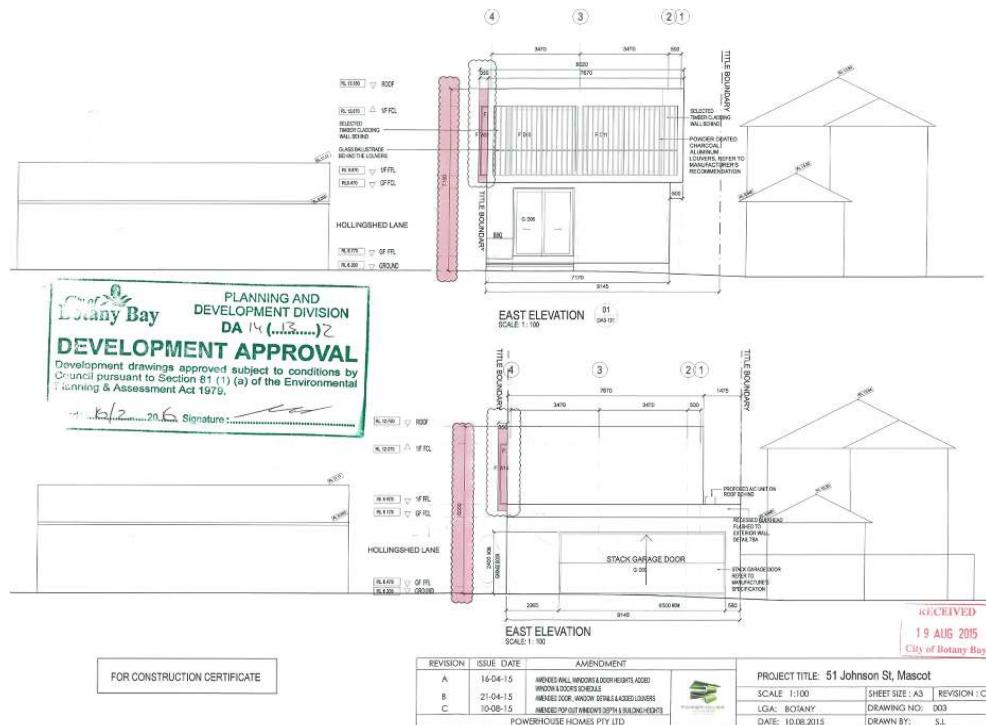


Figure 17 – Existing Approved Eastern Elevation.

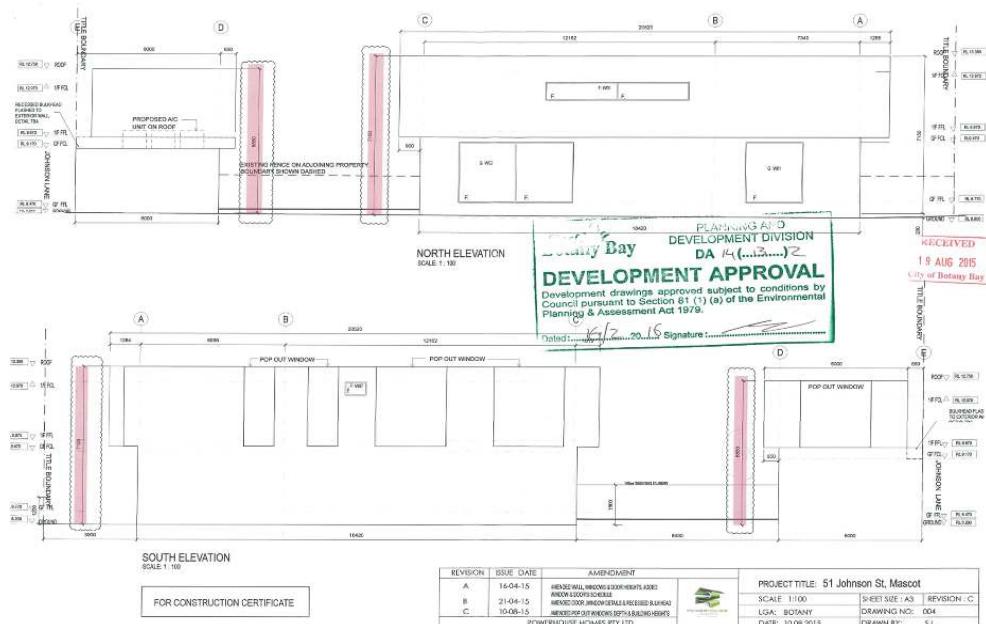


Figure 18 - Existing Approved Southern Elevation.



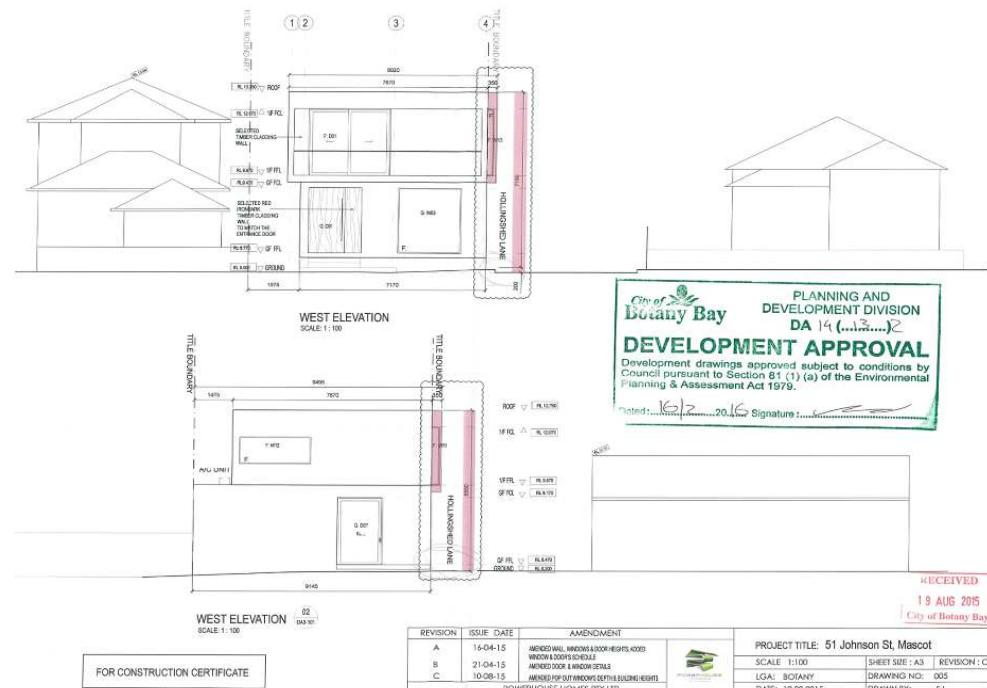


Figure 19 - Existing Approved Western Elevation.

***Impact on Streetscape and Neighbourhood Character:*** The proposed secondary dwelling involves the conversion of an existing, approved upper-level studio into a self-contained living space above the detached garage. As no changes are proposed to the external built form or building footprint, the visual impact on the streetscape and surrounding properties is minimal. The development retains the existing architectural character, materials, and finishes, ensuring a seamless integration with the surrounding residential context. Its modest scale and unchanged building envelope preserve existing sightlines and protect the amenity of neighbouring dwellings. In addition, proposed landscaping enhancements will improve the site's visual appeal and contribute positively to the established streetscape and broader neighbourhood character.

***Environment and Heritage Considerations:*** The subject site is not located within a designated bushfire-prone area, thereby reducing environmental risk associated with bushfire hazards. Furthermore, the proposed development does not impact any heritage-listed properties and has been designed to respect the character and values of the local area, ensuring that no adverse effects arise in relation to historically or culturally significant elements of the suburb.

***Conclusion:*** In summary, the proposal at 51 Johnson Street, Mascot involves the conversion of an existing, approved upper-level studio into a self-contained secondary dwelling. The development complies with all relevant planning controls and aligns with the strategic objective of increasing housing diversity within the local area. By adopting a design approach that is sensitive to the site's existing built form, neighbourhood character, and environmental context, the proposal delivers a high-quality living space without expanding the existing footprint. It contributes positively to both the subject site and the broader Mascot community.





## RELEVANT PLANNING ASSESSMENT AND INSTRUMENTS

The application is to be assessed against the relevant Environmental Planning Instruments below:

### RELEVANT PLANNING INSTRUMENTS

1. Environmental Planning & Assessment Act (1979)
2. Environmental Planning & Assessment Regulations (2021)
3. State Environmental Planning Policy (Housing) 2021
4. Bayside Local Environmental Plan 2021

And the following Local Provisions:

### RELEVANT LOCAL PLANNING INSTRUMENTS

5. Bayside Council Development Control Plan 2022

## ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

### Section 25 – Concurrences and/or Approvals

Pursuant to Section 25 of the Environmental Planning and Assessment Regulation 2021, no additional state-level concurrences or approvals are required for the proposed secondary dwelling (granny flat) at 51 Johnson Street, Mascot NSW 2020, beyond the standard local council approval.

### Section 27 – BASIX™

In accordance with Section 27 of the Environmental Planning and Assessment Regulation 2021, the proposed development at 51 Johnson Street, Mascot NSW 2020 does not trigger the threshold for requiring a BASIX™ Certificate. However, the applicant has attained a certificate for BASIX™ (refer to Figure 20).

### BASIX™ Certificate

Building Sustainability Index  
[www.planningportal.nsw.gov.au/development-and-assessment/basix](http://www.planningportal.nsw.gov.au/development-and-assessment/basix)

#### Single Dwelling

Certificate number: 1801426S

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at [www.planningportal.nsw.gov.au/definitions](http://www.planningportal.nsw.gov.au/definitions)

Secretary

Date of issue: Wednesday, 25 June 2025

To be valid, this certificate must be submitted with a development application or lodged with a complying development certificate application within 3 months of the date of issue.



| Project summary           |  |             |
|---------------------------|--|-------------|
| Project name              | 51 Johnson St - BEST BUILD                     |             |
| Street address            | 51 JOHNSON Street MASCOT 2020                  |             |
| Local Government Area     | Bayside Council                                |             |
| Plan type and plan number | Deposited Plan DP1873                          |             |
| Lot no.                   | 8  |             |
| Section no.               | 6  |             |
| Project type              | dwelling house (detached) - secondary dwelling |             |
| No. of bedrooms           | 1  |             |
| Project score             |  |             |
| Water                     | ✓ 40   | Target 40   |
| Thermal Performance       | ✓ Pass   | Target Pass |
| Energy                    | ✓ 69   | Target 68   |
| Materials                 | ✓ 23   | Target n/a  |

Figure 20 – BASIX™ Certificate Number 1801426S.





#### PLANNING LEGISLATION (EPA ACT, 1979)

The Environmental Planning & Assessment Act 1979 (EP&A Act) establishes the overarching regulatory framework for land use planning and development assessment in New South Wales. It includes provisions for the consideration of the following key matters:

- Section 1.7 – Threatened Species and Biodiversity Impacts
- Section 4.15 – Evaluation of Development Applications
  - Section 4.15(1)(a)(i) - The provisions of any Environmental Planning Instrument;
  - Section 4.15(1)(a)(ii) - The provisions of any exhibited Draft Environmental Planning Instruments;
  - Section 4.15(1)(a)(iii) - The provisions of any Development Control Plan;
  - Section 4.15(1)(a)(iiia) - The provisions of any Planning Agreement entered into under s7.4 or proposed Planning Agreement;
  - Section 4.15(1)(a)(iv) - The provisions of the Regulations;
  - Section 4.15(1)(b) - The likely environmental impacts on both the natural and built environments, and social and economic impacts of the development; o Section 4.15(1)(c) - The suitability of the site for the development;
  - Section 4.15(1)(d) - Any submissions made in accordance with the Act or the regulations; and
  - Section 4.15(1)(e) - The public interest.
- Section 4.46 - Integrated Development.

#### SECTION 1.7 OF THE EP&A ACT, 1979

The EP&A Act contains provisions designed to ensure both the threatened species legislation as well as any approvals required under other legislation (known as integrated development) are considered as part of a single development assessment process. The provisions as they apply to the proposed development are discussed below.

##### *BIODIVERSITY IMPACTS*

Section 1.7 of the EP&A Act requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments. Given the relative minor nature of the proposal (alterations & additions to existing double garage, including new Secondary Dwelling above) within a suburban environment, it is considered that the proposed development will not have a significant effect on threatened species, populations or ecological communities.

#### SECTION 4.46 OF THE EP&A ACT, 1979

Section 4.46 (formerly Section 91) of the Act details requirements for development known as "integrated development" which require a separate/additional approval from other government agencies and related legislation. The development is not "integrated development" as indicated by the table below:





| Legislation                                | ✓ ✗ | Legislation                                       | ✓ ✗ |
|--|-----|---|-----|
| Coal Mine Subsidence Compensation Act 2017 | ✗   | Protection of the Environment Operations Act 1997 | ✗   |
| Fisheries Management Act 1994              | ✗   | Petroleum (Onshore Act) 1991                      | ✗   |
| Heritage Act 1977                          | ✗   | Roads Act 1993                                    | ✗   |
| Mining Act 1992                            | ✗   | Rural Fires Act 1997                              | ✗   |
| National Parks & Wildlife Act 1974         | ✗   | Water Management Act 2000                         | ✗   |

#### ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000 – SCHEDULE 2

This Statement of Environmental Effects (SEE) has been prepared to assess the environmental, social, and economic impacts of the proposed development. It addresses the relevant matters set out in Schedule 2 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), including consideration of the principles of ecologically sustainable development (ESD).

In accordance with Clause 7(4) of Schedule 2 of the EP&A Regulation, the four key principles of ecologically sustainable development that must be considered in the assessment of a development are:

1. The precautionary principle – where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
2. Inter-generational equity – the present generation should ensure the health, diversity, and productivity of the environment is maintained or enhanced for future generations.
3. Conservation of biological diversity and ecological integrity – the diversity of living organisms and ecosystems must be conserved.
4. Improved valuation, pricing, and incentive mechanisms – environmental factors should be included in the valuation of assets and services, including considering the costs of environmental degradation.

##### 1. PRECAUTIONARY PRINCIPLE

The Precautionary Principle applies in situations where there is uncertainty about the potential for serious or irreversible environmental harm. It provides that the absence of full scientific certainty should not be used as a reason to delay measures to prevent environmental degradation.

This principle requires a thorough evaluation of potential environmental impacts to avoid, wherever practicable, significant or irreversible harm. In this case, given the minor scope of the proposal - comprising alterations and additions to an existing double garage and the construction of a new secondary dwelling above - the proposal does not present any identified risk of serious or irreversible environmental damage. Accordingly, the precautionary principle is considered not applicable to this development.





## 2. INTERGENERATIONAL EQUITY

Intergenerational Equity focuses on ensuring that the health, diversity, and productivity of the environment are preserved or enhanced for the benefit of future generations. This proposal has been designed with that objective in mind, offering benefits to both current and future residents through the following measures:

Retention and enhancement of existing structures: The existing principal dwelling is preserved for ongoing enjoyment, while the detached garage is upgraded and value-added through the construction of a minor additional floor area above - consistent with other Council-approved developments in the locality (i.e. secondary dwellings above rear lane garages).

Minimisation of environmental impact: By largely retaining and reusing the existing built form, the proposal avoids unnecessary demolition and reduces construction waste, contributing to sustainable resource management.

Support for local employment and sustainability: The development will create short-term construction jobs and is well-located in proximity to public transport, supporting broader environmental and economic sustainability goals.

The proposal integrates short- and long-term environmental, economic, and social considerations to avoid placing undue burden on future generations. Potential long-term issues, such as waste management, have been considered and will be addressed through appropriate construction planning, environmental safeguards, and conditions of consent imposed by Council.

## 3. CONSERVATION OF BIOLOGICAL DIVERSITY AND ECOLOGICAL INTEGRITY

This principle affirms that the conservation of biological diversity and ecological integrity must be a fundamental consideration in land use planning and development.

The proposed development is located within an already urbanised residential setting and does not affect any identified environmentally sensitive areas, threatened species, or ecologically significant vegetation. As such, the proposal is not expected to have any adverse or measurable impact on the biological diversity or ecological integrity of the subject site or its surroundings. Accordingly, the principle of biological diversity has been considered and satisfied in the context of this proposal.

## 4. IMPROVED VALUATION, PRICING AND INCENTIVE MECHANISMS

This principle requires the proper consideration of all environmental resources potentially affected by a proposal, including air, water, land, and biodiversity. It emphasises that environmental costs should be factored into planning and decision-making processes.

In line with this principle, the proposed development incorporates mitigation measures aimed at avoiding, reducing, reusing, and recycling waste throughout the construction phase. These strategies ensure that natural resources are utilised efficiently and responsibly from the outset.

Furthermore, additional safeguards will be implemented to ensure that environmental resources in the locality are not adversely impacted during either the construction or operational stages of the development. These measures will be supported by appropriate conditions of consent imposed by Council, ensuring long-term environmental accountability and compliance.





**SECTION 4.15 OF THE EP&A ACT, 1979**

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

**ENVIRONMENTAL PLANNING INSTRUMENTS, DCPS AND PLANNING AGREEMENTS**

The proposed development is subject to the provisions of the following Environmental Planning Instruments (EPIs), which have been considered in the assessment of this application:

- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- Bayside Local Environmental Plan 2021 (BLEP 2021)

An assessment of the merits of the proposed development against the applicable controls of the above EPIs is detailed in this Statement below:

**STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

The State Environmental Planning Policy (Sustainable Buildings) 2022 came into force on 1 October 2023, replacing the former SEPP (BASIX) 2004. This SEPP aims to minimise the consumption of energy and mains-supplied potable water, reduce greenhouse gas emissions, and ensure improved thermal performance of buildings.

The policy encourages the design and delivery of more sustainable buildings across NSW by setting sustainability standards for both residential and non-residential developments. It also introduces the process of measuring and reporting on the embodied emissions of construction materials, thereby promoting more environmentally responsible construction practices.

SEPP 2022 provides a consistent framework for the implementation of BASIX and the assessment of building sustainability throughout the State. In compliance with these requirements, a BASIX Certificate (No. 1801425S – Refer to Figure 20) has been prepared and is submitted with this Development Application.

**STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

The former SEPP (Vegetation in Non-Rural Areas) 2017 has been repealed and its provisions incorporated into Chapter 2 (Vegetation in Non-Rural Areas) of the State Environmental Planning Policy (Biodiversity and Conservation) 2021. This chapter continues to regulate the clearing of native vegetation on urban land and land zoned for environmental conservation or management that does not require development consent.





The provisions apply to:

- Clearing of native vegetation above the Biodiversity Offset Scheme (BOS) threshold, which requires approval from the Native Vegetation Panel under the Local Land Services Amendment Act 2016; and
- Clearing below the BOS threshold, which may require a permit from Council if the vegetation is identified in the local Development Control Plan (DCP).

In this case, there are no existing trees on the site that are affected by the proposed development, and no tree removal is required. Accordingly, the proposal is considered to comply with the relevant provisions of the SEPP and Council's DCP.

#### STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The State Environmental Planning Policy (Housing) 2021 ("Housing SEPP") commenced on 26 November 2021, with the objective of facilitating the delivery of more affordable and diverse forms of housing across New South Wales. This consolidated SEPP replaces and repeals five previous housing-related SEPPs, specifically:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP),
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP),
- State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) (SEPP 70),
- State Environmental Planning Policy No. 21 – Caravan Parks, and,
- State Environmental Planning Policy No. 36 – Manufactured Home Estates.

The Housing SEPP introduces two new housing typologies - co-living housing and independent living units - to promote innovative and flexible housing options.

Chapter 3 – Diverse Housing, Part 1 – Secondary Dwellings, of the Housing SEPP contains provisions directly relevant to the subject application. These provisions facilitate the development of secondary dwellings (granny flats) on lots in residential zones, subject to development standards related to building height, setbacks, site coverage, and access.

This proposal seeks approval for the conversion of an existing, approved studio space located above a garage into a self-contained secondary dwelling. The proposed development does not involve any increase in the existing building footprint and is located at 51 Johnson Street, Mascot.

The proposal complies with the objectives and controls set out under the State Environmental Planning Policy (Housing) 2021 (Housing SEPP), specifically relating to secondary dwellings. It satisfies all applicable requirements, including building height, floor area, setbacks, private open space provision, and access arrangements.

The design supports the aims of the Housing SEPP by contributing to the supply of diverse and affordable housing while preserving the existing neighbourhood character and residential amenity.

Accordingly, the proposal is consistent with the intent and planning controls of the Housing SEPP as they apply to secondary dwellings in this locality.



| State Environmental Planning Policy (Housing) 2021 – Chapter 3 (Diverse Housing), Part 1 Secondary Dwellings |  |  |   |
|--|--|--|---|
| Clause   | Development Standards  | Proposed Development   |   |
| <b>49</b>  | Definitions  |  |   |
|  | <p>In this Part –</p> <p>development for the purposes of a secondary dwelling includes the following: (a) the erection of, or alterations or additions to: (i) a secondary dwelling, or (ii) an ancillary structure within the meaning of Schedule 2, (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling. residential zone means the following land use zones or an equivalent land use zone: (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone R4 High Density Residential, (e) Zone R5 Large Lot Residential</p> | <p>The development is consistent with the definitions – see below for details.</p>   |    |
| <b>50</b>  | Application of Part  |  |   |
|  | <p>This Part applies to development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.</p>   | <p>The development involves the conversion of an existing, approved studio – located above a detached garage - into a secondary dwelling within the R2 Low Density Residential zone. Development for the purposes of a dwelling house is permissible under the provisions of the Bayside Local Environmental Plan 2021. Accordingly, Chapter 3 Part 1 of the Housing SEPP applies to the subject land.</p> |    |
| <b>51</b>  | No Subdivision   |  |   |
|  | <p>This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling and ancillary development (within the meaning of Schedule 1).</p>  | <p>Subdivision is not proposed by this development application (DA).</p>   |    |



| State Environmental Planning Policy (Housing) 2021 – Chapter 3 (Diverse Housing), Part 1 Secondary Dwellings |   |  |              |
|--|---|--|--------------|
| Clause   | Development Standards   | Proposed Development   |              |
| <b>52</b>  | Development may be carried out with consent   |  |              |
| <b>52 (1)</b>  | <p>(1) Development to which this Part applies may be carried out with consent.</p> <p>(2) Development consent must not be granted for development to which this Part applies unless:</p> <ul style="list-style-type: none"> <li>(a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and</li> <li>(b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and</li> <li>(c) the total floor area of the secondary dwelling is: <ul style="list-style-type: none"> <li>(i) no more than 60m<sup>2</sup>, or</li> <li>(ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area.</li> </ul> </li> </ul> | <p>As detailed above, the development satisfies the matters prescribed under Clauses 49 and 50 of the Housing SEPP, and is therefore development that may be carried out with consent.</p> <p>The proposal will result in only two dwellings on the site - the principal dwelling and the secondary dwelling.</p> <p>Under Clause 4.4 of the Bayside Local Environmental Plan 2021 (BLEP 2021), the site is DA approved with a floor space ratio (FSR) control of 0.84:1. The proposed development will remain well within this limit, with a total LEP gross floor area (GFA) of approximately 266.83m<sup>2</sup>. This includes the principal dwelling at approximately 232.52m<sup>2</sup> and the proposed secondary dwelling (granny flat) at 34.31m<sup>2</sup>.</p> <p>These figures are detailed in the Schedule of Areas section, as measured by Quantum QS in accordance with the LEP GFA definitions - which exclude car parking spaces (up to 40m<sup>2</sup>), stairs, balconies, and voids.</p> <p>The resulting total FSR for the site is 0.80:1, which complies with the current approved FSR control.</p> <p>The total LEP gross floor area (GFA) of the proposed secondary dwelling is equivalent to that of the existing, approved studio — approximately 34.31m<sup>2</sup>. Accordingly, the proposal does not exceed the maximum floor area permitted under the Housing SEPP or the Bayside Local Environmental Plan 2021 (BLEP 2021). For further reference, see the BLEP 2021 section of this Statement and the determined DA 2014/13 (Figure 6, sourced from the Bayside Council DA Tracker).</p> <p>Importantly, this proposal does not seek any additional floor area or building works. It is solely for the conversion of an existing approved space and a change of use - from a studio to a self-contained secondary dwelling (granny flat) under 34.31 m<sup>2</sup>.</p> | <br><br><br> |



| State Environmental Planning Policy (Housing) 2021 – Chapter 3 (Diverse Housing), Part 1 Secondary Dwellings |  |   |                            |
|--|--|---|----------------------------|
| Clause   | Development Standards  | Proposed Development  |                            |
| <b>53</b>  | Non-discretionary development standards  |   |                            |
|  | <p>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</p> <p>(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies:</p> <p>(a) for a detached secondary dwelling - a minimum site area of 450m<sup>2</sup>,</p> <p>(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.</p> | <p>Noted. Clause 53(1) only provides a standard for the consent authority where if complied with, prevent the consent authority from requiring more onerous standards. These standards do not impose a minimum numerical requirement that must be complied with. Accordingly, the consent authority can still approve an Application for a secondary dwelling even in instances where the DA does not meet those provisions. The relevant provisions in these clauses need to be considered on <b>merit</b> if the proposal reasonably satisfies the performance criteria</p> <p>Referencing Clause 4.6 of the Standard Instrument (Local Environmental Plans) Order 2006, as applied in the Bayside Local Environmental Plan (BLEP) 2021, allows consent authorities to grant development consent even if a proposed development contravenes a development standard, provided certain conditions are met. This clause aims to provide flexibility in development standards and achieve better outcomes in specific circumstances.</p> <p>The development for a secondary dwelling detached from the existing principal dwelling, and the site area is 334.48 m<sup>2</sup>. It is noted that other secondary dwellings DAs have been approved at neighbouring properties which have similar design (e.g. above rear lane garage) with similar site area.</p> <p>No additional parking is proposed. The proposal retains the existing parking situation i.e. 2- parking spaces can be accommodated under the existing double garage. There are also good availability of parking on the surrounding streets and Laneways.</p> | <p>N/A</p> <p></p> <p></p> |

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021 SEPP

The State Environmental Planning Policy (Transport and Infrastructure) 2021 repeals and replaces four former SEPPs, including the former SEPP (Infrastructure) 2007, with the objective of facilitating the effective delivery of infrastructure across New South Wales. This policy streamlines the planning and approval process for essential infrastructure projects and ensures they are integrated efficiently within existing and proposed developments. In relation to the proposed secondary dwelling at 51 Johnson Street, Mascot, the relevant considerations under this SEPP include access to public transport, proximity to existing infrastructure (such as roads and utilities), and potential impacts on surrounding transport networks. The proposal is well located in terms of public transport accessibility and does not adversely impact any existing infrastructure, thereby satisfying the intent and provisions of the Transport and Infrastructure SEPP.

- Clause 2.47: The proposal does not involve works within the vicinity of electricity infrastructure; therefore, this clause does not apply.
- Clause 2.118: The subject site is not located on land reserved as a proposed classified road; hence, this clause is not applicable.
- Clause 2.119: The site does not have frontage to a classified road (refer to Figure 21), and is therefore not subject to this clause.
- Clause 2.120: There is no published traffic volume data for Johnson Street on the Transport for NSW (TfNSW) website. Accordingly, it is assumed the traffic volume is below the threshold (Clause 2), and this clause does not apply.
- Clause 2.122: The proposal is not defined as "traffic-generating development" under Schedule 3 of the SEPP and is therefore not subject to referral to TfNSW (refer to Figure 22).

Therefore, the proposal is considered to satisfy the relevant objectives and provisions of the State Environmental Planning Policy (Transport and Infrastructure) 2021. The development will not adversely impact existing infrastructure, transport operations, or road safety and efficiency in the locality.

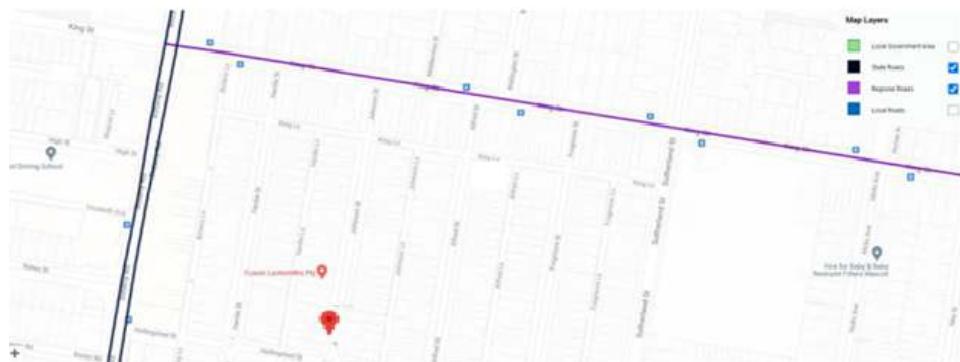


Figure 21 – RMS Classified (State & Regional) Roads map (subject site is identified with the red bubble).



| Column 1<br>Purpose of development   | Column 2<br>Size or capacity—site with access to a road (generally)  | Column 3<br>Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) |
|--|--|--|
| Airports or heliports  | Any size or capacity   | Any size or capacity   |
| Car parks (whether or not ancillary to other development)  | 200 or more car parking spaces   | 50 or more car parking spaces  |
| Commercial premises (other than premises specified elsewhere in this table)                          | 10,000m <sup>2</sup> in gross floor area   | 2,500m <sup>2</sup> in gross floor area  |
| Food and drink premises (other than take away food and drink premises with drive-through facilities) | Car parking for 200 or more motor vehicles   | 500m <sup>2</sup> in gross floor area  |
| Freight transport facilities   | Any size or capacity   | Any size or capacity   |
| Hospitals  | 200 or more beds   | 100 or more beds   |
| Industry   | 20,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area | 5,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  |
| Liquid fuel depots   | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  |
| Residential accommodation  | 300 or more dwellings  | 75 or more dwellings   |
| Service stations without heavy vehicle refuelling or maintenance services                            | Any size or capacity   | Any size or capacity   |
| Service stations with heavy vehicle refuelling or maintenance services                               | Any size or capacity   | Any size or capacity   |
| Shops  | 2,000m <sup>2</sup> in gross floor area  | 500m <sup>2</sup> in gross floor area  |
| Subdivision of land  | 200 or more allotments where the subdivision includes the opening of a public road                         | 50 or more allotments  |
| Take away food and drink premises with drive-through facilities                                      | 200 or more motor vehicles per hour  | Any size or capacity   |
| Transport depots   | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  |
| Warehouse or distribution centres  | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  | 8,000m <sup>2</sup> in site area or (if the site area is less than the gross floor area) gross floor area  |
| Waste or resource management facilities  | Any size or capacity   | Any size or capacity   |
| Any other purpose  | 200 or more motor vehicles per hour  | 50 or more motor vehicles per hour   |

Figure 22 – Schedule 3 Traffic-generating development to be referred to TfNSW.

#### STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Former SEPP 55 – Remediation of Land / SEPP (Resilience and Hazards) 2021 – Chapter 4: Remediation of Land. The State Environmental Planning Policy (Resilience and Hazards) 2021 repeals the former State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and consolidates its provisions into Chapter 4 – Remediation of Land. The objective of this chapter is to promote the remediation of contaminated land to minimise the risk of harm to human health and the environment. In accordance with the policy, land must not be developed if it is unsuitable for its proposed use due to contamination.

The current development proposal involves alterations and additions to the existing double garage, including the construction of a new secondary dwelling above. The historical land use of the site has been considered as an indicator for potential contamination.

A search of the NSW Environmental Protection Authority's public register under section 58 of the Contaminated Land Management Act 1997 returned no records or contamination notices for the subject site. As such, there is no evidence to suggest that the site is unsuitable for the proposed residential use.

Accordingly, it is concluded that the proposal satisfies the provisions of the SEPP (Resilience and Hazards) 2021 relating to land remediation.



Figure 23 - 1943 Aerial Map - Source: NSW Government.

The site and surrounding land have not previously been zoned for any of the uses identified in Table 1 of the Contaminated Land Planning Guidelines, such as industrial, agricultural, or defence-related purposes. Historical land use records, including the 1943 aerial imagery, indicate that the site and adjoining properties have long been used for residential purposes.

Given this consistent history of residential zoning and use, there is no evidence to suggest that the site is likely to be contaminated. As such, further investigation into potential site contamination is not considered necessary.

Nonetheless, it is acknowledged that unforeseen circumstances may arise during demolition or construction. In this regard, Council may impose standard conditions of consent requiring notification if any new information comes to light that could alter the preliminary assessment of the site's contamination status.



#### BAYSIDE LOCAL ENVIRONMENTAL PLAN 2021

The subject land is located within the Bayside Local Government Area (LGA). The primary Environmental Planning Instrument (EPI) applicable to the site is the Bayside Local Environmental Plan 2021 (BLEP 2021), which was gazetted and came into effect on 8 October 2021. This instrument provides the statutory planning framework for land use and development within the LGA.

Further details regarding the site's compliance with the provisions of BPLEP 2021 are discussed in the dedicated BPLEP 2021 section later in this report.

#### DRAFT PLANNING INSTRUMENTS

Section 4.15(1)(a)(ii) of the EP&A Act requires consideration of the provisions of any publicly exhibited Draft Environmental Planning Instruments.

#### BAYSIDE DEVELOPMENT CONTROL PLAN 2022

Section 4.15(1)(a)(iii) of the EP&A Act requires consideration of the provisions of any Development Control Plan. The Development Control Plan that is relevant to this development is the Bayside Development Control Plan 2022 (BDCP 2022). Refer to the BDCP 2022 section further on in this report for more details.

#### PLANNING AGREEMENTS

Section 4.15(1)(a)(iiia) of the EP&A Act requires consideration of the provisions of any Planning Agreement entered into under s7.4. No Planning Agreements are applicable to this development.

#### PRESCRIBED MATTERS EP & AR 2000

Section 4.15(1)(a)(iv) of the EP&A Act requires consideration of the provisions of the Regulations. The proposed development is capable of complying with the prescribed matters (e.g. BCA etc.) of the Environmental Planning and Assessment Regulations 2000.

#### IMPACT OF THE DEVELOPMENT

##### Section 4.15(1)(b) – Likely Impacts of the Development

Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act), consideration has been given to the likely impacts of the proposed development on the natural and built environments, as well as social and economic factors within the locality.

The proposed development is expected to have minimal adverse impacts on the surrounding environment. The new secondary dwelling, located above the existing detached rear double garage, has been thoughtfully designed to be compatible with the established low-density residential character of the area.



The proposal reflects the emerging built form and aligns with the scale, bulk, and height of similar developments approved in the locality.

This high-quality, contemporary addition will contribute positively to housing diversity while meeting the needs of the property owner and broader community. It will maintain residential amenity for adjoining neighbours, preserve local character, and ensure appropriate access to daylight, ventilation, and private open space.

The environmental, social and economic impacts of the proposal have been addressed throughout this Statement. A summary of key considerations is provided below:

- The development does not result in significant overshadowing, privacy loss, or view impacts.
- The existing streetscape and local visual character will be preserved and enhanced through sensitive design and landscaping.
- The proposal supports housing affordability and urban consolidation within an established residential area.
- No significant ecological, heritage, or contamination concerns have been identified.
- Construction impacts will be appropriately managed through standard conditions of consent.

#### (I) SITING, DESIGN AND THE BUILT FORM

The proposed development constitutes a relatively minor and routine residential renovation. The siting and overall built form of the proposal are generally consistent with the character of neighbouring developments and comply with the building envelope controls applicable to the site, including building height, floor space ratio (FSR), site coverage, and landscaped area provisions. Notably, no changes are proposed to the existing building footprint.

The alterations and additions have been carefully designed to modulate the building's massing, with material variation used to define and differentiate the built form, creating a layered and visually engaging appearance. Design features such as the rear-facing balcony overlooking Alfred Lane, and the strategic placement and proportioning of windows, serve to articulate the façades, break up visual bulk, and avoid unrelieved expanses of blank wall. These elements contribute to enhanced visual interest while also mitigating potential privacy impacts on neighbouring properties.

#### (II) PRIVACY

Adequate physical separation has been provided to ensure both visual and acoustic privacy between the proposed development and adjacent dwellings. The development incorporates compliant setbacks, appropriate landscaped areas ( $\sim 113 \text{ m}^2$ ), and well-positioned private open space at the rear of the site. These design elements ensure that usable outdoor spaces are oriented away from sensitive interfaces, thereby minimising any visual or acoustic privacy impacts on neighbouring properties. The development



complies with all applicable privacy controls, including adequate setbacks and thoughtful design features, and will not result in any adverse visual or acoustic privacy impacts on surrounding properties. Refer to the BDCP 2022 section later in this report for further details.

### (III) SOLAR ACCESS AND OVERSHADING

The development complies with the relevant building envelope controls applicable to the site, including building height, floor space ratio, and site coverage/landscape areas, noting that there are no changes to the existing building footprint. Given the east-west orientation, the majority of additional shadows will fall within the public domain (Johnson and Hollingshed Laneways) during the afternoon. While some shadowing of the neighbouring property is unavoidable due to the site orientation, this impact has been previously acknowledged and approved by Council, as supported by the Approved Shadow Plans below.

Importantly, this proposal does not seek any additional floor area or building works. It is solely for the conversion of an existing approved space and a change of use — from a studio to a self-contained secondary dwelling (granny flat) under 35m<sup>2</sup>.

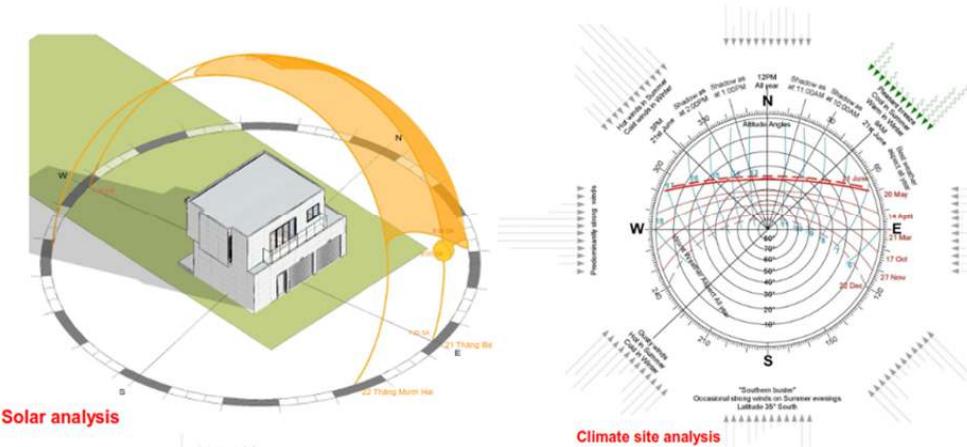


Figure 24 – Solar & Climate Analysis of 51 Johnson Street Mascot.

Having regard to all the above factors, including the orientation of the lots and the site's location within a dense inner-city suburban environment, it is considered that the proposed development will not result in unreasonable adverse overshadowing impacts on neighbouring properties. For further details, please refer to the Shadow Plans submitted with the original development application.

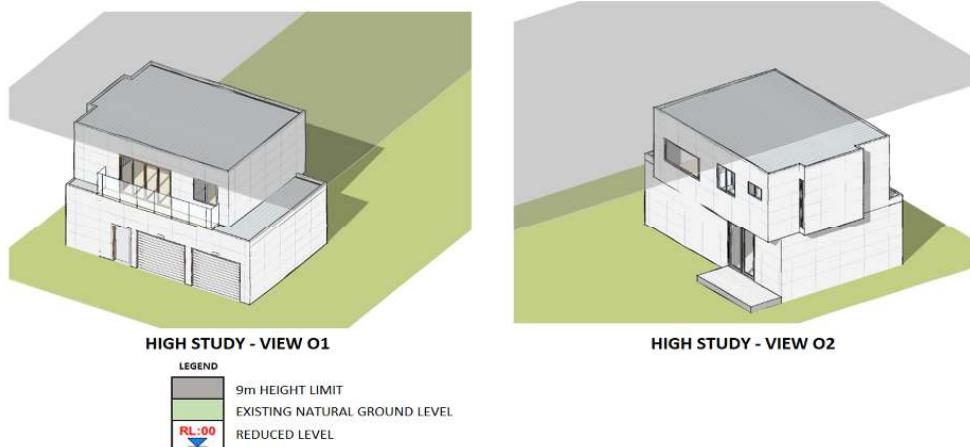


Figure 25 – 9m Height View of 51 Johnson Street Mascot.

**(IV) TREE REMOVAL, LANDSCAPING, FLORA & FAUNA**

There are no existing trees on the site that are affected by the DA i.e. the proposed development will not require removal of any trees. Refer to the Plans submitted with the development application for details.

**(V) TRAFFIC & PARKING**

The proposal does not involve any changes to the existing vehicle access arrangements—no new crossovers, driveways, or roads are proposed. Consequently, the development will have no impact on the current vehicular traffic arrangements.

**(VI) UTILITIES/INFRASTRUCTURE**

The subject property is located within an existing suburban residential area and adequate utilities infrastructure such as water / gas / electricity / sewage are available. If any minor augmentation is required, associated costs will be undertaken by the person acting on the consent.

**(VII) NATIONAL CONSTRUCTION CODE/BUILDING CODE OF AUSTRALIA**

The development's design has been prepared with consideration of compliance with the National Construction Code (NCC)/Building Code of Australia (BCA). Any necessary compliance with the NCC/BCA will be ensured through appropriate conditions imposed on the development consent and further detailed during the Construction Certificate stage.



(VIII) HERITAGE IMPACTS

The subject site is not identified as an item of environmental heritage under Schedule 5 of the Bayside Local Environmental Plan 2021 (BLEP 2021). Additionally, the site is not situated within a Heritage Conservation Area (HCA) nor is it in proximity to any Local Heritage Items. Further details regarding heritage considerations are provided in the BLEP 2021 section later in this report.

(IX) SOCIAL IMPACTS

The proposal represents a relatively minor and routine residential renovation that is not expected to generate any adverse social impacts within the locality. On the contrary, this well-designed, high-quality renovation will enhance the utility and efficiency of the residential property for the current owner and occupant, while also future-proofing the dwelling to ensure its continued value and functionality for many generations to come.

(X) ECONOMIC IMPACTS

The development is anticipated to deliver positive economic benefits to both the local and wider community by creating additional short-term employment opportunities during the construction phase. Furthermore, it is not expected to cause any negative long-term economic impacts.

(XI) STORMWATER MANAGEMENT

The proposal involves the conversion of an existing, approved studio into a secondary dwelling (granny flat) within an established residential setting. It constitutes a minor, low-impact form of residential conversion development, with works limited primarily to internal rectification and reconfiguration.

Stormwater management measures are already in place, including an existing stormwater trench and dual pumping system, approved as part of the recent DA/CC. Existing downpipes remain connected to the site's stormwater infrastructure.

Importantly, as there are no changes to the building footprint or site coverage, no additional stormwater works are proposed. The existing landscaped areas (approximately 113 m<sup>2</sup>) and deep soil zones will be retained, ensuring continued support for surface water absorption and on-site retention.

Accordingly, the proposal is not expected to result in any adverse stormwater impacts.



(XII) SOIL MANAGEMENT

Standard erosion and sediment control measures during construction will include:

- Designated areas for site amenities, storage of building materials and equipment, bulk waste containers, and material stockpiles;
- Controlled and appropriate access points for construction vehicles and personnel;
- Dust control measures such as fixing shade cloth or mesh to perimeter fences and regular wetting down of exposed surfaces;
- Installation of sediment fencing and stabilised accessways to manage runoff and soil erosion.

Given the relatively minor and routine nature of the residential development, compliance with soil and sediment erosion control requirements can be effectively managed through conditions imposed on any development consent and/or detailed further at the Construction Certificate stage.

(XIII) CONTAMINATION

This matter has been discussed in details previously in this Statement.

(XIV) WASTE MINIMISATION/MANAGEMENT

The Waste Management Plan submitted with the application outlines the strategies for minimising and managing waste during both the construction phase and the ongoing use of the residential property. These measures are designed to:

- Avoid and minimise waste generation where possible;
- Promote the reuse and recycling of materials during construction;
- Ensure proper segregation, storage, and disposal of construction and demolition waste;
- Provide adequate facilities for the ongoing management of household waste, including recycling and organic waste, in accordance with Council requirements.

The proposed approach demonstrates a commitment to sustainable waste practices consistent with Council's waste management objectives and the principles of environmental responsibility.

(XV) CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN – CPTED

The development is considered to be generally consistent with the relevant Crime Prevention Through Environmental Design (CPTED) principles. The proposal has been designed to:

- Improve casual surveillance, particularly through the introduction of a rear-facing balcony that provides greater visibility over Alfred Lane, thereby enhancing passive observation of the public domain;



- Maintain clear delineation between public and private spaces, reducing opportunities for unauthorised access;
- Ensure adequate lighting and sightlines around the dwelling to deter antisocial behaviour;
- Avoid creating entrapment spots or concealed areas around the site.

Overall, the proposal is not expected to increase opportunities for crime and instead contributes positively to the safety and security of the site and surrounding locality.

#### (XVI) CONSTRUCTION IMPACTS

The proposal is a relatively minor and routine form of residential development. Any potential impacts associated with the construction phase—such as noise, dust, traffic, waste, and site safety—are expected to be temporary and manageable. These impacts can be appropriately mitigated through the imposition of standard conditions of consent, which will:

- Regulate construction hours to minimise disruption to neighbouring properties;
- Require the implementation of erosion, sediment, and dust control measures;
- Ensure appropriate management of construction waste and materials;
- Maintain public safety and access around the site during construction;
- Require compliance with relevant environmental and building standards.

Accordingly, construction-related impacts are considered acceptable and will not result in any significant adverse effects on the amenity of the surrounding area.

#### (XVII) ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) & THE CUMULATIVE IMPACT

The principles of Ecologically Sustainable Development (ESD) have been addressed earlier in this Statement, and the proposed development is considered to align well with these principles. The development will not result in adverse cumulative environmental impacts, nor will it compromise the capacity of future generations to use or develop the site.

Instead, the proposal represents a sustainable and efficient use of existing urban land by:

- Increasing utility and liveability through the addition of a well-designed, high-quality secondary dwelling, enhancing the function and flexibility of the residential property;
- Improving environmental performance, with the development achieving compliance with the Building Sustainability Index (BASIX) requirements, thus ensuring key sustainability targets are met.

Sustainable design features integrated into the development include:

- Maximisation of natural daylight to habitable rooms, reducing reliance on artificial lighting;



- Use of energy efficient and sustainable building materials, contributing to reduced embodied energy;
- Installation of energy-efficient appliances and lighting fixtures to lower operational energy consumption;
- Incorporation of thermal insulation to walls, ceilings, and roofing to enhance indoor comfort and reduce heating/cooling loads;
- Use of water-efficient plumbing fixtures such as low-flow showerheads, tapware, and dual-flush toilets, promoting water conservation.

Overall, the proposal reflects a commitment to sustainability principles in both design and operation, and will deliver long-term environmental, social, and economic benefits to both current and future occupants.

#### THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Section 4.15(1)(c) of the Environmental Planning and Assessment (EP&A) Act requires consideration of the suitability of the site for the development. In this regard, the proposed development is considered suitable for the following reasons:

The site is zoned R2 Low Density Residential under the Bayside Local Environmental Plan 2021 (BLEP 2021), and the proposal for a secondary dwelling is permissible with consent in this zone.

The site is located within a well-established residential precinct that features similar low-density development, including comparable examples of secondary dwellings constructed above garages and contemporary residential additions.

The proposal generally achieves a high level of compliance with the key development standards and planning controls contained in the BLEP 2021 and the Bayside Development Control Plan 2022 (BDCP 2022), including:

- Building height
- Floor space ratio
- Site coverage
- Landscaped area
- Setbacks
- Privacy and solar access provisions

The site has appropriate access to essential services and infrastructure, including sewer, water, electricity, and stormwater drainage, all of which can be readily connected or utilised to support the development.

The development makes use of an existing detached rear double garage, avoiding major disturbance to the site or neighbouring properties and minimising environmental and amenity impacts.



The topography, orientation, and lot dimensions of the site are conducive to accommodating the proposed built form without resulting in unreasonable overshadowing, overlooking, or visual bulk.

Overall, the site is considered highly suitable for the proposed development, which reflects a well-considered and contextually appropriate built form response to the site's opportunities and constraints. Further discussion of site suitability and compliance with Council policies is provided in the relevant sections of this Statement.

#### NOTIFICATION, ADVERTISING AND SUBMISSIONS RECEIVED

Section 4.15(1)(d) of the Environmental Planning and Assessment (EP&A) Act requires consideration of any submissions made in accordance with the Act or the Regulations.

In this case, the development application will be publicly notified in accordance with the requirements of the Bayside Development Control Plan 2022 (BDCP 2022). As part of this process:

- Notification will occur for the required period, allowing interested or affected parties an opportunity to comment on the proposal.
- Any written submissions received during the notification period will be duly reviewed and considered by Council during the assessment process.
- The applicant will be provided an opportunity to respond to any submissions received, and may provide further clarification, justification or amendments as appropriate.

At the time of preparing this Statement, no public submissions have been received. Should any be lodged during the notification period, they will be considered in accordance with legislative requirements and Council's procedures.

#### THE PUBLIC INTEREST

##### Section 4.15(1)(e) – The Public Interest

The proposed development is permissible on the land pursuant to the R2 Low Density Residential zoning provisions under the Bayside Local Environmental Plan 2021 (BLEP 2021) and is considered to meet the objectives of the zone, which aim to provide for the housing needs of the community within a low-density residential environment.

The development has been designed to satisfy the needs of the current and future occupants, while also achieving compliance with the relevant State and Council planning controls. As outlined in this Statement, the proposal:



- Is consistent with the existing and desired future character of the area.
- Will have minimal amenity impacts on surrounding properties in terms of privacy, overshadowing, and visual bulk.
- Will deliver a well-designed, high-quality contemporary Secondary Dwelling above the existing detached garage.
- Will contribute positively to housing diversity and supply in a well-established suburban context.
- Will provide short-term economic benefits through local employment during the construction phase.

Having regard to the above, the proposal represents an orderly and economic use of land, is in the public interest, and aligns with Council's strategic planning objectives and recent similar development approvals in the locality.



## BAYSIDE LOCAL ENVIRONMENTAL PLAN 2021 (BLEP 2021)

### DEVELOPMENT STANDARDS

The Bayside Local Environmental Plan 2021 (BLEP 2021) came into effect on 27 August 2021, consolidating and replacing the former Botany Bay LEP 2013 and Rockdale LEP 2011. The BLP 2021 is the current environmental planning instrument applicable to the subject site. The relevant development standards under BLP 2021 that apply to this proposal are outlined and assessed below.

### CONSENT AUTHORITY

Clause 1.6 of the Bayside Local Environmental Plan 2021 (BLEP 2021) specifies that the consent authority for the purposes of the Plan is the Council, namely Bayside Council

### SUBDIVISION

In relation to subdivision (clause 2.6), BLP 2021 (clause 2.6) requires that:

(1) Land to which this Plan applies may be subdivided, but only with development consent. Notes. 1 If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent. 2 Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying development.

(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. Note. The definition of secondary dwelling in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

Subdivision is not proposed by this development application (DA).

### DEMOLITION

Clause 2.7 of the BLP 2021 specifies that “the demolition of a building or work may be carried out only with development consent”.

Minor or partial demolition may be required, if necessary, to facilitate the conversion of the existing approved studio into a contemporary secondary dwelling above the existing detached rear double garage, as part of this Development Application (DA).

### LAND USE

The site is zoned R2 Low Density Residential under BLP 2021. The aims and objectives of the R2 Low Density Residential Zone are set out in the Land Use Table as follows:



1. Objectives of zone

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

2. Permitted without consent

- Home-based child care; Home occupations

3. Permitted with consent

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

PROHIBITED

- Any development not specified in item 2 or 3.

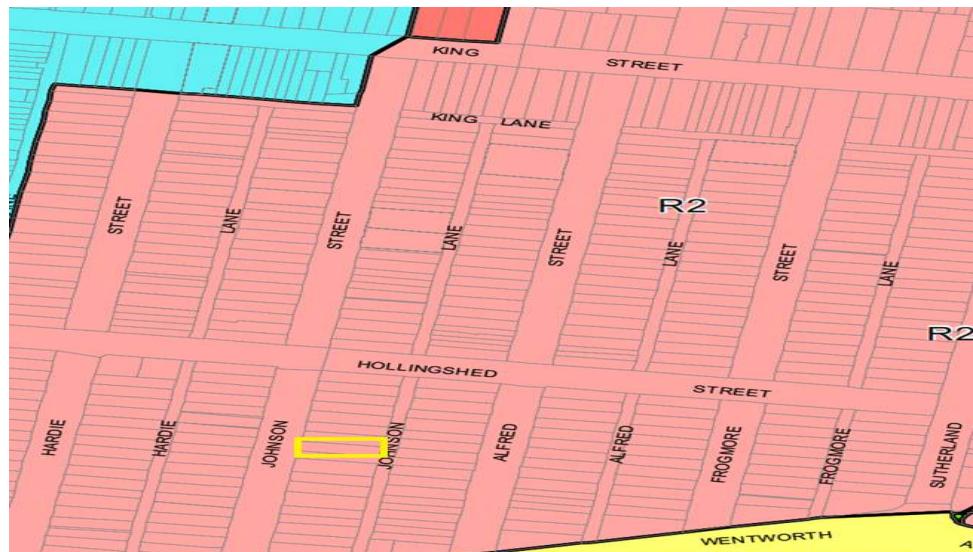


Figure 26 – BEP 2021 Zoning Map.



## Zoning and Permissibility – R2 Low Density Residential

The proposed development, comprising alterations and additions to the existing dwelling, is permitted with consent under the provisions of the Bayside Local Environmental Plan 2021 (BLEP 2021). The proposal is consistent with the objectives of the R2 Low Density Residential zone, as it will:

- Continue to provide for the housing needs of the community within a low density residential environment; and
- Be carried out in a manner that minimises impacts on the existing character and amenity of the locality.

#### MINIMUM LOT SIZE

The site has an existing area of 334.59 m<sup>2</sup>. Under Clause 4.1 of the BLEP 2021, there is no minimum lot size requirement applicable for subdivision. Additionally, reference is made to Clause 4.6 and to prevailing approvals for secondary dwellings on nearby sites of similar lot sizes. Notwithstanding, this development application does not propose any subdivision.

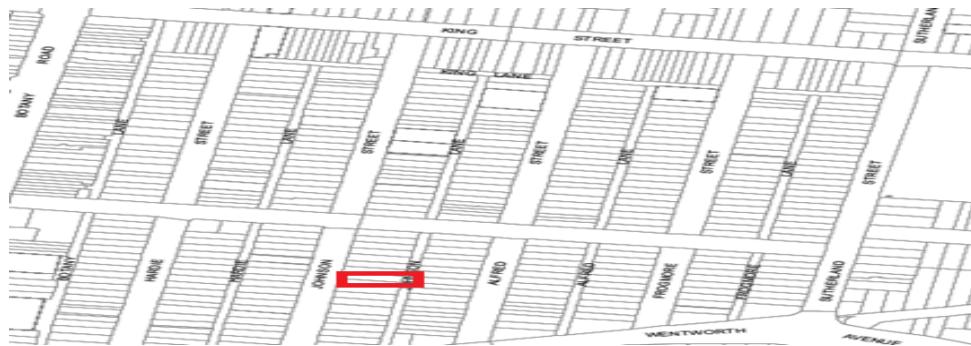


Figure 27 – BLEP 2021 Lot Size Map.

## HEIGHT OF BUILDINGS

Under Clause 4.3 of the BLEP 2021, the site is subject to a maximum building height control of 9 metres. The proposed development does not exceed this maximum height, complying fully with the development standard. Specifically, there are no changes to the height of the principal dwelling, or the conversion of the studio to the proposed Secondary Dwelling which has an approved height of 6.82 metres.



Figure 28 – BLED 2021 Height Map.

The objectives of Clause 4.3 state:

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

The proposal has been assessed against the relevant objectives, with the following points to note:

- All proposed works are located well below the 9m height limit.
- The works are not expected to impact existing view corridors to or from the subject site, nor contribute to any unreasonable or adverse overshadowing of adjoining properties.
- The development's height will not affect the current level of privacy between neighbouring properties, nor will it unreasonably impact views, in accordance with the view loss "Tenacity Planning Principle." Additionally, the proposed wall heights are consistent with those of other developments approved by Council in the vicinity of the site.
- Consistent with the findings of Project Venture Developments v Pittwater Council [2005] NSWLEC 191, it is considered that the proposed works would not be regarded by most observers as offensive, jarring, or unsympathetic within the streetscape or the prevailing built form of the site's visual catchment. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from both the public domain and adjoining properties.

Accordingly Council can be satisfied that the development complies with the objectives of the height control as they are reasonably applied to a development.



#### FLOOR SPACE RATIO

Under Clause 4.4 of BLED 2021, the site has a floor space ratio (FSR) control of 0.7:1.



Figure 29 – BLED 2021 FSR Map.

The original Development Application (DA) for the primary dwelling was lodged in 2014 (DA-2014/13), followed by a Section 96 modification and a subsequent amendment to Condition 1A. This approval covered the construction of a two-storey dwelling with a garage, storage, and a studio located at the rear of the property. The approved development has a maximum height of 6.82 metres and a Floor Space Ratio (FSR) of 0.84:1, equating to approximately 286.64m<sup>2</sup>. This approval is documented in Bayside Council's DA Tracker (refer to Figure 6 – Bayside Council DA abstract).

The applicant has since engaged Quantum QS to perform an independent LEP Gross Floor Area (GFA) calculation, detailed in the Schedule of Areas section within this report. The total calculated GFA is 266.83m<sup>2</sup>, which equates to an FSR of 0.80:1 - below the FSR previously approved by the Council.

Following this assessment, the total LEP-compliant GFA has been accurately identified as approximately 266.83m<sup>2</sup>, which is significantly less than the originally approved DA area of 286.64m<sup>2</sup> (refer to Figure 6, DA-2014/13, and the Schedule of Areas for further details).

As discussed previously in this SEE report, a nearby neighbour at 5A Alfred Street, Mascot (some 300m away from subject site) obtained approval from Council (DA-2018/1064) for alterations and additions to existing outbuilding including conversion of first floor study to a secondary dwelling, despite FSR non-compliance (see details below) for comparison purposes:



| 5a Alfred Street - Maximum FSR is 0.70:1  | 234.13 m <sup>2</sup>       |
|---|-----------------------------|
| Existing Dwelling House GFA   | 194.30 m <sup>2</sup>       |
| Ground Floor  | 99.40 m <sup>2</sup>        |
| First Floor   | 94.90m <sup>2</sup>         |
| Detached Garage   | 36.30 m <sup>2</sup>        |
| Storage Room  | 14.60 m <sup>2</sup>        |
| Secondary Dwelling  | 33.90 m <sup>2</sup>        |
| <b>TOTAL Approved GFA for 5A ( Excludes car parking 33 m<sup>2</sup>): 0.74:1</b> | <b>246.10 m<sup>2</sup></b> |

#### EXCEPTIONS TO DEVELOPMENT STANDARDS

BLEP 2021 states the following in relation to exceptions (non-compliance) against the development standards of the Plan:

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

- a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

No variation requests under Clause 4.6 is proposed/required by this development application (DA).

#### CONTROLS RELATING TO SECONDARY DWELLINGS

Clause 5.4(9) of the BLEP 2021 has the following provisions relating to Secondary dwellings:

##### 5.4 Controls relating to miscellaneous permissible uses

(9) Secondary dwellings If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater:

- a. 60 square metres,
- b. 20% of the total floor area of the principal dwelling.

The secondary dwelling will have a total floor area of approximately 33.51 m<sup>2</sup> which complies with the maximum 60 m<sup>2</sup> limit required by Clause 5.4(9).



HERITAGE CONSERVATION

Clause 5.10 of BLED 2021 contains following provisions for development on land that is identified as a Heritage Item or located within a Heritage Conservation Area:

## (5) Heritage assessment

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

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b); require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The subject site is not listed as an item of environmental heritage under Schedule 5 of the BLEP 2021. It is also not listed on the NSW State Heritage Register, the National Heritage List, the Commonwealth Heritage List, the National Trust Register (NSW), and the former Register of the National Estate. The subject premise is not located in a Heritage Conservation Area (HCA), and is not within the immediate vicinity of any Local Heritage Items.

Accordingly, the proposed works will not have any impacts on Heritage Conservation.



Figure 30 – BLEP 2021 Heritage Map.



#### EARTHWORKS

Clause 6.2 of BLERP 2021 contains provisions relating to earthworks. The site is located within Class 4 Acid Sulfate Soils. The site is not within 500 metres of nearby mapped Class 2 Acid Sulfate Soil. Furthermore, no major excavation and/or earthworks is proposed. Therefore a Preliminary Assessment and/or an Acid Sulfate Soils Management Plan is considered to not be required.

The site is not in proximity to, a waterway, drinking water catchment or environmentally sensitive area. Sediment and erosion controls will be installed and maintained for the duration of site preparation and construction phases to ensure there is no risk of sediment laden water leaving the site and entering council's drainage infrastructure – it is recommended that standard sediment and erosion controls be included in the consent conditions.



Figure 31 - Acid Sulfate Soils Map.

#### STORMWATER AND WATER SENSITIVE URBAN DESIGN

Clause 6.3 of BLERP 2021 states the following in relation to Stormwater and WSUD:

(2) Before granting development consent to development on any land to which this Plan applies, the consent authority must be satisfied that -

- a. water sensitive urban design principles are incorporated into the design of the development, and
- b. riparian, stormwater and flooding measures are integrated as part of the development, and
- c. the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways, receiving waters and groundwater systems, and



- d. if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways receiving waters and groundwater systems, and
- e. the development is designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water.

The proposal represents a relatively minor and routine form of residential development, for which stormwater management is already appropriately addressed. The development will retain sufficient landscaped areas (~113 m<sup>2</sup> refer to Figure 2 measured landscape area) and deep soil zones, noting there are no changes to the existing building footprint or site coverage. These features will maximise the retention and infiltration of surface water runoff. Accordingly, the proposal is not expected to result in any adverse stormwater impacts. Please refer to the Stormwater / Drainage Concept Plan submitted with this application for further details.

#### AIRCRAFT NOISE

Subclause (2) of Clause 6.8 of BLEP 2021 indicates that it applies to development:

- a) on land:
  - (i) near the Sydney (Kingsford-Smith) Airport, and (ii) in an ANEF contour of 20 or greater, and
- b) the consent authority considers is likely to be adversely affected by aircraft noise.

Subclause (3) of Clause 6.8 of BLEP 2021 provides that before determining a DA, the consent authority

- (3) In deciding whether to grant development consent to development to which this clause applies, the consent authority:
  - a. must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
  - b. must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021 - 2015, and
  - c. must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015 for development for the following purposes:
    - (i) for development proposed to be located in an ANEF contour of 20 or greater—child care centres, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation,



(ii) for development proposed to be located in an ANEF contour of 25 or greater - business premises, hostels, hotel or motel accommodation, office premises or retail premises.

The Sydney Airport Australian Noise Exposure Index (ANEI) for Quarter 1 of 2025 is shown in Figure 32 below, which indicates that the subject site (denoted by a red arrow) is located within the ANEI 25 noise contour. It is considered that the proposed development can be made acceptable in terms of aircraft noise exposure, subject to the implementation of appropriate noise amelioration measures during construction. These measures will ensure compliance with the relevant Australian Standards for indoor design sound levels.

An Aircraft Noise Assessment, (Ref: SYD2025), has been prepared to accompany this development application. The report concludes that, provided the recommended acoustic treatments are implemented, the proposed secondary dwelling will comply with the relevant noise criteria of Bayside Council and the Australian Standard AS 2021-2015 - Acoustics - Aircraft Noise Intrusion - Building Siting and Construction.

It is appropriate for Council to impose standard noise attenuation conditions as part of any development consent granted, to ensure compliance with these requirements and to safeguard residential amenity for future occupants.

It is considered that the proposed development can be made acceptable in terms of aircraft noise exposure, subject to the implementation of appropriate noise amelioration measures during construction. Please refer to the acoustic report with minimum requirements to be met, these measures will ensure compliance with the relevant Australian Standards for indoor design sound levels.

The ANEIs for 1 January 2018 to 31 March 2025 are shown below.

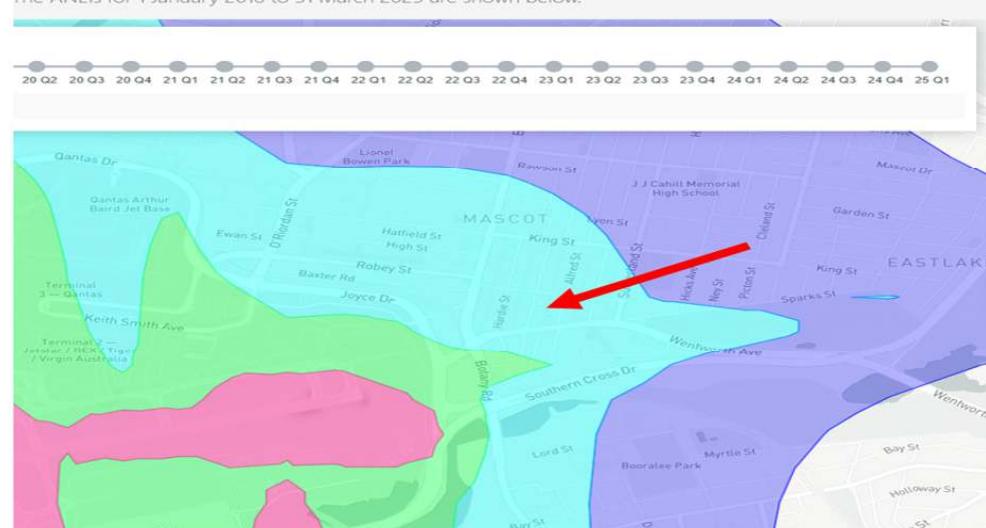


Figure 32 – Sydney Airport ANEI Map.



#### ESSENTIAL SERVICES

Clause 6.11 of BLEP 2021 states the following in relation to essential services:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- a. the supply of water,
- b. the supply of electricity,
- c. the disposal and management of sewage,
- d. stormwater drainage or on-site conservation,
- e. suitable vehicular access.

The subject property is located within an established suburban residential area that is already serviced by essential utilities infrastructure, including water, gas, electricity, and sewerage. It is expected that the proposed development can be readily connected to these existing services without any significant upgrades.

Council may impose standard conditions of consent requiring the applicant to consult with relevant utility service providers to confirm and satisfy any site-specific requirements for the provision, upgrade, or relocation of services necessary to support the development.

#### ADDITIONAL PERMITTED USES

Schedule 1 (Additional permitted uses) of the BLEP 2021 states the following:

34 Use of certain land in R2 Low Density Residential zone for multi-dwelling housing and residential flat buildings

1. This clause applies to land identified as "34" on the Additional Permitted Uses Map.
2. Development for the following purposes is permitted with development consent:
  - (a) multi-dwelling housing,
  - (b) residential flat buildings.
3. Despite subclause (2), development consent must not be granted to development for the purposes of residential flat buildings or multi-dwelling housing on land to which this clause applies unless:
  - (a) the development is a building that was designed and constructed for, or on land that, on the commencement of this Plan, was used for, a purpose other than residential accommodation, and
  - (b) the consent authority has considered:-



- (I) the impact of the development on the scale and streetscape of the surrounding locality, and
- (II) the suitability of the building or land for adaptive reuse, and
- (III) the degree of modification of the footprint and facade of the building.



Figure 33 – Additional Permitted Uses Map.

The site is identified as being within “34” on the Additional Permitted Uses Map. However, the subject proposal is not for multi-dwelling housing or residential flat buildings, and therefore Schedule 1 (subclause 34) is not applicable.

#### BAYSIDE DEVELOPMENT CONTROL PLAN 2022

The Bayside Development Control Plan 2022 (BDCP 2022) was adopted by Council on 22 March 2023 and came into effect on 10 April 2023, replacing the former Botany Bay DCP 2013 and Rockdale DCP 2011. The proposed development has been assessed against the relevant provisions of BDCP 2022 and is considered to be generally consistent with its objectives and controls.

An assessment of the proposal against the applicable provisions of BDCP 2022 is provided in Table 1 below, with reference to Part 3 – General Development Provisions and Part 5 – Residential and Mixed-Use Development.

Table 1: Assessment of the Proposal against Controls within Part 3 and Part 5 of BDCP 2022.

| DEVELOPMENT CONTROL / DESIGN PRINCIPLE   | PROPOSED   | COMPLY  |                    |  |   |                         |   |   |
|--|--|---|--------------------|--|---|-------------------------|---|---|
|  |  |  |                    |  |   |                         |   |   |
| <p>Development is to provide on-site car parking in accordance with the car parking rates outlined in Table 3 below.</p> <table border="1"> <thead> <tr> <th>Land use</th> <th>Car Parking Rate</th> </tr> </thead> <tbody> <tr> <td><b>Residential</b></td> <td></td> </tr> <tr> <td>Dwelling House / Dual Occupancy / Semi-detached</td> <td>• 2 spaces per dwelling</td> </tr> </tbody> </table>  | Land use   | Car Parking Rate  | <b>Residential</b> |  | Dwelling House / Dual Occupancy / Semi-detached | • 2 spaces per dwelling | <p>The existing parking situation remains unchanged i.e. no additional parking is proposed, and the proposal retains the 2 parking spaces within the existing garage.</p> |  |
| Land use   | Car Parking Rate   |   |                    |  |   |                         |   |   |
| <b>Residential</b>   |  |   |                    |  |   |                         |   |   |
| Dwelling House / Dual Occupancy / Semi-detached  | • 2 spaces per dwelling  |   |                    |  |   |                         |   |   |
| <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 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, arrow, 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>No changes are proposed to the front of the site (e.g. pedestrian entry, services, landscaped deep soil and retention of 1x existing tree) and/or the principal dwelling. There are no existing trees on the site that are affected by the DA i.e. the proposed development will not require removal of any trees. Refer to the Plans submitted with the development application for details.</p> <p>The current site layout provides a total landscaped area of ~ 113 m<sup>2</sup>, which exceeds the minimum 25% site area requirement as stipulated under the Bayside Development Control Plan (DCP) 2022 – Section 3.7.1 Landscaping, Clause C12.</p> <p>Clause C12 requires that for Low and Medium Density Residential developments, a minimum of 25% of the total site area must be allocated for landscaping. The proposed landscaped area represents ~ 33.8 % of the total site area, thereby demonstrating full compliance with this provision (refer Figure 2 for measured area).</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.

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.

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 bays and paved areas should be priorities over non-permeable.

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.

C12. The minimum amount of landscaped area within the site is as follows:

| Development Type                   | Min. landscaped area (of the site area) |
|------------------------------------|---|
| Low and medium density residential | 25%                                     |



### 3.7.3 COMMUNAL ND PRIVATE OPEN SPACES

Private Open Space – Dwelling House, Dual Occupancy, Secondary Dwellings C10. The minimum area of private open space required for each dwelling is outlined in the table below.

| Dwelling Type      | Bedrooms | Min. Area |
|--------------------|----------|-----------|
| Dwelling House     | -        | 50sqm     |
| Secondary Dwelling | -        | 50sqm     |

C11. The minimum width of private open space for each dwelling is outlined in the table below.

| Dwelling Type      | Min. Dimensions     |
|--------------------|---------------------|
| Dwelling House     | Minimum width of 5m |
| Secondary Dwelling |                     |

C12. Private open space is not to include:

In accordance with Bayside DCP 2022 – Section 3.7.3: Communal and Private Open Space, Control C10 requires that a minimum of 50m<sup>2</sup> of private open space be provided for Dwelling Houses and Secondary Dwellings.

This area may be shared between the two dwellings; however, the total must be no less than 50m<sup>2</sup>. Reference should also be made to Control C13 under the same section for further guidance.

There are no proposed changes to the existing landscape area or the designated private open space. As shown in Figure 2.





|  |   |  |
|--|---|--|
| <p>a. non-recreational structures (including garages, tool sheds and such like structures)<br/>b. swimming pools<br/>c. driveways, turning areas and car spaces, drying areas and pathways</p> <p>C13. The minimum area requirements for private open space for secondary dwellings may be satisfied through the sharing of private open space associated to the principal dwelling. C14. The private open space for secondary dwellings is to be directly accessible from, and adjacent to the secondary dwelling. (Note: Structures, including fencing, separating the dwelling house from the secondary dwelling is not permitted).</p> | <p>The private open space allocated to the main residence exceeds the minimum requirements, and the proposed secondary dwelling will be provided with a minimum of 50 m<sup>2</sup>, thereby fully complying with the DCP requirements.</p> |  |
|--|---|--|

## 5 RESIDENTIAL & MIXED-USE DEVELOPMENTS

### 5.1.2 ANCILLARY RESIDENTIAL USES - REAR AND SIDE LANE ADDITIONS, DETACHED GARAGES, SECONDARY DWELLINGS AND STUDIOS

#### 5.1.2.1 - GENERAL

|   |   |  |
|---|---|--|
| <p>C1. Buildings must have a minimum setback to a side and rear boundary of 900mm. Windows and glass doors are to face into the property. High and opaque windows may face onto a neighbouring property where lack of adverse impact can be demonstrated.</p> <p>Note: A nil setback is to be considered if implementing masonry building walls with no eaves, gutters or windows and for carports and open structures, such as pergolas, awnings and the like for narrow lots where impacts are minimal and this is the prevailing pattern in the area. Compliance with the Building Code of Australia is required.</p> <p>C2. Outbuildings are not to result in non-compliance relating to minimum landscaped area, private open space, overshadowing, privacy and other relevant provisions which apply to the development, including those outlined in SEPP (Housing) 2021. C3. Where the LEP height control enables the development of a 2-storey outbuilding, the second storey of the building must have a traditional pitched form with dormer windows and generally be contained as an attic.</p> <p>C4. Outbuildings are to be located behind the main street face of the development.</p> <p>C5. Where multiple ancillary structure outbuildings are proposed on one property, combining these within a single structure is encouraged. Consideration is to be given to roof form and pitch to ensure bulk and scale impacts are minimised.</p> <p>C6. Where multiple outbuildings and/or a secondary dwelling are/is proposed on one property, the cumulative floor area is not to exceed 70m<sup>2</sup>.</p> <p>C7. Outbuildings attached to a secondary dwelling are not to provide direct access between them. Solid wall construction must be provided.</p> <p>C8. The selection of materials and colours must be compatible with the surrounding natural environment and the dwelling.</p> <p>C9. Where an outbuilding is proposed within a Heritage Conservation Area, the built form controls of that HCA prevail over any inconsistencies with this Section.</p> | <p>The proposed development maintains &amp; follows the existing setbacks of the garage on all elevations. This design allows for better visual/design presentation, ease of construction, and is considered acceptable given that there are no adverse amenity impacts (e.g. visual/acoustic privacy, overshadowing), and is similar to the development as approved under DA-2014/13. No additional footprint is required.</p> <p>No non-compliances in relation to minimum landscaped area, private open space, overshadowing, or privacy arise from the proposed development.</p> <p>The proposed secondary dwelling above the existing garage takes the form of a two-storey outbuilding, with the second storey comprising the conversion of the approved studio space into a self-contained secondary dwelling. The design features a traditional pitched (hip) roof, enhancing streetscape presentation to Johnson Lane.</p> <p>This architectural approach is consistent with similar approved granny flats above garages in the vicinity, promoting streetscape uniformity. The proposed conversion is located within the rear yard.</p> <p>The selected materials and finishes are complementary to that of surrounding development. Refer to the schedule of materials and finishes.</p> |  |
|---|---|--|



#### 5.1.2.2 – DEVELOPMENT ON SIDE AND REAR LANES

C1. The prevailing setback to a rear or side lane is to be retained.

*Note: A minimum setback of 900mm is to be provided from any garage or carport to a rear lane to ensure access complies with AS2890 and adequate site lines are achieved.*

C2. The secondary dwelling/outbuilding on a lot adjoining a rear lane is to be clearly subservient

C3. For properties with rear lane access or fronting another street, the secondary dwelling/outbuilding must address the lane/street as if it were the primary frontage.

C4. Outbuildings with a frontage to a rear lane or side lane may include an attic level subject to compliance with other relevant controls (including, but not limited to, the height control and overshadowing provisions) and the following:

- a. the structure does not exceed a maximum street wall height (or side wall height if not presenting to a street) of 3.6m
- b. the structure does not exceed a maximum roof height of 6m.
- c. the pitch of the roof does not exceed 36 degrees
- d. dormer windows are permitted provided each complies with the following design criteria:
  - i. the minimum distance between the main roof line and the dormer window structure is 300mm measured vertically
  - ii. the dormer window does not have a total width of more than 25% of the width of the roof, or 1.2m, whichever is the lesser
  - iii. adverse privacy impacts do not result (surveillance of laneways is encouraged)

C5. On lots smaller than 150m<sup>2</sup>, a secondary dwelling is not permitted unless it can achieve a minimum consolidated area of private open space for the principal dwelling of 16m<sup>2</sup> with a minimum dimension of 3m.

C6. Where a rear lane is highly intact, the pattern of original outbuildings, fences and laneway widths must be retained.

C7. Development is to retain the predominant scale of the lane, particularly where that scale is single storey, and any landscape features including mature trees

The proposed development retains the existing walls and footprint of the garage, with no extensions sought. The applicant is seeking approval to convert the existing studio into a self-contained granny flat without any increase in building footprint. The existing staircase to the upper-level studio will serve as the main entrance to the new secondary dwelling above the garage. No alterations or changes are proposed to the principal dwelling. All works remain within the boundaries of the existing and approved structure.

This design provides improved visual presentation and simplifies construction. It is considered acceptable as it does not result in adverse amenity impacts such as visual or acoustic privacy concerns or overshadowing. Furthermore, it is consistent with similar developments approved within the vicinity of the subject site.

Adequate physical separation for visual and acoustic privacy between the development and adjacent buildings has been provided.

The proposed development does not increase the height of the principal dwelling, which remains unchanged. The conversion of the existing studio into a new secondary dwelling is a single-storey addition situated above the existing one-storey garage and remains well below the maximum allowable height specified in the original DA approval (DA-2014/13).

The total building height is 6.82 metres (RL 13.35), and the development complies with all relevant building envelope controls applicable to the site, including building height, approved floor space ratio, and site coverage, with no changes to the existing building footprint. A positive aspect of the proposal is the provision of additional landscaping and soft ground cover at the rear of the site, between the existing principal dwelling and the detached garage, consistent with the original Landscape Plan. The development is not expected to cause any adverse overshadowing impacts on neighbouring properties



**Overall, the development is appropriate and generally consistent with the relevant provisions of BDCP 2022.**

#### CLAUSE 4.6 – BAYSIDE LOCAL ENVIRONMENTAL PLAN 2021

Clause 53 sets out non-discretionary development standards, including a minimum site area of 450m<sup>2</sup> for detached secondary dwellings. As the subject site has an area of 334.78 m<sup>2</sup>, it does not meet this standard. However, consent may still be granted as clause 53 is non-discretionary under section 4.15(3) of the Act, meaning compliance is not mandatory. Accordingly, a Clause 4.6 variation request has been included in the Statement of Environmental Effects (SEE) to justify the proposed variation to the minimum lot size requirement.

##### 1. CLAUSE 4.6(3)(A) – UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES

- Strict compliance with the 450m<sup>2</sup> lot size standard is considered unreasonable and unnecessary in this case for the following reasons:
- The proposal complies with all other key planning controls applicable to secondary dwellings, including maximum floor area (not exceeding 60 m<sup>2</sup>), building height, setbacks, private open space, and deep soil requirements.
- The subject site has sufficient area to accommodate both the principal and secondary dwellings without adverse impacts on residential amenity, built form, or streetscape character.
- The 450 m<sup>2</sup> threshold is arbitrary in this context and does not represent a tipping point for site functionality, environmental impact, or neighbourhood amenity.
- The proposal remains consistent with the objectives of the standard, being to ensure that lots are of a sufficient size to accommodate a detached secondary dwelling while maintaining local character and amenity. The shortfall is regarded minor, particularly given many surrounding properties that are less than the requirement have been granted approval and the proposal does not compromise the development outcome, and does not defeat the intent of the control.
- Numerous consent authorities, including the NSW Land and Environment Court, have found that minor variations to numerical development standards may be considered unreasonable where the development meets the underlying objectives and achieves planning merit.

##### 2. CLAUSE 4.6(3)(B) – SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

- There are sufficient environmental planning grounds to justify the contravention, including:
- The proposed secondary dwelling provides an additional dwelling on a well-located residential allotment without increasing density beyond what is anticipated under the planning controls.



- The built form remains consistent with the low-density residential context, does not result in additional visual bulk or overshadowing, and complies with relevant design controls under the DCP.
- The development facilitates housing diversity and supports intergenerational living or affordable rental accommodation, consistent with the aims of the SEPP (Housing) 2021.
- The proposal enhances land use efficiency on a site already serviced by infrastructure and within walking distance of public transport, schools, and shops.

#### CONSISTENCY WITH THE OBJECTIVES OF THE ZONE AND STANDARD

The variation does not hinder the achievement of the zone objectives, which encourage a range of housing types and densities while preserving residential character and amenity. The proposal supports these objectives by enabling a modest form of additional housing that integrates well with the existing dwelling and surrounding development.

#### SEPP (HOUSING) 2021 CONTEXT

Clause 53(2)(a) of the SEPP (Housing) 2021 identifies the 450m<sup>2</sup> site area as a non-discretionary development standard for detached secondary dwellings. Importantly, clause 53(1) clarifies that the failure to meet this standard does not preclude the granting of development consent, provided the proposal otherwise satisfies the assessment criteria under the Environmental Planning and Assessment Act 1979. This Clause 4.6 variation ensures that the application remains legally valid and properly assessed on merit, consistent with the intent of the SEPP to streamline and facilitate modest infill housing.



## CONCLUSION

Council's development consent is sought for the conversion of the existing approved studio above the detached rear double garage at 51 Johnson Street, Mascot, into a self-contained secondary dwelling (granny flat). This proposal involves a change of use and internal alterations only, with no increase to the existing building footprint.

The proposal has been assessed against the relevant matters for consideration prescribed under Section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. The development is not classified as Designated or Integrated Development and can therefore be determined by Council as Local Development.

This Statement demonstrates that the proposal complies with all applicable planning controls under the relevant State Environmental Planning Policies and is permissible within the R2 Low Density Residential zone. It achieves a high level of compliance with the Bayside Local Environmental Plan 2021 (BLEP 2021) and the Bayside Development Control Plan 2022 (BDCP 2022).

The proposed conversion will result in minimal adverse impacts on the surrounding natural and built environment. It provides a well-designed, high-quality residential outcome that meets the applicant's needs while maintaining appropriate bulk and scale. The development will not cause unreasonable impacts on adjoining properties or the public domain with regard to overshadowing, privacy, view loss, or visual amenity.

Importantly, the works will enhance the visual presentation of the existing rear garage structure when viewed from Johnson Lane and improve the functional use of the site in accordance with contemporary family and lifestyle requirements. The proposal is consistent with the surrounding built form and aligns with the desired future character of the area.

Overall, this conversion represents a suitable, orderly, and efficient use of the site, consistent with Council's land use vision and strategic objectives. Given the comprehensive assessment outlined in this Statement and the absence of any significant adverse impacts, the proposed development is considered to be in the public interest under Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and is recommended for Council's approval.

Prepared by:

Isik Bozdag FRICS, FAIQS, CQS, AAPI, CPV

Managing Director - Quantum QS

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ANNEXURES:

## Bayside Local Planning Panel - Other Applications

**24/02/2026**

|                     |   |
|---------------------|---|
| Item No             | 6.2   |
| Application No      | DA-2025/193   |
| Property            | <b>158 King Street MASCOT</b>   |
| Application Type    | Development Application   |
| Proposal            | Alterations and additions to existing garage including the construction of a first floor secondary dwelling |
| Owner               | G Premetis  |
| Applicant           | M Groupe Pty Ltd  |
| Ward                | Ward 2  |
| Lodgement Date      | 2/07/2025   |
| No. of Submissions  | Nil   |
| Cost of Development | \$165,000.00  |
| Reason Criteria     | Departure from standards  |
| Report by           | Peter Barber, Director City Futures   |

### Reason for the Report

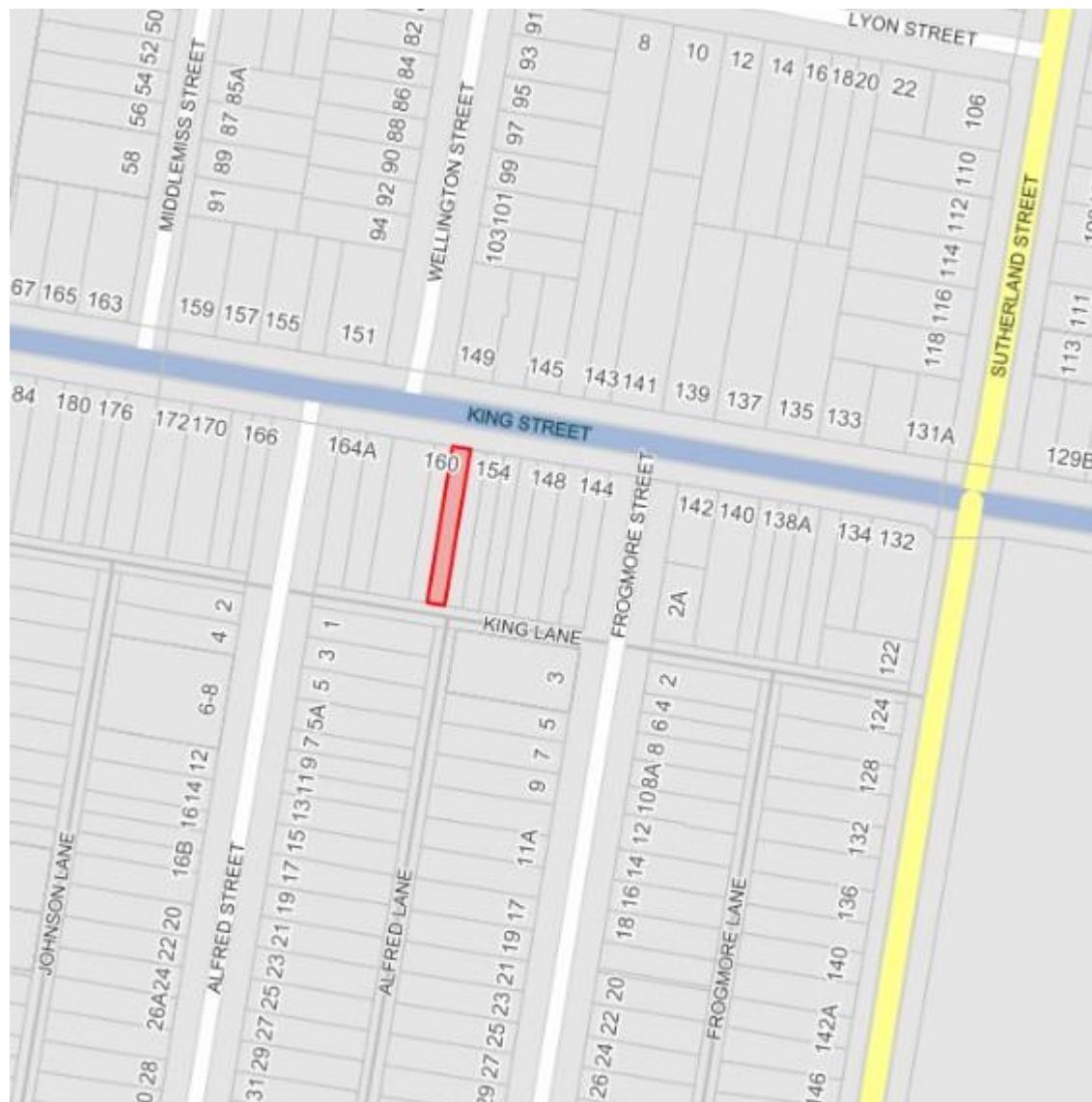
This application has been referred to the Bayside Local Planning Panel for the following reason:

- In accordance with Schedule 1, Section 3 – Departure from Development Standards of the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), development that contravenes a development standard imposed by an environmental planning instrument by more than 10%.

### Officer Recommendation

- 1 That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Clause 53(2)(a) non-discretionary standards – Minimum site area of 450m<sup>2</sup> of State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by cl4.6 of the Bayside Local Environmental Plan 2021.
- 2 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the Environmental Planning and Assessment Act 1979, determine Development Application DA-2025/193 for alterations and additions to existing garage including the construction of a first floor secondary dwelling at 158 King Street, Mascot NSW 2020 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

## Location Plan



## Attachments

- 1 [Assessment Report](#)
- 2 [Draft Conditions](#)
- 3 [Plans](#)
- 4 [Statement of Environmental Effects](#)
- 5 [Clause 4.6 - Minimum Lot Size](#)

# BAYSIDE COUNCIL

## Planning Assessment Report



### Application Details

|                            |   |
|----------------------------|---|
| <b>Application Number:</b> | DA-2025/193   |
| <b>Date of Receipt:</b>    | 2 July 2025   |
| <b>Property:</b>           | 158 King Street, MASCOT NSW 2020<br>Lot B DP 436563   |
| <b>Owner:</b>              | G Premetis  |
| <b>Applicant:</b>          | M Groupe Pty Ltd  |
| <b>Proposal:</b>           | Alterations and additions to existing garage including the construction of a first floor secondary dwelling |
| <b>Recommendation:</b>     | Approval  |
| <b>No. of submissions:</b> | Nil   |
| <b>Author:</b>             | Fiona Koutsikas   |
| <b>Date of Report:</b>     | 28 January 2026   |

### Key Issues

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

- The subject site is identified as part of group Local Heritage item L322 which includes a terrace group at 150 – 160 King Street, Mascot.
- Non-discretionary minimum lot size of 450sqm required by Clause 53(2)(a) of Housing SEPP varied by 216sqm or 48% - clause 4.6 variation supported.

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

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 is satisfied that the applicant's written request to contravene Clause 53(2)(a) non-discretionary standards - Minimum site area of 450m<sup>2</sup> of State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by cl4.6 of the Bayside Local Environmental Plan 2021.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2025/193 for alterations and additions to existing garage including the construction of a first floor secondary dwelling at 158 King Street, Mascot NSW 2020 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.

## Background

### History

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

- DA-10/255 – Extension to rear of house, new outbuilding (garage), dormer window to existing roof space was approved on 18 August 2010.

The history of the subject application is summarised as follows:

- 2 July 2025 - The DA was lodged with Council.
- 14 July 2025 to 28 July 2025 – Notification period.
- 18 July 2025 – Site inspection undertaken.
- 22 September 2025 – Request for information issued.
- 7 October 2025 – Amended plans and supporting documents submitted for assessment via the Planning Portal.
- 13 November 2025 – Further request for information issued.
- 27 November 2025 – Cl4.6 variation statement submitted for assessment via the Planning Portal.
- 19 January 2026 – Amended plans and supporting documents submitted for assessment via the Planning Portal.

## Proposal

The proposed development (as amended) is summarised as follows:

#### Demolition/Excavation/Tree Removal

- Demolish roof structure of existing outbuilding (garage)

#### Construction

- Alterations and first floor attic style addition to outbuilding (garage) for use as a secondary dwelling with bathroom and kitchen facilities (21.6sqm in area).

The proposal does not include the removal of any trees from within the site or adjacent public domain.

The figures below are extracts of the proposal:

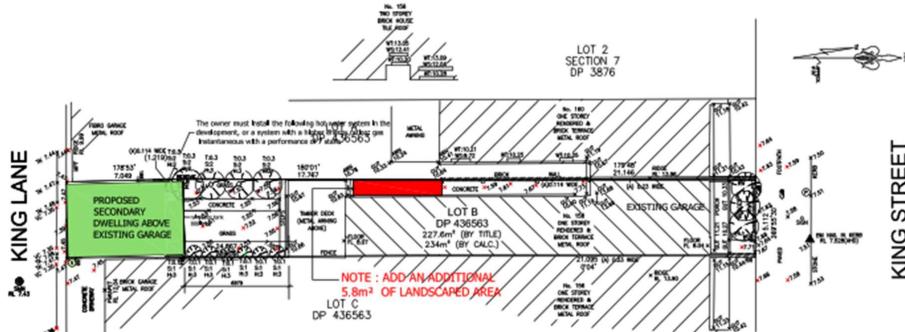


Figure 1: Site Plan

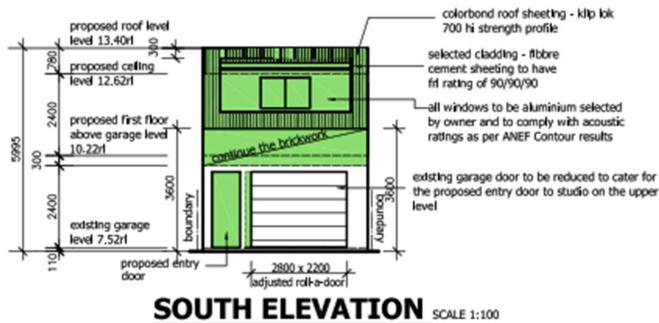
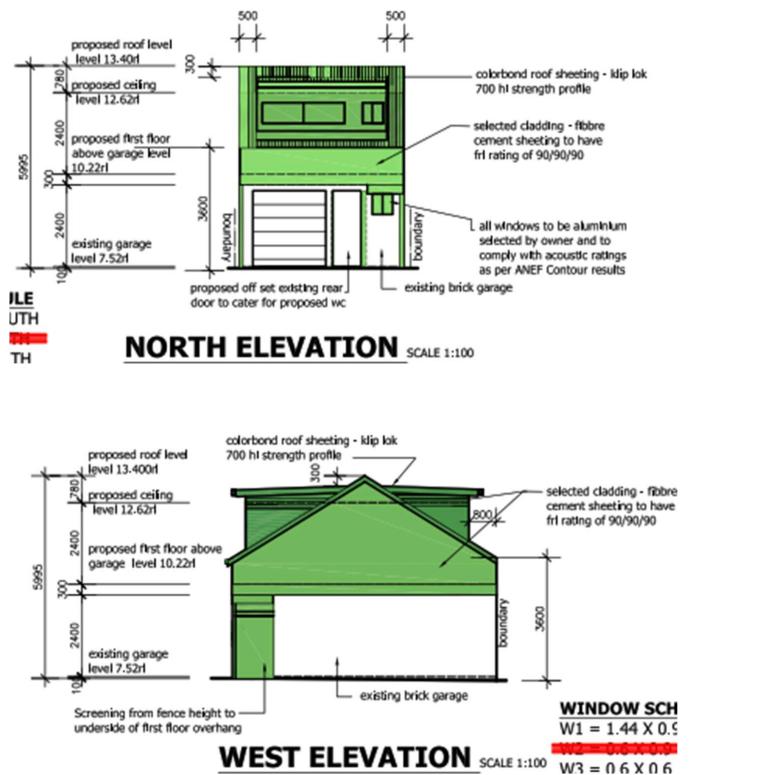


Figure 2: Proposal



**Figure 3:** Proposal

## Site Location and Context

The subject site is legally identified as Lot 8 DP 436563 and is known as 158 King Street, Mascot. The site is rectangular in shape with front boundary width of 5.112m to King Street and a rear boundary width of 5.093m to King Lane. The side boundaries are 45.962m deep.

The site has frontage to King Street and King Lane.

The total site area is 234sqm (by calculation). The topography of the site is relatively flat, sloping to the rear approximately 240mm.

The subject site contains a two (2) storey dwelling and detached garage accessed from King Lane. The site is located on the southern side of King Street between Alfred Street to the west and Frogmore Street to the east.

Adjoining development to the sides includes a one (1) storey dwelling to the west and a two (2) storey dwelling to the east; both are Local Heritage items. There is a mix of one (1) and two (2) storey residential buildings within close proximity to the subject property. Each site facing King Street between Frogmore Street and Alfred Street contains a heritage item, except for 162 King Street.

The adjoining site (160 King Street) benefits from an approval under DA-2024/17 for a first floor studio above its garage fronting King Lane. The proposed development is consistent in form, scale and design with this approved scheme.



**Figure 4:** Locality (subject site outlined in RED)

There are no trees of significance on the site or within the adjacent public domain.

The site is subject to the following affectations:

- Contains a heritage item of local significance.
- Class 4 Acid Sulfate Soils.
- PMF flood event.
- ANEF 25 to 30 contour.



**Figure 5:** Subject site (front and rear)

## Statutory Considerations

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

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

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

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

The following Environmental Planning Instruments are relevant to this application:

#### **State Environmental Planning Policies**

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

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 1800869S.

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

##### **State Environmental Planning Policy (Housing) 2021**

Diverse Housing: Chapter 3 - Part 1 - Secondary dwellings

##### **Chapter 3 – Part 1- Secondary Dwellings**

The proposal has been assessed against this Part of the SEPP.

##### **Clause 51 – No Subdivision**

Subdivision consent has not been sought. This is ensured by a condition of consent.

##### **Clause 52 – Floor Space Ratio**

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

| Standard | Requirement  | Compliance and comment  |
|----------|--|---|
| 52(2)(a) | No dwellings other than the principal dwelling and the secondary dwelling will be located on the land.   | Complies  |
| 52(2)(b) | The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument. | Complies - The total floor area of the principal and secondary dwelling is 130.9sqm, which complies with the maximum permitted FSR of 0.75:1 under cl4.4A(3) of the BLEP. |

|          |  |   |
|----------|--|---|
| 52(2)(c) | The total floor area of the secondary dwelling is-<br>(a) no more than 60sqm, or<br>(b) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument- the greater floor area. | Complies - The total floor area of the secondary dwelling is 21.6sqm. |
|----------|--|---|

**Clause 53 - Non-discretionary development standards**

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

| Standard | Requirement   | Compliance and comment   |
|----------|---|--|
| 53(2)(a) | Minimum site area of 450sqm   | <b>Non-compliant</b> – However acceptable. The subject site area is 234sqm by title, which is a variation of 216sqm or 48%. The proposal is found acceptable as discussed in response to cl4.6 of BLEP 2021 below. |
| 53(2)(b) | The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out. | Complies   |

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

**Chapter 4 – Remediation of Land**

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

The site appears to have been continuously used for residential purposes. The adjoining and adjacent properties are currently used for residential purposes. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses. There is no significant excavation proposed.

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

**Bayside Local Environmental Plan 2021**

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

| Relevant Clauses  | Compliance with Objectives | Compliance with Standard / Provision |
|---|----------------------------|--------------------------------------|
| 1.2 Aims of the Plan                                      | Yes                        | Not Applicable                       |
| 2.3 Zone and Zone Objectives – R2 Low Density Residential | Yes - see discussion       | Not Applicable                       |
| 2.7 Demolition requires consent                           | Not Applicable             | Yes                                  |
| 4.3 Height of buildings                                   | Yes - see discussion       | Yes - see discussion                 |
| 4.4 Floor space ratio ("FSR")                             | Yes - see discussion       | Yes - see discussion                 |
| 4.4A Exceptions to FSR for residential accommodation      | Yes - see discussion       | Yes - see discussion                 |
| 4.6 Exceptions to development standards                   | Yes - see discussion       | Yes - see discussion                 |
| 5.10 Heritage conservation                                | Yes - see discussion       | Yes - see discussion                 |
| 5.21 Flood planning                                       | Yes - see discussion       | Yes - see discussion                 |
| 6.1 Acid Sulfate Soil - Class 4                           | Yes - see discussion       | Yes - see discussion                 |
| 6.2 Earthworks  | Yes                        | Yes                                  |
| 6.3 Stormwater and water sensitive urban design           | Yes - see discussion       | Yes - see discussion                 |
| 6.7 Airspace operations                                   | Yes - see discussion       | Yes - see discussion                 |
| 6.8 Development in areas subject to aircraft noise        | Yes - see discussion       | Yes - see discussion                 |
| 6.11 Essential services                                   | Yes - see discussion       | Yes - see discussion                 |

### **2.3 - Zone**

The subject site is zoned R2 Low Density Residential under the provisions of the BLEP. The proposal is defined as alterations and additions to a dwelling house and the construction of a secondary 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 low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development satisfies the objectives of the zone.

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

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

The proposal has a maximum height of 5.99m (RL 13.4m AHD) which complies with the provisions and objectives of this Clause.

#### **4.4 – Floor Space Ratio**

A maximum FSR standard of 0.55:1 (GFA of 175.5sqm) applies to the subject site. However, the site is location within FSR Area 2, which in accordance with cl4.4A(3) of the BLEP applies a maximum FSR of 0.75:1 on sites between 200 – 250sqm in area. Therefore, the maximum permissible FSR for the site is 0.75:1 (GFA of 175sqm).

The proposal has a maximum GFA of 130.9sqm and equates to an FSR of 0.56:1, which complies with the provisions and objectives of this clause.

The applicant has submitted a cl4.6 contravention request to contravene the maximum FSR permitted by cl4.4 of the BLEP. Consideration of this is not required as the proposal complies with the standard applicable under cl4.4A(3) of the BLEP, as detailed above.

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

Section 4.6 of the BLEP 2021 allows a contravention to a development standard subject to a written request by the applicant justifying the contravention by demonstrating:

- *Section (3)(a)- that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*
- *Section (3)(b)- that there are sufficient environmental planning grounds to justify the contravention.*

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

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

The applicant is seeking to contravene the Minimum Lot Size development standard by 216sqm which equates to a 48% contravention. A contravention request in accordance with Section 4.6 of the BLEP 2021, seeking to justify the proposed contravention, has been prepared by Matthew Bartinel, dated 19 January 2026.

The applicant's Section 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case there

and are sufficient environmental planning grounds to support the non-compliant Minimum Lot Size. These components are summarised below, with the assessing officer's response provided:

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

Applicant Comments/Arguments (summarised):

- *The proposed development complies with all of the development standards within that instrument.*
- *The proposal is not inconsistent with the objectives of the provisions.*
- *The proposal does not contravene any minimum lot size standard in the principal environmental planning instrument. BLEP2021 permits secondary dwellings with consent and does not limit the size of a lot that is permitted to include a secondary dwelling. Therefore, subject to other aspects of the assessment... the proposed development is of a type envisaged by the town planning controls notwithstanding its contravention of the non-discretionary site area standard.*
- *The development is consistent with the scale of a secondary dwelling approved one property removed to the east of the subject site on a similarly sized and configured allotment--at 154 King Street. The proposed development will have a scale and character that is in keeping with the scale and character of development along the lane established by that approved development. Similarly, the scale and character of the development as it presents towards principal dwellings is consistent with the scale and character established by that approved development. Additionally, the heritage impacts of the proposed development are demonstrated to be acceptable by the accompanying heritage impact statement.*
- *The density of the proposed development, expressed as gross floor area, is acceptable because that density is less than the 0.75:1 density that is permitted for "attached dwellings", and because the use of the proposed secondary dwelling as a separate domicile does not alter that acceptable outcome.*
- *If development consent was refused on the grounds of contravention of the lot size standard, that would be inconsistent with the expectations created by the principal environmental planning instrument and by the development control plan. That would be inconsistent with the intent of the development standard as facilitative rather than restrictive.*

Officer Comment:

The applicant argues that the proposal satisfies the underlying objectives of the SEPP, as the proposal provides for the housing needs of the community, is consistent with the context and character of the area and does not result in adverse amenity impacts.

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

Applicant Comments/Arguments (summarised):

- *The proposed development is consistent with good environmental planning because it contributes to making good use of scarce urban resources.*

- *Contravention of the development standard will promote object 1.3(c) of the Act, being to promote the orderly and economic use and development of land, because it will, in an orderly and appropriate manner, make good economic use of the opportunity to use the space above the garage for a purpose that assists in meeting the housing needs of the community.*
- *The density of the proposed development, expressed as gross floor area, is acceptable because that density is less than the 0.75:1 density that is permitted for "attached dwellings", and because the use of the proposed secondary dwelling as a separate domicile does not alter that acceptable outcome.*

Officer Comment:

The proposal provides additional housing with no significant adverse environmental impacts. Overshadowing is as anticipated for a height and setback compliant development orientated north-south, and the development responds to the immediate context and contributes positively towards both King and Alfred Lanes.

The proposed secondary dwelling has been amended to an attic style located above the garage which is similar to other constructed and nearby approved secondary dwellings in the area where laneway developments of this nature are more common. This housing style provides flexibility for occupants of the site while minimizing impacts to surrounding properties.

The proposal also minimizes adverse impacts on the heritage item by locating the additional built form away from the key areas of heritage significance being the principal dwelling and King Street streetscape.

On balance, the proposal demonstrates general compliance with the provisions of the BDCP and is acceptable having regard to Part 5.1.2.2, which contains provisions for consideration in respect to secondary dwellings, specifically those fronting laneways, and is considered to align with the purpose of the SEPP.

**Conclusion**

As the proposal is consistent with the general objects relevant to the development and development standard being contravened, and there are sufficient environmental planning grounds, the consent authority can reasonably conclude the proposal is acceptable in the context of Section 4.6(3) of the BLEP.

**5.10 – Heritage Conservation**

The subject site is identified as Heritage Item I322 – Terrace group consisting of lots 150 – 160 King Street which is an item of Local significance identified in Schedule 5 of the BLEP. The subject site is also located within the vicinity of Heritage items I321 (144 – 148 King Street) and I325 (164 – 164A King Street).

**Statement of Significance:**

*The terraces at 150 – 160 King Street Mascot are significant in the history of the development of the local area. It forms a substantially intact group from the early 20<sup>th</sup> century that continues to provide readily interpretable evidence of this traditional form of modest housing in the Mascot area. The group is aesthetically significant for its very good streetscape quality within the context of development in the Mascot area, including the distinctive attributes of its single-storey roof form with prominent and intact chimney stacks to the central pair and a high level of integrity to its streetscape rhythms to both front and rear elevations. It has retained a high degree of consistency*

*as a group, with each property contributing to the heritage significance of the whole, despite alterations and additions to individual properties. The properties have retained their spatial and aesthetic integrity as a medium density suburban cultural landscape, with narrow setbacks to the street boundary and planted rear garden spaces contributing to the heritage values of the group. The group also provides physical evidence of the practice of small-scale land speculation and development in Mascot at the turn of the 20<sup>th</sup> century.*

The application was accompanied by a Heritage Impact Statement prepared by Matthew Bartinel, dated 22 June 2025.

Council's Heritage Advisor generally concurred with the findings of the Heritage Impact Statement and has provided the following comments:

- *The existing garage is located within the curtilage of the heritage listing and is considered to be part of the heritage group fabric under the provisions of the BLEP. It is however acknowledged that the garage is a relatively less significant part of the heritage fabric and this has been taken into account in the assessment.*
- *The second storey addition is lower in height than the principal dwelling's ridge line and is not visible from King Street.*
- *While the addition has a strong presence along King Lane, it has minimal impact on the main streetscape view of the terrace group.*
- *More information is required on the finish and colour scheme.*
- *Updated Assessment – Amended Plans:*
  - *As compared to the previous update, the proportion and form of the revised drawings dated 18 January 2026 has largely retained the same scheme. It is considered that the proposal is still a sympathetic addition to the subject site and is coherent and in keeping with neighbouring properties.*
  - *The previous assessment dated 1 December 2025 is still relevant.*

Council's Heritage Advisor has concluded that the proposal (as amended) is consistent with the aims and objectives of cl1.2 and cl5.10 of the BLEP and provisions of Part 3.4.4 of the BDCP.

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

### **5.21 – Flood Planning**

Council records indicate that the lot is subject to flooding in a PMF event.

Council's Development Engineer has reviewed the proposal and has raised no objection from a flood planning perspective.

Therefore, the proposal is satisfactory with respect to the provisions of this Clause.

### **6.1 – Acid Sulfate Soils**

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

The proposal does not involve any excavation below natural ground level other than for footings.

As excavation is less than 2m in depth, an Acid Sulfate Soils Management Plan is not warranted in this instance and the proposal is acceptable in the context of this Clause.

#### **6.3 – Stormwater and WSUD**

Council's Development Engineer has raised no objection to the proposal subject to conditions which have been included in the recommended conditions.

Subject to conditions, the proposal is satisfactory with respect to the provisions of this Clause.

#### **6.7 – Airspace Operations**

The subject site is subject to an obstacle limitation surface (OLS) height limit of 51m AHD.

The proposal has an overall height of 13.4m AHD and therefore a referral to Sydney Airport Corporation (SACL) was not warranted.

The proposal is satisfactory with respect to the provisions of this Clause.

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

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

The proposal was accompanied by an Acoustic Report prepared by Acoustic Noise and Vibration Solutions P/L, which certifies that the internal noise attenuation levels for the proposed development will satisfy the requirements of AS 2021:2015 Acoustic Aircraft Noise Intrusion – Building Siting and Construction and Bayside Council requirements provided that recommended materials are used in the construction.

Subject to related conditions, the proposal is satisfactory with respect of the requirements and objectives of this Clause.

#### **6.11 – Essential Services**

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

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

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

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

The following Development Control Plan is relevant to this application:

#### **Bayside Development Control Plan 2022**

The application is subject to the Bayside Development Control Plan 2022 ("BDCP"). This is the comprehensive DCP relevant to the proposal.

The following table outlines the key Parts of the BDCP applicable to the proposal, while

aspects warranting further discussion follows:

| Relevant Clauses   | Compliance with Objectives | Compliance with Standard / Provision |
|--|----------------------------|--------------------------------------|
| <b>PART 3 – GENERAL DEVELOPMENT PROVISIONS</b>                             |                            |                                      |
| 3.1 Site Analysis and Locality   | Yes - see discussion       | Yes - see discussion                 |
| 3.4 Heritage   | Yes - see discussion       | Yes - see discussion                 |
| 3.5 Transport, Parking and Access  | Yes - see discussion       | Yes - see discussion                 |
| 3.7 Landscaping, Private Open Space and Biodiversity                       | Yes - see discussion       | Yes - see discussion                 |
| 3.9 Stormwater Management and WSUD   | Yes - see discussion       | Yes - see discussion                 |
| 3.10 Flood Prone Land  | Yes - see discussion       | Yes - see discussion                 |
| 3.11 Contamination   | Yes - see discussion       | Yes - see discussion                 |
| 3.12 Waste Minimisation and Site Facilities                                | Yes - see discussion       | Yes - see discussion                 |
| 3.13 Areas subject to Aircraft Noise and Airport airspace                  | Yes                        | Yes                                  |
| <b>PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS</b>                     |                            |                                      |
| 5.1.2 Ancillary Uses – Additions, Garages, Secondary Dwellings and Studios | Yes - see discussion       | Yes - see discussion                 |
| 5.2.1 Low Density Residential  | Yes - see discussion       | Yes - see discussion                 |

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

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

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

The application was accompanied by a site analysis plan which demonstrates that the proposed development (as amended) respects existing development patterns and will not erode the character of the area.

Therefore, it is reasonable to conclude that the development outcome is informed by, and integrates with adjoining developments inline with the objectives of Part 3.1.1.

#### **Part 3.4 – Heritage**

An assessment against stormwater management has been discussed in response to Clause 5.10 of the BLEP, in the previous Section of this report.

### **Part 3.5 – Transport, Parking and Access**

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

Table 3 of the BDCP stipulates car parking required for the proposal based on the proposed use. For this proposal, the proposed secondary dwelling generates a requirement for one (1) car space in addition to two (2) spaces for the principal dwelling. The site has a historic shortfall as it provides one (1) car space. The dimensions of the provided car space complies with AS2890.1.

Council's Development Engineer has raised no concern regarding the parking shortfall as it is recognized that the proposal complies with s53(2)(b) of SEPP Housing, which includes the following non-discretionary development standard: *the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

Therefore, it is reasonable to conclude that the proposal satisfies with the provisions of Part 3.5.

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

The proposed use generates a required landscaped area of 25% of the site area (58.5sqm).

The proposal provides a landscaped area of 16.92% (39.6sqm) of the site area, which is a shortfall of 19.2sqm. Whilst non-compliant, the proposal provides 5.8sqm of additional landscaping to the site, with 75.27% of the front setback and 13.9% of the rear and side setback being landscaped in accordance with controls C4 and C5 and is a sufficient landscaped open space to cater for the recreation needs of site occupants, in accordance with objective O3.

Control C10 requires the provision of a minimum 50sqm of private open space for each dwelling; however, control C13 enables the minimum area requirements for secondary dwellings to be satisfied through the sharing of private open space associated with the principal dwelling. The proposal provides a shared area of 56.3sqm of private open space and therefore the minimum requirement is satisfied.

The proposal is satisfactory regarding the objectives and provisions of Parts 3.7 and 3.8 of the BDCP.

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

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

### **Part 3.10 – Flood Prone Land**

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

### **Part 3.11 – Contamination**

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

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

A Waste Minimisation and Management Plan was submitted with the application, outlining methods for minimising and managing construction and ongoing waste on site.

An appropriate condition has been included in the recommended conditions to ensure the development complies with the requirements of Part 3.1.2 of the BDCP.

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

Refer to assessment in response to Clauses 5.21 and 5.22 of the BLEP, in the previous Section of this report.

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

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

**5.1.2.1 – General Controls**

The ground floor comprises nil side and rear boundary setbacks. The first floor (secondary dwelling) is setback 800mm from the rear boundary and, except for side-facing gable ends, is setback 500mm from both side boundaries. This is considered acceptable given the proposed design combined with the prevailing pattern of outbuildings fronting King Lane, which includes nil setbacks. Further, the approved structure to the west (160 King Street) has nil setbacks at ground level and at first floor is setback 800mm from the rear and nil – 500mm to both side boundaries.

The proposal does not result in non-compliance with private open space requirements, as discussed previously in Parts 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management of this report. A 19.2sqm non-compliance with the landscaped area requirement is discussed under the same heading.

The proposed outbuilding complies with the height standard and adopts a pitched roof form complementing the site context. The GFA of all outbuildings is not more than 70sqm.

The proposed dormer structures sit 300mm below the ridgeline and are orientated towards the rear laneway and into the site. Associated windows are highlight, with sill heights of 1.5m above finished floor level in order to minimise adverse visual privacy impacts to neighbouring properties. Although the proposal does not include a first floor balcony, passive surveillance of the laneway is achieved.

Separate access is provided to the garage and secondary dwelling.

The proposal responds to its context in regard to design, height and boundary setbacks.

Based on the above, it is reasonable to conclude that the proposal aligns with the objectives and requirements of Part 5.1.2.1.

**5.1.2.2 - Development on Side and Rear Lanes**

The proposed outbuilding is subservient to the principal dwelling and compatible with recent approved developments facing King Lane and Alfred Lane regarding design and setbacks, as demonstrated by the following images.



King Lane



Alfred Lane



Alfred Lane

The prevailing nil setback to King Lane at ground floor is retained.

Furthermore, the proposal satisfies the maximum wall and roof height requirements contained in control C4. The street wall height does not exceed 3.6m

Proposed dormer structures retain the scale of developments in King Lane and Alfred Lane.

Therefore, it is reasonable to conclude that the proposal is consistent with the objectives and requirements of Part 5.1.2.2.

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

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

The objectives under Part 5.2.1.1 of the BDCP are as follows:

- *To ensure that dwellings are compatible with the envisaged local streetscape and desired future character.*
- *To create visual interest through building articulation and a variety of compatible materials, finishes and colouring.*

The proposal does not impact upon the principal dwellings' relationship with King Street.

The proposal is compatible with the general character of development in King Lane and is acceptable regarding setbacks, form, bulk and scale.

Subject to a condition requiring the submission of additional details of material and finishes, it is concluded that the proposal is consistent with the objectives and requirements of Part 5.2.1.1.

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

Refer to discussion under Part 3.7 of the BDCP.

#### **5.2.1.5 – Solar Access and Overshadowing**

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

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

Submitted aerial shadow diagrams between 9am and 3pm in mid-winter (June 21) demonstrate that the minimum requirements were satisfied based on a previous revision of the proposal. Given this, it is reasonable to conclude that the latest amended revision of the proposal, with reduced roof form, height and scale, is also acceptable.

#### **5.2.1.8 – Special Height Controls**

The subject site is located within Special Height Area H1; however, no relevant controls related to this area are provided within this Part.

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

There is no planning agreement applicable to the proposal.

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

In terms of provisions of the Regulation:

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

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

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

This Section of the Act requires consideration of natural and built environmental impacts, and social and economic impacts. The potential and likely impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been

addressed or warrant some elaboration are as follows:

### **Built Environmental Impacts**

#### Construction Impacts

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

### **Social Impacts**

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

### **Economic Impacts**

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

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

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

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

#### **Public Submissions**

The development has been notified in accordance with the Bayside 2024 – 2028 Communications and Engagement Strategy, between 14 July 20205 and 28 July 2025. No submissions have been received.

The amended plans were not required to be notified.

#### **Referral Comments**

A summary of comments from other agencies or from other Departments within Council is below:

#### Other agencies

Nil

Council Departments/Experts

**Heritage Officer**

No objection subject to recommended conditions, which have been included as conditions of consent.

**Development Engineer**

No objection subject to recommended conditions, which have been included as conditions of consent.

**Tree Management Officer**

No objection as no trees on-site or within the adjacent public domain are proposed to be removed or impacted upon by the development.

**Address and Road Naming**

No objection subject to recommended conditions, which have been included as conditions of consent.

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

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

**S7.11/S7.12 - Development Contributions**

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The application was referred to Council's Development Contributions Planner who indicated the following:

*A Section 7.11 contribution of \$20,000 applies to the development in accordance with the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap).*

**Housing and Productivity Contribution (HPC)**

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The provisions of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* do not apply to the proposal, as the development does not result in subdivision or similar.

**Conclusion and Reasons for Decision**

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The proposed development at 158 King Street, Mascot NSW 2020 has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposed development, being alterations and first floor additions to an existing outbuilding (garage) for use as a secondary dwelling, is a permissible land use within the zone with development consent. Public notification did not result in the receipt of any submissions.

The proposal is supported for the following main reasons:

- The proposal is acceptable when considered against all relevant State Environmental Planning Policies, including State Environmental Planning Policy (Housing) 2021.
- The proposed contravention to the non-discretionary development standard for minimum lot size under s53(2) of the Housing SEPP has been assessed in accordance with cl4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable.
- The development, subject to conditions, is consistent with the objectives of the R2 Low Density Residential zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development is consistent with the objectives of Bayside Development Control Plan 2022 and is generally consistent with the relevant requirements of that Plan.
- The scale and design of the proposal is suitable for the location and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

## Schedule 1 – Draft Conditions of Consent

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Refer to draft conditions attached separately.

**DRAFT CONDITIONS -**  
158 King Street, Mascot - DA-2025/193

**General Conditions**

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

|                    | <p>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</p> <p>c. stating that unauthorised entry to the work site is prohibited.</p> <p>3. The sign must be—</p> <p>a. maintained while the building work, subdivision work or demolition work is being carried out, and</p> <p>b. removed when the work has been completed.</p> <p>4. This section does not apply in relation to—</p> <p>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</p> <p>b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</p>  |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
|--------------------|---|--------------------------|------------------|-----------------|--|--|-------------|-----------------|------------|----------|--------------|---|---|-----------|-----------------|-----------------|---|---|--------------------------|-----------------|-----------------|---|---|-----------------------|-----------------|-----------------|--------------------|--|--|--|----------------|----------------|-------------|------------------|--|--|--|--|
|                    | <p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>   |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| 3                  | <p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <p>1. BASIX development,</p> <p>2. BASIX optional development, if the development application was accompanied by a BASIX certificate.</p>   |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
|                    | <p><b>Condition reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>   |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| 4                  | <p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1"> <thead> <tr> <th colspan="5">Approved plans</th> </tr> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>E</td> <td>Site Plan</td> <td>MGroupe Pty Ltd</td> <td>18 January 2026</td> </tr> <tr> <td>2</td> <td>E</td> <td>Floor Plans / Elevations</td> <td>MGroupe Pty Ltd</td> <td>18 January 2026</td> </tr> <tr> <td>3</td> <td>E</td> <td>Elevations / Sections</td> <td>MGroupe Pty Ltd</td> <td>18 January 2026</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Approved documents</th> </tr> <tr> <th>Document title</th> <th>Version number</th> <th>Prepared by</th> <th>Date of document</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> | Approved plans           |                  |                 |  |  | Plan number | Revision number | Plan title | Drawn by | Date of plan | 1 | E | Site Plan | MGroupe Pty Ltd | 18 January 2026 | 2 | E | Floor Plans / Elevations | MGroupe Pty Ltd | 18 January 2026 | 3 | E | Elevations / Sections | MGroupe Pty Ltd | 18 January 2026 | Approved documents |  |  |  | Document title | Version number | Prepared by | Date of document |  |  |  |  |
| Approved plans     |   |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| Plan number        | Revision number   | Plan title               | Drawn by         | Date of plan    |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| 1                  | E   | Site Plan                | MGroupe Pty Ltd  | 18 January 2026 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| 2                  | E   | Floor Plans / Elevations | MGroupe Pty Ltd  | 18 January 2026 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| 3                  | E   | Elevations / Sections    | MGroupe Pty Ltd  | 18 January 2026 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| Approved documents |   |                          |                  |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
| Document title     | Version number  | Prepared by              | Date of document |                 |  |  |             |                 |            |          |              |   |   |           |                 |                 |   |   |                          |                 |                 |   |   |                       |                 |                 |                    |  |  |  |                |                |             |                  |  |  |  |  |
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|  | BASIX Certificate   | 1800869S | MGroupe Pty Ltd                              | 22 June 2025    |  |
|  | Soil and Water Management Plan – Sheet 5  | E        | MGroupe Pty Ltd                              | 18 January 2026 |  |
|  | Landscape Plan – Sheet 6  | E        | MGroupe Pty Ltd                              | 18 January 2025 |  |
|  | Acoustic Report   | 2025-157 | Acoustic Noise & Vibration Solutions Pty Ltd | 5 June 2025     |  |
| <p>In the event of any inconsistency between the approved plans and documents, the approved plans prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p> |   |          |  |                 |  |
| 5  | <p><b>Carrying out of Works Wholly Within the Site</b></p> <p>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.</p> <p><b>Condition reason:</b> To avoid encroachment of the development beyond the site boundaries.</p>  |          |  |                 |  |
| 6  | <p><b>Compliance with the Building Code of Australia (BCA)</b></p> <p>Building work must be carried out in accordance with the requirements of the BCA.</p> <p><b>Condition reason:</b> Environmental Planning and Assessment Regulation Clause 69(1).</p>  |          |  |                 |  |
| 7  | <p><b>Construction Certificate Required</b></p> <p>A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.</p> <p>Building work is defined under the <i>Environmental Planning and Assessment Act Part 6</i>.</p> <p><b>Condition reason:</b> To ensure that a Construction Certificate is obtained at the appropriate time.</p> |          |  |                 |  |
| 8  | <p><b>Earthworks Not Shown on Plans</b></p> <p>No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development.</p>  |          |  |                 |  |

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|    | <b>Condition reason:</b> To avoid changes that may result in adverse impacts without proper assessment.  |
| 9  | <p><b>Single Occupancy Only</b></p> <p>The building is approved as a secondary dwelling only. It shall not be used for separate residential occupation, including, but not limited to, such as a boarding house or a separate residential flats.</p>   |
|    | <b>Condition reason:</b> To ensure that the intensity of development is suitable for the site.   |
| 10 | <p><b>Compliance with Home Building Act (if applicable)</b></p> <p>In the case of residential building work for which the <i>Home Building Act 1989</i> 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.</p> |
|    | <b>Condition reason:</b> <i>Prescribed condition EP&amp;A Regulation, Section 69(2).</i>   |
| 11 | <p><b>Subdivision Not Approved / Permitted</b></p> <p>Subdivision does not form part of this consent and is not permitted.</p>   |
|    | <b>Condition reason:</b> To ensure compliance with relevant standards.   |

## Building Work

### Before issue of a construction certificate

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| 12 | <b>Construction Site Management Plan</b>   |
|    | <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p> <ol style="list-style-type: none"> <li>The location and materials for protective fencing and hoardings on the perimeter of the site;</li> <li>Location of dedicated washdown areas (located away from drainage lines, stormwater drains and water bodies);</li> <li>Provisions for public safety;</li> <li>Pedestrian and vehicular site access points and construction activity zones;</li> <li>Details of construction traffic management including:           <ol style="list-style-type: none"> <li>Proposed truck movements to and from the site;</li> <li>Estimated frequency of truck movements; and</li> <li>Measures to ensure pedestrian safety near the site;</li> </ol> </li> </ol> |

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|    | <ul style="list-style-type: none"> <li>f. Details of bulk earthworks to be carried out;</li> <li>g. The location of site storage areas and sheds;</li> <li>h. The equipment used to carry out works;</li> <li>i. The location of a garbage container with a tight-fitting lid;</li> <li>j. Dust, noise and vibration control measures;</li> <li>k. Details of chemical storage and management;</li> <li>l. The location of temporary toilets;</li> <li>m. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> <li>i. AS 4970 – Protection of trees on development sites;</li> <li>ii. An applicable Development Control Plan;</li> <li>iii. An arborist's report approved as part of this consent</li> </ul> </li> </ul> <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> |
|    | <p><b>Condition reason:</b> To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>  |
| 13 | <p><b>Erosion and sediment control plan</b></p> <p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the principal certifier:</p> <ol style="list-style-type: none"> <li>1. Council's relevant development control plan,</li> <li>2. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</li> <li>3. the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time).</li> </ol>   |
|    | <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p>  |
| 14 | <p><b>Payment of security deposits</b></p> <ol style="list-style-type: none"> <li>a. Before the issue of a Construction Certificate, the applicant must make payment of \$1,425.00 for a security deposit to the consent authority; and</li> <li>b. if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.</li> </ol>  |
|    | <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>  |
| 15 | <p><b>Waste Management Plan requirements</b></p> <p>Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the private certifier. The plan must be prepared:</p>   |

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|    | <p>a. in accordance with</p> <ul style="list-style-type: none"> <li>i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time; and</li> <li>ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out; and</li> </ul> <p>b. include the following information—</p> <ul style="list-style-type: none"> <li>i. the name and contact details of who is responsible for the plan and management of the waste onsite,</li> <li>ii. the name and contact details of the person(s) removing waste,</li> <li>iii. a description of each different waste type and an estimate of the and quantity of each waste type expected to be produced,</li> <li>iv. how each waste type will be managed onsite and offsite, including whether the waste is expected to be reused, recycled or sent to landfill,</li> <li>v. where any onsite management of waste will occur, such as for consolidation and collection,</li> <li>vi. how each waste type will be characterised and classified for waste management and transport,</li> <li>vii. where each waste type is intended to be transported for disposal or other fate,</li> <li>viii. how the quantity of each waste type will be measured and recorded,</li> <li>ix. how each waste movement will be tracked,</li> <li>x. contingencies including to managing unexpected finds, such as asbestos.</li> </ul> <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> |
|    | <p><b>Condition reason:</b> To ensure waste management practices are undertaken, resource recovery is promoted and local amenity protected during construction site works.</p>   |
| 16 | <p><b>Sydney Water Tap-in</b></p> <p>Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.</p> <p>Sydney Water's Tap inTM online service is available at:<br/> <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></p> <p><b>Condition reason:</b> To ensure compliance with Sydney Water requirements.</p>   |
| 17 | <p><b>Detailed Design Stormwater Management Plan</b></p> <p>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</p>  |

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|    | <p>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.</p> <p>The detailed drainage design plans shall incorporate the provisions detailed below:</p> <ol style="list-style-type: none"> <li>1. The stormwater plans to show the indicative location of the existing stormwater connection, location of the proposed downpipe, existing downpipes, and stormwater pipe sizes.</li> <li>2. A minimum 3,000 litre rainwater tank shall be provided for the secondary dwelling, connected to all toilet flushing, the cold water tap that supplies each clothes washing machine and external taps/landscape irrigation for non-potable stormwater re-use. The rainwater tank overflow invert level to be shown.</li> <li>3. A rainwater tank detail is to be provided to show the surface level, top of tank, top water level and the invert level of the overflow pipe. For charged roof systems, a minimum of 0.5m head difference is required from the roof gutter level to the top of rainwater tank.</li> <li>4. A sediment and erosion control plan to be provided showing all erosion measures including the surface pits.</li> </ol> <p><b>Condition reason:</b> To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.</p>  |
| 18 | <p><b>Certification and Connection to Existing Stormwater System – minor addition – site falling to the street</b></p> <p>Prior to the issue of the Construction Certificate, a registered plumber or other suitably qualified professional is to inspect, assess and certify the adequacy of the existing stormwater drainage system (including downpipes and roof gutters) on the site.</p> <p>If the existing stormwater system is certified as being functional (i.e., connected via gravity discharge to either the kerb &amp; gutter or Bayside Council's underground stormwater drainage system or an approved on-site stormwater drainage system) then, all roof and surface stormwater run-off from the new addition shall be designed to connect to the existing stormwater system. Any damaged sections of the existing system are to be repaired/renewed as part of the development. Details shall be illustrated on the plans lodged with the Construction Certificate.</p> <p>If the existing stormwater drainage system is determined to be non-functional/non-existent, a new functional stormwater system shall be designed for the site by a suitably qualified civil engineer in accordance with Bayside Council's Stormwater Management requirements &amp; AS 3500. This new system shall be constructed prior to the issue of the Occupation Certificate. All roof and surface run-off from the new addition shall connect to this new stormwater system.</p> <p><b>Condition reason:</b> To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.</p> |
| 19 | <p><b>Detailed Roof Drainage</b></p>  |

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|                         | <p>Prior to the issue of any Construction Certificate, a detailed roof drainage plan to be prepared by a qualified Civil Engineer designed in accordance with AS/NZS3500.3 2021 and to be submitted to the Principal Certifier for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans.</p> <p><b>Condition reason:</b> To ensure compliance with Council's Stormwater Management Technical Guidelines / Specifications.</p>  |                      |            |                         |             |                      |            |                |          |
| 20                      | <p><b>Aircraft Noise - Compliance with submitted Report.</b></p> <p>Prior to issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Noise &amp; Vibration Solutions P/L dated 5 June 2025 shall be included in the construction drawings and in accordance with the provisions of AS 2021 - 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction.</p> <p>The work detailed in the report includes:</p> <ul style="list-style-type: none"> <li>(a) Appropriate acoustic glazing to stated windows and doors, and</li> <li>(b) Detailed roof and ceiling construction, and</li> <li>(c) Wall and ceiling corner details, and</li> <li>(d) External door specification, and</li> <li>(e) Acoustically treated mechanical ventilation.</li> </ul> <p><b>Condition reason:</b> To minimise adverse amenity impacts to residents within the building.</p> |                      |            |                         |             |                      |            |                |          |
| 21                      | <p><b>Payment of Section 7.11 Contributions.</b></p> <p>Before the issue of a construction certificate the applicant must pay the following contributions to Council for:</p> <p>(a) Former City of Botany Bay Section 7.11 Contributions Plan 2016 – Amendment 1</p> <table border="1"> <tr> <td>Community Facilities</td> <td>\$1,744.44</td> </tr> <tr> <td>Recreation &amp; Open Space</td> <td>\$14,490.27</td> </tr> <tr> <td>Transport Facilities</td> <td>\$3,605.28</td> </tr> <tr> <td>Administration</td> <td>\$160.01</td> </tr> </table> <p>The total contribution payable to Council under the condition is \$20,000.00 as calculated at the date of this consent, in accordance with the Former City of Botany Bay Section</p>   | Community Facilities | \$1,744.44 | Recreation & Open Space | \$14,490.27 | Transport Facilities | \$3,605.28 | Administration | \$160.01 |
| Community Facilities    | \$1,744.44  |                      |            |                         |             |                      |            |                |          |
| Recreation & Open Space | \$14,490.27   |                      |            |                         |             |                      |            |                |          |
| Transport Facilities    | \$3,605.28  |                      |            |                         |             |                      |            |                |          |
| Administration          | \$160.01  |                      |            |                         |             |                      |            |                |          |

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|  | <p>7.11 Contributions Plan 2016 – Amendment 1.</p> <p>The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Former City of Botany Bay Section 7.11 Contributions Plan 2016 – Amendment 1.</p> <p>A copy of the development contributions plan is available for inspection on Council's website.</p>   |                                    |         |                            |             |  |            |
| 22   | <p><b>Condition reason:</b> To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.</p>  |                                    |         |                            |             |  |            |
| 22   | <p><b>Property Address Allocation - Secondary dwellings, Dual Occupancies and Semi-Detached</b></p> <p>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 commercial tenancy and the residential dwellings within the mixed use development in accordance with Section 5.2 of the NSW Address Policy and User Manual dated October 2024.</p> <p>The form is available for download at:<br/><a href="https://www.bayside.nsw.gov.au/sites/default/files/2025-07/2025-2026%20Property%20Address%20Allocation%20Application.PDF">https://www.bayside.nsw.gov.au/sites/default/files/2025-07/2025-2026%20Property%20Address%20Allocation%20Application.PDF</a></p> <p>Derivation and production of address data components is governed by the NSW Address Policy and User Manual October 2024 to ensure consistency of application.</p> <p><a href="https://www.nsw.gov.au/sites/default/files/noindex/2024-11/NSW%20Address%20Policy%20and%20User%20Manual_2024.pdf">https://www.nsw.gov.au/sites/default/files/noindex/2024-11/NSW%20Address%20Policy%20and%20User%20Manual_2024.pdf</a></p> <p><b>Condition reason:</b> To ensure property addresses are allocated in accordance with relevant standards</p> |                                    |         |                            |             |  |            |
| 23   | <p><b>Payment of fees and security deposits.</b></p> <p>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:</p> <table border="1"><tr><td>Soil and Water Management Sign Fee</td><td>\$27.00</td></tr><tr><td>Section 7.11 Contributions</td><td>\$20,000.00</td></tr><tr><td>Builders Damage Deposit (Security Deposit)</td><td>\$1,425.00</td></tr></table> <p><b>Note:</b> The amount payable must be in accordance with Council's fees and charges at the</p>   | Soil and Water Management Sign Fee | \$27.00 | Section 7.11 Contributions | \$20,000.00 | Builders Damage Deposit (Security Deposit) | \$1,425.00 |
| Soil and Water Management Sign Fee         | \$27.00  |                                    |         |                            |             |  |            |
| Section 7.11 Contributions                 | \$20,000.00  |                                    |         |                            |             |  |            |
| Builders Damage Deposit (Security Deposit) | \$1,425.00   |                                    |         |                            |             |  |            |

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|    | <p>payment date.</p> <p><b>Note:</b> At the completion of the project only security deposits can be refunded, fees and contributions are non-refundable.</p> <p><b>Condition reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed.</p>   |
| 24 | <p><b>Materials and finishes</b></p> <p>Prior to the issue of any Construction Certificate, the finishes schedule and colour scheme is to be submitted to, and approved by Director City Futures of Bayside Council (or delegate). Details are to be incorporated into the Construction Certificate plans.</p> <p><b>Condition reason:</b> To minimise adverse amenity impacts.</p>  |
| 25 | <p><b>Structural Adequacy Certificate</b></p> <p>Prior to the issue of a Construction Certificate, a Certificate of Adequacy prepared by a practising professional Structural Engineer in accordance with the requirements of the National Construction Code to the effect that the existing footings and structures are capable of withstanding the additional loads to be imposed thereon must be submitted to the satisfaction of the Principal Certifier.</p> <p><b>Condition reason:</b> To ensure compliance with the Building Code of Australia.</p>  |
| 26 | <p><b>Structures to be Wholly within the Property Boundaries</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure the development is constructed wholly within the development site.</p> |

### Before building work commences

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| 27 | <p><b>Deliveries</b></p> <p>While site work is being carried out, deliveries of material and equipment must only be carried out between—</p> <p>7:00am to 5:00pm Monday to Saturday. No deliveries to be carried out on Sunday and public holidays.</p> |
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|    | <b>Condition reason:</b> To protect the amenity of neighbouring properties.  |
| 28 | <p><b>Erosion and sediment controls in place</b></p> <p>Before any site work commences, the principal certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan which was provided to the principal certifier are in place. These controls must remain in place until any bare earth has been reestablished in accordance with the erosion and sediment control plan.</p> <p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>  |
| 29 | <p><b>Payment of fees</b></p> <p>Before any site work commences, the following must be paid to Council and written evidence of these payments provided to the principal certifier:</p> <p>a. inspection fees as specified in Council's fees and charges at the payment date.</p> <p><b>Condition reason:</b> To ensure fees are paid for inspections carried out by Council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to Council property</p>  |
| 30 | <p><b>Before You Dig Australia</b></p> <p>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 <i>Before You Dig Australia</i> at <a href="http://www.byda.com.au">www.byda.com.au</a> or telephone on 1100 before excavating or erecting structures (This is the law in NSW).</p> <p>If alterations are required to the configuration, size, form or design of the development upon contacting the <i>Before You Dig Australia</i> 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.</p> <p>It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the <i>Before You Dig Australia</i> service in advance of any construction or planning activities.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p> |
| 31 | <p><b>Dilapidation Report - Public Domain - Pre-Construction - Minor</b></p> <p>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,</p>  |

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|    | <p>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.</p> <p><b>Condition reason:</b> To advise Council of, and provide Council with, the required dilapidation report.</p>  |
| 32 | <p><b>Dilapidation report</b></p> <p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the principal certifier.</p> <p>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.</p> <p>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.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the principal certifier, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than two (2) days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.</p> <p><b>Condition reason:</b> To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p> |

### During building work

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| 33 | <b>Hours of work</b>   |
|    | Site work must only be carried out between the following times – |

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|    | <p>For building work, demolition or vegetation removal from 7:00am to 5:00pm on Monday to Saturday. No works to be carried out on Sunday and public holidays.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>   |
| 34 | <p><b>Implementation of the site management plans</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times; and</li> <li>2. a copy of these plans must be kept on site at all times and made available to Council officers upon request.</li> </ol> <p><b>Condition reason:</b> To ensure site management measures are implemented during the carrying out of site work.</p>  |
| 35 | <p><b>Procedure for critical stage inspections</b></p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><b>Condition reason:</b> To require approval to proceed with building work following each critical stage inspection.</p>   |
| 36 | <p><b>Responsibility for changes to public infrastructure</b></p> <p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <p><b>Condition reason:</b> To ensure payment of approved changes to public infrastructure.</p>   |
| 37 | <p><b>Soil management</b></p> <p>While site work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ol style="list-style-type: none"> <li>a. All excavated material removed from the site must be classified in accordance with the Environment Protection Authority's Waste Classification Guidelines before it is disposed of at an approved waste management facility or otherwise lawfully managed, and the classification, and the volume of material removed, and the receival facility's details must be reported to the principal certifier.</li> <li>b. All fill material imported to the site must be:</li> </ol> |

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|    | <p>a. Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>; or</p> <p>b. a material identified as being subject to a resource recovery exemption by the NSW EPA; or</p> <p>c. a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA.</p> <p><b>Condition reason:</b> To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.</p>   |
| 38 | <p><b>Surveys by a registered surveyor</b></p> <p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:</p> <p>a. All footings / foundations in relation to the site boundaries and any registered and proposed easements</p> <p>b. At other stages of construction – any marks that are required by the principal certifier.</p> <p><b>Condition reason:</b> To ensure buildings are sited and positioned in the approved location.</p>   |
| 39 | <p><b>Approval and Permits under Roads Act and Local Government Act for Works Activities on Public Land</b></p> <p>During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the <i>Roads Act 1993</i> and <i>Local Government Act 1993</i>. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:</p> <ul style="list-style-type: none"> <li>• Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.</li> <li>• Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.</li> <li>• Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.</li> </ul> |

|    |   |
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|    | <ul style="list-style-type: none"> <li>• Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work 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.</li> <li>• Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A &amp; B hoarding, type A &amp; B hoarding with scaffolding and type B hoarding plus site sheds.</li> <li>• Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.</li> <li>• Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.</li> <li>• Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.</li> <li>• Temporary Dewatering – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.</li> <li>• Road Opening Application Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the <i>Roads Act</i>.</li> </ul> <p>A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.</p> <p><b>Condition reason:</b> To ensure appropriate permits are applied for and comply with the Roads Act 1993.</p> |
| 40 | <p><b>Approved Plans kept on Site</b></p> <p>A copy of the Construction Certificate, the Development Consent and the approved and current stamped Construction Certificate plans and specifications must be kept on the site at all times and be available to Council officers upon request.</p>  |

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|    | <b>Condition reason:</b> To ensure relevant information is available on site.  |
| 41 | <p><b>Demolition Requirements</b></p> <p>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.</p> <p><b>Condition reason:</b> To comply with relevant Australian Standard and Work Cover requirements.</p>   |
| 42 | <p><b>Implementation of Soil and Water Management Plan</b></p> <p>All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.</p> <p>Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.</p> <p><b>Condition reason:</b> To ensure no substance other than rainwater enters the stormwater system and waterways.</p> |
| 43 | <p><b>Noise during Construction</b></p> <p>The following shall be complied with during construction and demolition:</p> <p>(a) Construction Noise</p> <p>Noise from construction activities associated with the development shall comply with the NSW Environmental Protection Authority's Interim Construction Noise Guidelines and the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>(b) Level Restrictions</p> <p>Any building works being carried out must ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>(c) Out of hours work</p> <p>For any activity that is required to be undertaken outside normal construction hours due to public safety, traffic related reasons, or significant concrete pour, a separate</p>                           |

|    |  |
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|    | <p>Out of Hours Works Permit is required prior to commencement of any out of hours works being undertaken.</p> <p>(d) Silencing</p> <p>All possible steps should be taken to silence construction site equipment.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood.</p>   |
| 44 | <p><b>Protection of Council's Property</b></p> <p>During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation, and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Bayside Council.</p> <p><b>Condition reason:</b> To ensure public safety at all times and to protect the function and integrity of public infrastructure.</p> |
| 45 | <p><b>Site Fencing</b></p> <p>The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points and open and secured in such a way as to not obstruct the public footway. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.</p> <p><b>Condition reason:</b> To protect the amenity of the neighbourhood and ensure public safety.</p>  |
| 46 | <p><b>Site Management - Principal Certifier Inspections</b></p> <p>Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:</p> <p>(a) Sediment control measures, and</p> <p>(b) Provision of secured perimeter fences or hoardings for public safety to restrict access to building sites, and</p> <p>(c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.</p>   |

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|    | <b>Condition reason:</b> To protect public safety and water quality around building sites.   |
| 47 | <p><b>Toilet Facilities</b></p> <p>(a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site, and</p> <p>(b) Each toilet must:</p> <ul style="list-style-type: none"> <li>i. Be a standard flushing toilet connected to a public sewer, or</li> <li>ii. Have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or</li> <li>iii. Be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.</li> </ul> |
|    | <b>Condition reason:</b> To ensure compliance with the Local Government Act 1993.  |

**Before issue of an occupation certificate**

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| 48 | <b>Certification of acoustic measures</b>  |
|    | Before the issue of an occupation certificate, a suitably qualified person must provide details demonstrating compliance to the principal certifier that the acoustic measures have been installed in accordance with the acoustic report approved under this consent  |
|    | <b>Condition reason:</b> To protect the amenity of the local area  |
| 49 | <b>Repair of infrastructure</b>  |
|    | <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> <li>1. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or</li> <li>2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</li> </ol> |
|    | <b>Condition reason:</b> To ensure any damage to public infrastructure is rectified.   |

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| 50 | <b>Certification of New Stormwater System</b><br><br>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.<br><br><b>Condition reason:</b> To ensure that the stormwater system is constructed as approved and in accordance with relevant standards. |
| 51 | <b>Rainwater Tank - Plumbing Certification</b><br><br>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 for the secondary dwelling.<br><br><b>Condition reason:</b> To ensure that the rainwater will be reused within the site in accordance with this approval.   |
| 52 | <b>BASIX / Energy Efficiency Commitments</b><br><br>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 1818253S_02 under "Approved Plans and Supporting Documents" condition prior to the issue of any Occupation Certificate.<br><br><b>Condition reason:</b> To ensure BASIX and Energy Efficiency commitments are fulfilled.  |
| 53 | <b>Certification of Roof Drainage System</b><br><br>Prior to the issue of any Occupation Certificate, a qualified Civil Engineer must certify that the roof drainage system has been constructed in accordance with the approved plans and in accordance relevant Australian Standard and Codes.<br><br>The constructed roof drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications.<br><br><b>Condition reason:</b> To ensure that the roof drainage system is constructed as approved and in accordance with Australian Standards relevant standards.   |
| 54 | <b>Good Workmanship</b>  |

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|  | <p>Prior to the issue of any Occupation Certificate, the following matters shall be of good workmanship to the satisfaction of the Principal Certifier:</p> <p>The nil-setback southern boundary wall to the dwelling and the northern &amp; eastern walls of the outbuilding that abut neighbouring properties must be finished of good workmanship to ensure that it is of an acceptable finish and visual quality.</p> |
|  | <p><b>Condition reason:</b> To ensure that the nil-setback southern boundary wall is of acceptable quality.</p>   |

### Occupation and ongoing use

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| 55 | <p><b>Release of securities</b></p> <p>After Council receives an Occupation Certificate, an application may be lodged to release the securities held in accordance with Council policy.</p> <p><b>Condition reason:</b> To allow release of securities where the terms and conditions for the securities have been met to Council's satisfaction.</p>   |
| 56 | <p><b>Maintenance of Stormwater Drainage System</b></p> <p>The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.</p> <p><b>Condition reason:</b> To protect waterways and minimise adverse impacts to the environment.</p> |
| 57 | <p><b>Noise from Air-Conditioning Units</b></p> <p>Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.</p> <p><b>Condition reason:</b> To manage noise from air-conditioning units so that adverse impacts to the locality are minimised.</p>  |

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|    | <b>Occupation Certificate</b>   |
| 58 | The Occupation Certificate must be obtained prior to any use or occupation of the building / development or part thereof. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions. |
|    | <b>Condition reason:</b> To ensure that an Occupation Certificate is obtained.  |

#### General advisory notes

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

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

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

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

## Dictionary

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

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

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

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

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

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

**Council** means BAYSIDE COUNCIL.

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

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

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

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

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

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

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

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

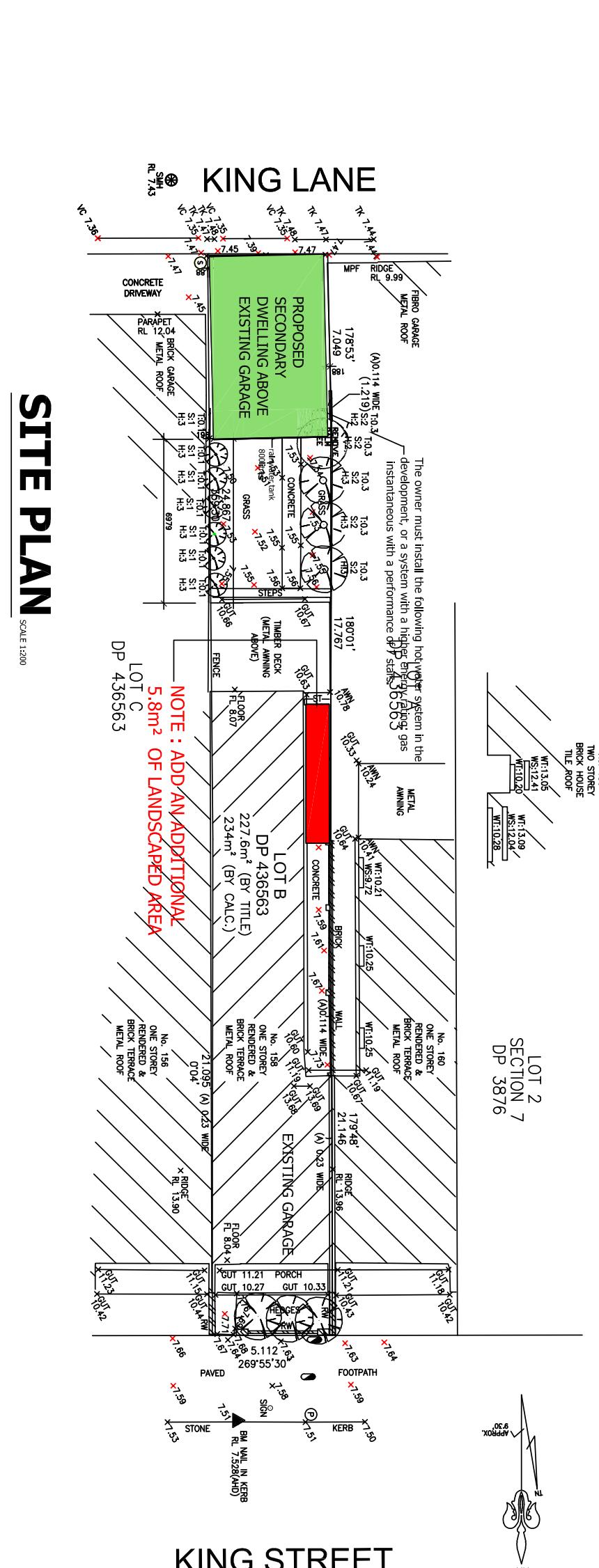
**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

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

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

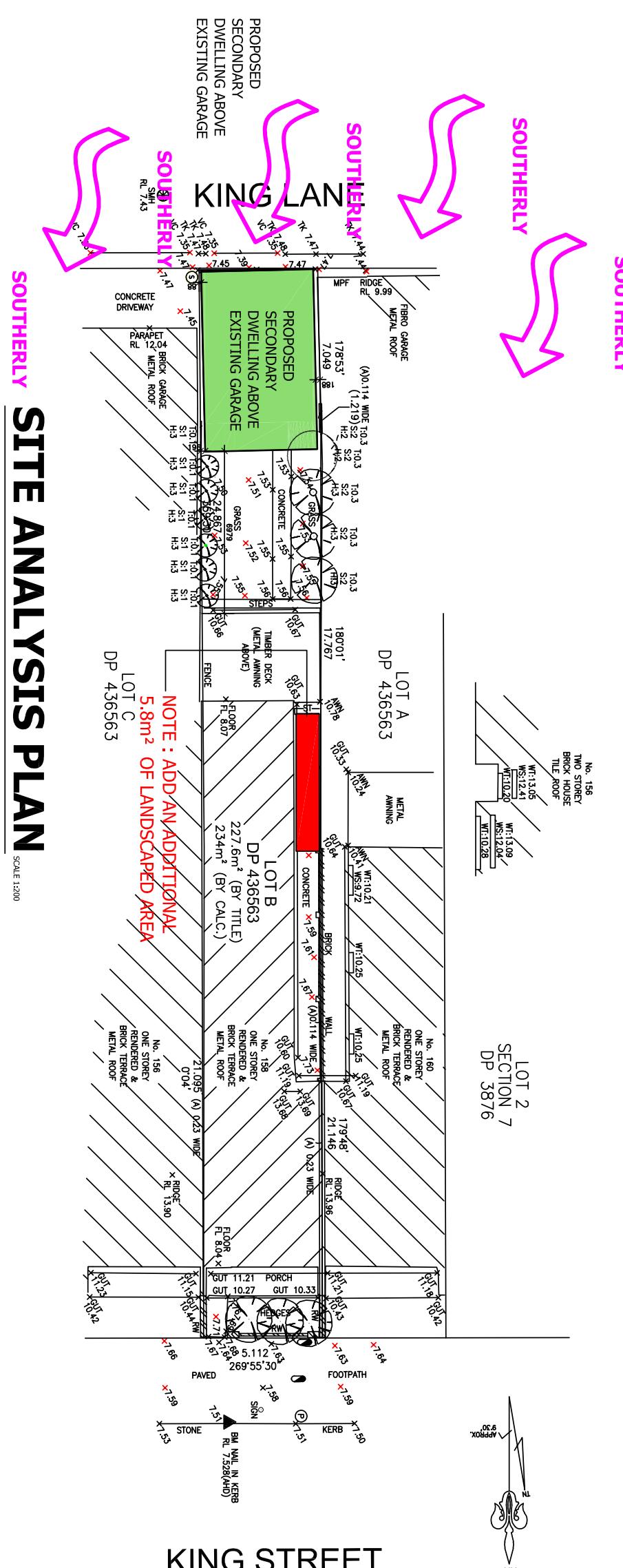
**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

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

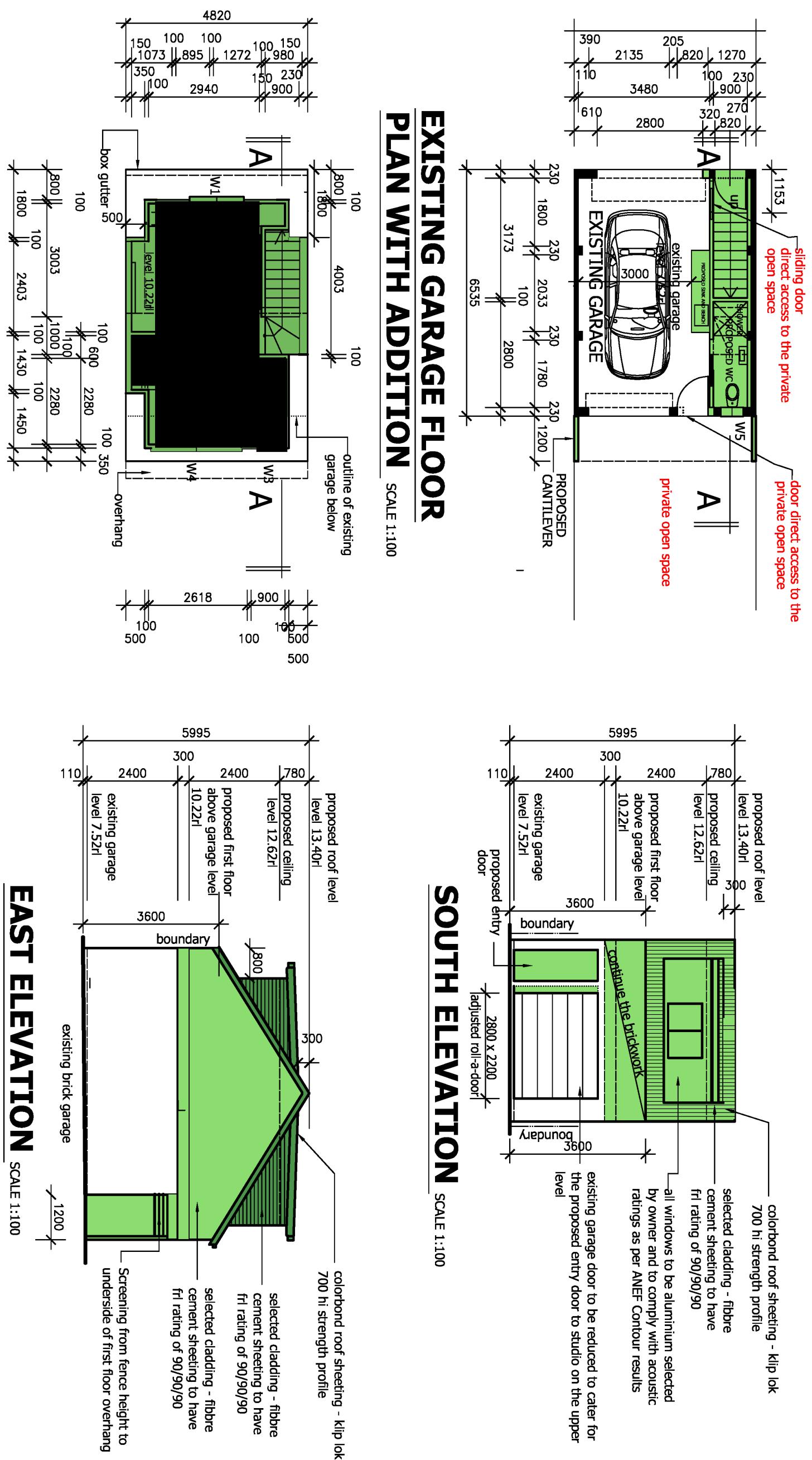


## SITE PLAN

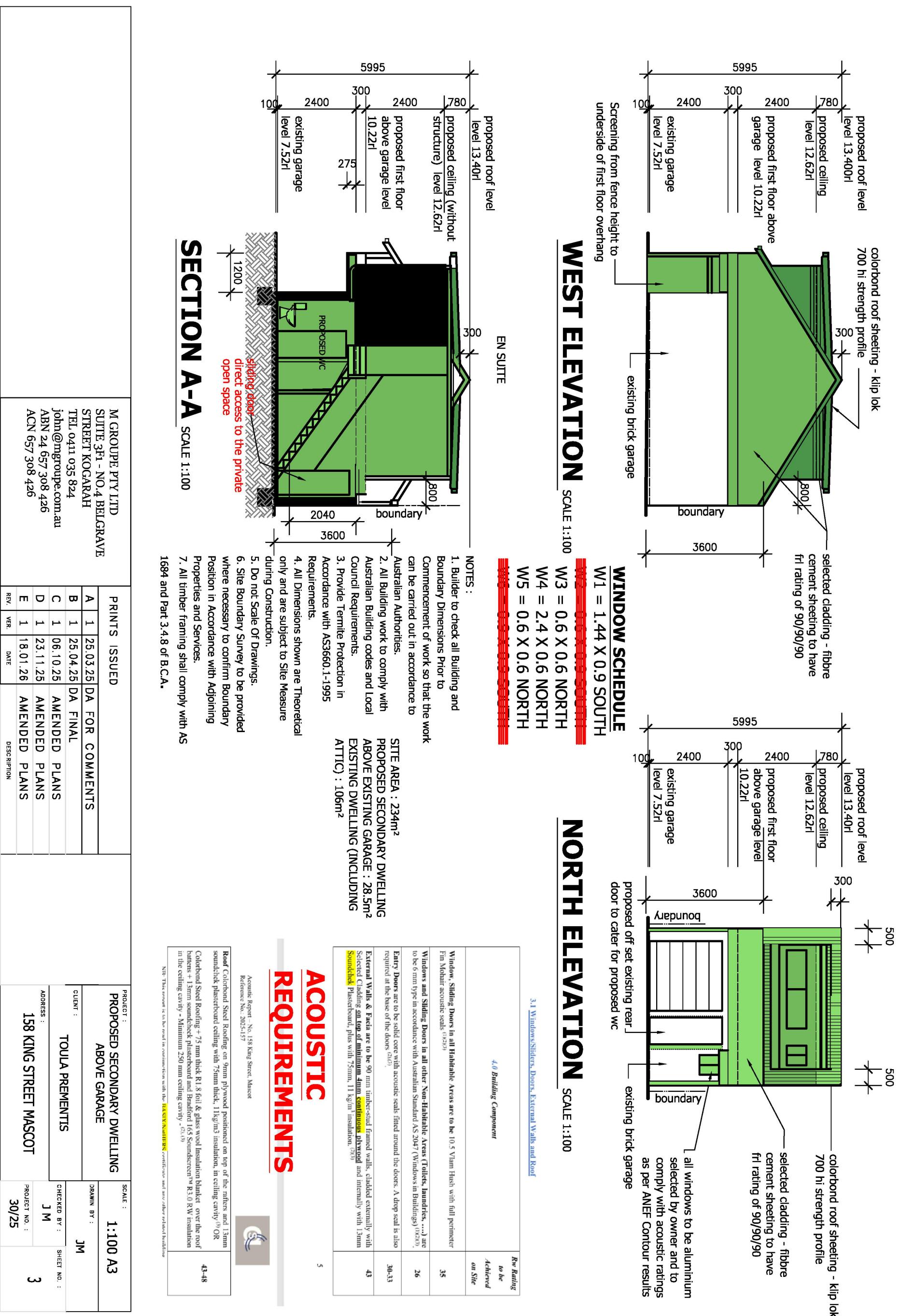
|  |  |   |
|--|--|---|
| <b>M GROUPE PTY LTD</b><br><b>SUITE 3F1 - NO.4 BELGRAVE</b><br><b>STREET KOGARAH</b><br><b>TEL: 0411 035 824</b><br><b>john@mgroupue.com.au</b><br><b>ABN 24 657 308 426</b><br><b>ACN 657 308 426</b>   |  | <b>PRINTS ISSUED</b><br><b>A 1 25/03/25 DA FOR COMMENTS</b><br><b>B 1 25/04/25 DA FINAL</b><br><b>C 1 06/10/25 AMENDED PLANS</b><br><b>D 1 23/11/25 AMENDED PLANS</b><br><b>E 1 18/01/26 AMENDED PLANS</b><br><b>REV. VER. DATE</b><br><b>DESCRIPTION</b> |
| <b>PROJECT: PROPOSED SECONDARY DWELLING ABOVE GARAGE</b><br><b>SCALE: 1:200 A3</b><br><b>DRAWN BY: JM</b><br><b>CLIENT: TOULA PREMENTIS</b><br><b>ADDRESS: 158 KING STREET MASCOT</b><br><b>checked by: JM</b><br><b>sheet no: 1</b><br><b>PROJECT NO: 30/25</b> |  |   |



|   |      |               |                 |
|---|------|---------------|-----------------|
| M GROUPE PTY LTD<br>SUITE 3F1 - NO.4 BELGRAVE<br>STREET KOGARAH<br>TEL: 0411 035 824<br>john@mgroupue.com.au<br>ABN 24 657 308 426<br>ACN 657 308 426 |      | PRINTS ISSUED |                 |
| A   | 1    | 25/03/25      | DA FOR COMMENTS |
| B   | 1    | 25/04/25      | DA FINAL        |
| C   | 1    | 06/10/25      | AMENDED PLANS   |
| D   | 1    | 23/11/25      | AMENDED PLANS   |
| E   | 1    | 18/01/26      | AMENDED PLANS   |
| REV.  | VER. | DATE          | DESCRIPTION     |



|   |      |               |               |  |                    |                          |               |
|---|------|---------------|---------------|--|--------------------|--------------------------|---------------|
| M GROUPE PTY LTD<br>SUITE 3F1 - NO.4 BELGRAVE<br>STREET KOGARAH<br>TEL 0411 035 824<br>john@ngroupe.com.au<br>ABN 24 657 308 426<br>ACN 657 308 426 |      | PRINTS ISSUED |               | PROJECT : PROPOSED SECONDARY DWELLING ABOVE GARAGE |                    | SCALE : 1:100 A3         |               |
|   |      | A             | 1             | 25.03.25   | DA FOR COMMENTS    | CLIENT : TOULA PREMENTIS | DRAWN BY : JM |
| B   | 1    | 25.04.25      | DA FINAL      | ADDRESS :<br>158 KING STREET MASCOT                | CHECKED BY :<br>JM | PROJECT NO. :<br>30/25   |               |
| C   | 1    | 06.10.25      | AMENDED PLANS |  |                    |                          |               |
| D   | 1    | 23.11.25      | AMENDED PLANS |  |                    |                          |               |
| E   | 1    | 18.01.26      | AMENDED PLANS |  |                    |                          |               |
| REV.  | VER. | DATE          | DESCRIPTION   |  |                    |                          |               |





## GROUND FLOOR PLAN (PRIMARY DWELLING) SCALE 1:100

| Construction   | Area - m <sup>2</sup> | Additional insulation required  | Options to address thermal bridging | Other specifications                          |
|--|-----------------------|---|-------------------------------------|---|
| floor: suspended floor above garage; particle board; frame: timber - untreated softwood  | 37                    | nil   | nil                                 |   |
| external wall: framed (fibre cement sheet or boards); frame: timber - untreated softwood | 72                    | 3.00 (or 3.50 including construction); fibreglass batts or roll + reflective foil in the cavity | nil                                 | wall colour: Light (solar absorptance < 0.48) |
| external wall: framed (fibre cement sheet or boards); frame: timber - untreated softwood | 10                    | 3.00 (or 3.50 including construction); fibreglass batts or roll + reflective foil in the cavity | nil                                 | wall colour: Light (solar absorptance < 0.48) |

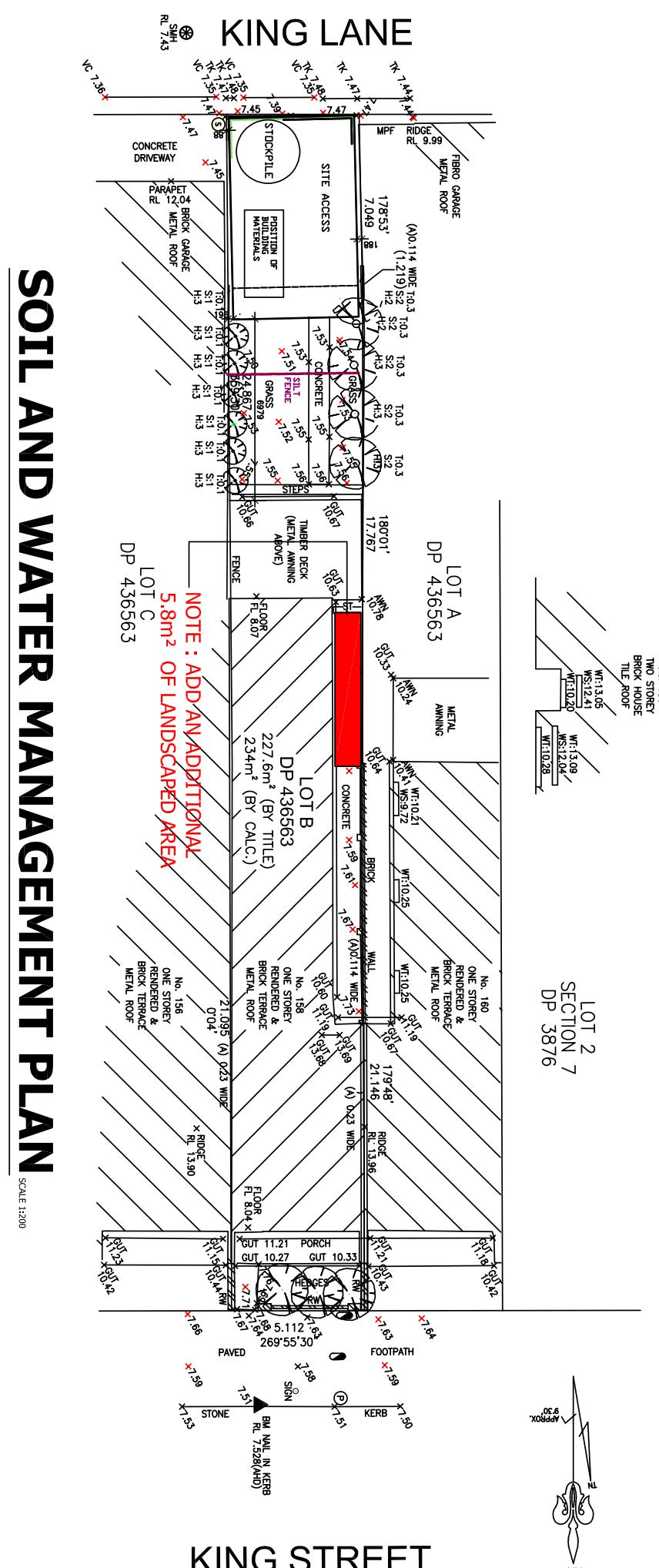
| Glazed window/door no. | Maximum height (mm) | Maximum width (mm) | Frame and glass specification  | Shading device (dimension within 10%)                              | Overshadowing    |
|------------------------|---------------------|--------------------|--|--|------------------|
| <b>North facing</b>    |                     |                    |  |  |                  |
| W3                     | 600.00              | 600.00             | thermally broken aluminium, double glazed (U value: <= 2.0, SHGC: 0.10 - 0.12) | above 450 mm, 260 mm above head of window or glazed door           | not overshadowed |
| W4                     | 600.00              | 2400.00            | thermally broken aluminium, double glazed (U value: <= 4.0, SHGC: 0.60 - 0.74) | above 450 mm, 260 mm above head of window or glazed door           | not overshadowed |
| W5                     | 600.00              | 600.00             | thermally broken aluminium, single glazed (U value: <= 2.5, SHGC: 0.18 - 0.22) | solid overhang 1200 mm, 260 mm above head of window or glazed door | not overshadowed |
| <b>South facing</b>    |                     |                    |  |  |                  |

## BASIX REQUIREMENTS

AS/NZS  
Department of Planning, Housing and Infrastructure  
www.basix.vic.gov.au  
Version 4.03 / EUCLIV/P1/US\_01\_01  
Certificate No. 18000695  
Sunday, 22 June 2025  
page 8/12

| Glazed window/door no. | Maximum height (mm) | Maximum width (mm) | Frame and glass specification  | Shading device (dimension within 10%)                              | Overshadowing    |
|------------------------|---------------------|--------------------|--|--|------------------|
| W1                     | 2100.00             | 1440.00            | thermally broken aluminium, double glazed (U value: <= 4.0, SHGC: 0.60 - 0.74) | solid overhang 1000 mm, 800 mm above head of window or glazed door | not overshadowed |
| W2                     | 900.00              | 600.00             | aluminium, single glazed (U value: <= 2.5, SHGC: 0.18 - 0.22)                  | solid overhang 1000 mm, 800 mm above head of window or glazed door | not overshadowed |
| W6                     | 900.00              | 900.00             | aluminium, double glazed (U value: <= 2.0, SHGC: 0.10 - 0.12)                  | none   | not overshadowed |

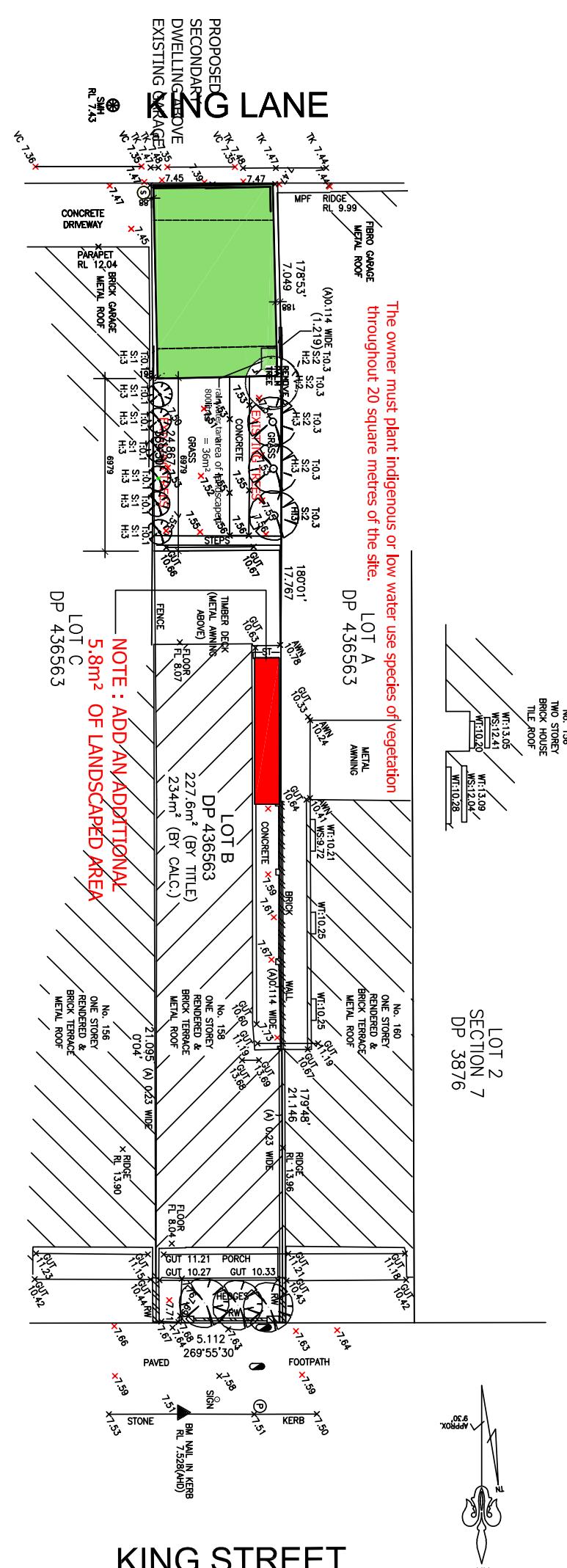
| PRINTS ISSUED |      | PROJECT :<br>PROPOSED SECONDARY DWELLING<br>ABOVE GARAGE | SCALE :<br>1:100 A3 |
|---------------|------|--|---------------------|
| REV.          | VER. |  |                     |
| A             | 1    | 25/03/25   | DA FOR COMMENTS     |
| B             | 1    | 25/04/25   | DA FINAL            |
| C             | 1    | 06/10/25   | AMENDED PLANS       |
| D             | 1    | 23/11/25   | AMENDED PLANS       |
| E             | 1    | 18/01/26   | AMENDED PLANS       |
|               |      | DESCRIPTION  |                     |



## SOIL AND WATER MANAGEMENT PLAN

SCALE 1:200

|   |      |               |   |                    |
|---|------|---------------|---|--------------------|
| M GROUPE PTY LTD<br>SUITE 3F1 - NO.4 BELGRAVE<br>STREET KOGARAH<br>TEL: 0411 035 824<br>john@mgroupue.com.au<br>ABN 24 657 308 426<br>ACN 657 308 426 |      | PRINTS ISSUED | PROJECT: PROPOSED SECONDARY DWELLING ABOVE GARAGE | SCALE: 1:200 A3    |
| A   | 1    | 25/03/25      | DA FOR COMMENTS                                   | DRAWN BY: JM       |
| B   | 1    | 25/04/25      | DA FINAL  | CHECKED BY: JM     |
| C   | 1    | 06/10/25      | AMENDED PLANS                                     | SHEET NO.: 5       |
| D   | 1    | 23/11/25      | AMENDED PLANS                                     | PROJECT NO.: 30/25 |
| E   | 1    | 18/01/26      | AMENDED PLANS                                     |                    |
| REV.  | VER. | DATE          | DESCRIPTION                                       |                    |



# LANDSCAPED PLAN

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|  |      |          |                     |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
|--|------|----------|---------------------|----------------|-----------------|-----------------|---|---|----------|----------|---|---|----------|---------------|---|---|----------|---------------|---|---|----------|---------------|--|--|--|--|--|--|--------------------------|--|--|----------------------------------|--|--|------|------|------|-------------|--|--|
| M GROUPE PTY LTD<br>SUITE 3F1 - NO.4 BELGRAVE<br>STREET KOGARAH<br>TEL 0411 035 824<br>john@mgrouppe.com.au<br>ABN 24 657 308 426<br>ACN 657 308 426   |      |          | PRINTS ISSUED       |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| <table border="1"> <tr> <td>A</td> <td>1</td> <td>25.03.25</td> <td>DA FOR COMMENTS</td> </tr> <tr> <td>B</td> <td>1</td> <td>25.04.25</td> <td>DA FINAL</td> </tr> <tr> <td>C</td> <td>1</td> <td>06.10.25</td> <td>AMENDED PLANS</td> </tr> <tr> <td>D</td> <td>1</td> <td>23.11.25</td> <td>AMENDED PLANS</td> </tr> <tr> <td>E</td> <td>1</td> <td>18.01.26</td> <td>AMENDED PLANS</td> </tr> </table> |      |          | A                   | 1              | 25.03.25        | DA FOR COMMENTS | B | 1 | 25.04.25 | DA FINAL | C | 1 | 06.10.25 | AMENDED PLANS | D | 1 | 23.11.25 | AMENDED PLANS | E | 1 | 18.01.26 | AMENDED PLANS | <table border="1"> <tr> <td colspan="3">PROJECT : PROPOSED SECONDARY DWELLING ABOVE GARAGE</td> </tr> <tr> <td colspan="3">CLIENT : TOULA PREMENTIS</td> </tr> <tr> <td colspan="3">ADDRESS : 158 KING STREET MASCOT</td> </tr> <tr> <td>REV.</td> <td>VER.</td> <td>DATE</td> <td colspan="3">DESCRIPTION</td> </tr> </table> |  |  | PROJECT : PROPOSED SECONDARY DWELLING ABOVE GARAGE |  |  | CLIENT : TOULA PREMENTIS |  |  | ADDRESS : 158 KING STREET MASCOT |  |  | REV. | VER. | DATE | DESCRIPTION |  |  |
| A  | 1    | 25.03.25 | DA FOR COMMENTS     |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| B  | 1    | 25.04.25 | DA FINAL            |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| C  | 1    | 06.10.25 | AMENDED PLANS       |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| D  | 1    | 23.11.25 | AMENDED PLANS       |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| E  | 1    | 18.01.26 | AMENDED PLANS       |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| PROJECT : PROPOSED SECONDARY DWELLING ABOVE GARAGE   |      |          |                     |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| CLIENT : TOULA PREMENTIS   |      |          |                     |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| ADDRESS : 158 KING STREET MASCOT   |      |          |                     |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
| REV.   | VER. | DATE     | DESCRIPTION         |                |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
|  |      |          | SCALE : 1:200 A3    | DRAWIN BY : JM | checked by : JM |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |
|  |      |          | PROJECT NO. : 30/25 | SHEET NO. : 6  |                 |                 |   |   |          |          |   |   |          |               |   |   |          |               |   |   |          |               |  |  |  |  |  |  |                          |  |  |                                  |  |  |      |      |      |             |  |  |

Matthew Bartinel Bach Urb & Reg Plan (Hons)(UNE)

158 King Street, Mascot NSW

Proposed secondary dwelling above existing garage of attached dwelling

**Statement of environmental effects**

Issue B, 19 January 2026

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## **1. Introduction**

This statement of environmental effects has been prepared to accompany a development application for the construction of a secondary dwelling over the existing garage of an attached dwelling at 158 King Street, Mascot.

This statement is based upon plans by MGroup, project 30/25, Issue E dated 18 January 2026, including 1—site plan, 1A—site analysis plan, 2—plans and elevations, and 3—additional elevations and section, 4—primary dwelling and BASIX commitments, 5—soil and water management plan, and 6—landscaped plan. The site plan is laid over survey details. A heritage impact statement prepared by Matthew Bartinel, dated 22 June 2025, accompanies the development application.

Part 2 describes the site and its locality. Part 3 describes the proposed development. Part 4 provides a town planning assessment. Part 5 presents the findings.

## **2. Site and its locality**

The site is 158 King Street, Mascot and has the real property description of Lot B, DP436563 (Figure 1). The subject lot is on the south side of King Street, the primary road—which is regionally classified—and is on the northern side of King Lane. It is a narrow lot, being 5.112 metres wide at King Street and having an area of 234 square metres by calculation.

A single storey attached dwelling exists on the lot, being of Federation period construction (Figure 2). There is a weatherboard garage adjacent to the rear lane (Figure 3).

The dwelling is part of a row of attached dwellings of early 20th Century construction. Adjoining to the east, at 156 King Street, is a single storey attached dwelling with a garage adjacent to the King Lane (Figure 4). Adjoining to the west is a single storey dwelling at 160 King Street, with a garage adjacent to King Lane.

The site and surrounding properties and locality are not characterised by changes in level of significance from casual observation. The survey details on the site plan indicate a maximum change in level within the site of around 150mm.

The site is in a residential locality. King Street in front of the site is relatively busy. King Lane to the rear is an access laneway of around six metres width. The site is within the 25-30 ANEF contour for Sydney Airport and is within a Class 4 acid sulfate soil area.

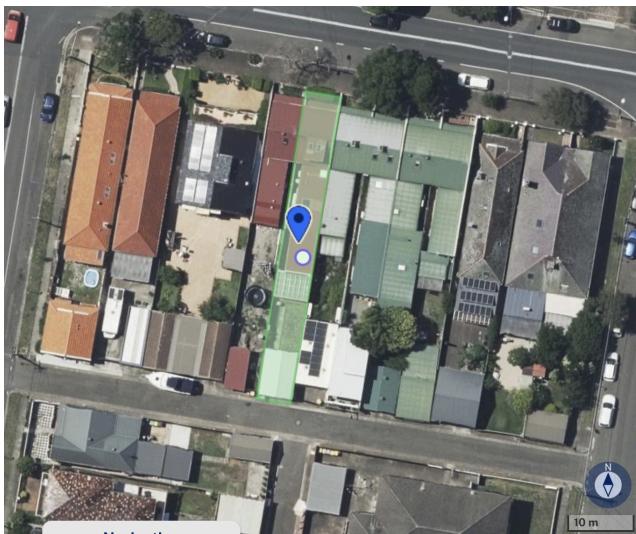


Figure 1: Aerial photo of the subject site (Source: NSW Explorer, 2025)

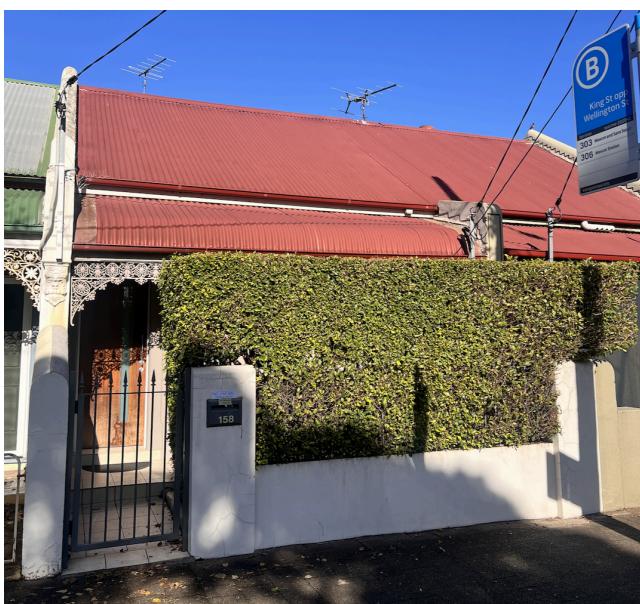


Figure 2: Attached dwelling on the subject site as viewed from King Street



Figure 3: Garage on subject site viewed from King Lane



Figure 4: 156 King Street (with the green bullnose roof form and cream coloured wall—the dwelling to the left) seen from King Street in the context of the subject dwelling (top); and viewed from King Lane, being the garage and fence adjacent to the left of the garage on the subject site (bottom)



*Figure 5: 160 King Street (with the red roof and without the shrub in front—the dwelling with the shrub in front is on the subject site) as viewed from King Street (top); and as viewed from King Lane, being the brick garage with the cream coloured garage door)*

### **3. Proposed development**

The proposal is to construct a secondary dwelling in a studio form over the existing garage. Features of the proposed development are—

- The existing gabled roof form is to be demolished,
- The proposed studio is to extend across the full-width of the site, with a width of 4820mm,
- A new pitched roof is to be constructed and is to include north and south-facing dormers, and the north and south-facing ground level walls of the garage

structure are to be raised, with the upper floor level to be below the levels of the tops of those walls,

- The garage facade will be modified to include an entry door from King Lane to the west side of the garage door. There will be a minor adjustment to the size of the garage opening and a new roll-a-door will be installed to the same line as existing,
- Stairs will rise alongside the western boundary to provide access to the studio. A WC will be installed adjacent to the western wall within the existing garage area and a sink and bench will be installed adjacent to the car space. The car space will be 3000mm wide clear of that bench and sink,
- The proposed studio will include a cantilevered protrusion 1200mm northwards of the north wall of the garage. The studio will be 28.5 sq m in area,
- The proposed studio will include a bed area with wardrobe, a combined kitchenette, dining, and lounge, and an ensuite bathroom,
- The external materials will be of fire-rated cladding,
- The studio will have a maximum height of 5995mm.

The proposed development will result in a total gross floor area on the site of 134.5 square metres. An area of private open space will be retained between the proposed studio and the main dwelling.

The proposed studio will be occupied as a separate dwelling but will not be subdivided.

The parking space in the garage and the proposed new facilities at the garage level will be used by the occupants of the principal dwelling (the existing attached dwelling).

#### **4. Town planning assessment**

##### Bayside Local Environmental Plan 2021

The principal environmental planning instrument relevant to the site is *Bayside Local Environmental Plan 2021* (BLEP2021), under which the site and surrounding sites are zoned R2 Low Density Residential. “Attached dwellings” (the existing dwelling on the subject site, including the garage that is proposed to be altered) and “secondary dwellings” (the proposed studio) are permitted with consent.

Clause 2.3 requires the consent authority to have regard to the zone objectives. Those zone objectives are—

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposed development is consistent with the attainment of that objective given that it complies with the relevant height and density standards, as demonstrated further below.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: Not applicable.

- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*

Comment: The proposed development is consistent with the attainment of that objective, given that the proposed development is acceptable when assessed in relation to the applicable development control plan, as demonstrated further below and in the submitted heritage impact statement.

- *To enable residential development in accessible locations to maximise public transport and encourage walking and cycling.*

Comment: The site has a bus stop in front of it and is in a locality serviced by regular bus services. The site is therefore suitable for residential development and is consistent with the attainment of that objective.

The consent authority may therefore be satisfied that the proposed development is consistent with, or not inconsistent with, the attainment of the zone objectives.

Clause 4.3 and the *Height of Buildings Map* establish a maximum height standard for the site of 9 metres. The proposed height of 5995mm complies with that standard.

Clause 4.4 and the *Floor Space Ratio Map* establish a maximum floor space ratio for the site of 0.55:1. However, clause 4.4A makes a further provision establishing a maximum floor space ratio standard for (inter-alia) attached dwellings on the site of 0.75:1. The proposal includes a secondary dwelling that is not subject to the clause 4.4A standard. The relevant development standard is therefore 0.55:1. The proposed

development has a floor space ratio of 0.575:1 and contravenes that development standard.

Clause 4.6 of BLEP2021 provides that the consent authority may grant consent to a development that contravenes a development standard, subject to the consent authority being satisfied that the applicant has demonstrated that (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard. A document has been prepared pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* and accompanies the development application. Having regard to the matters contained in that document, the consent authority may grant consent to the proposed development notwithstanding the proposed contravention of the clause 4.4 development standard.

Clause 5.4 provides development standards relating to miscellaneous permissible uses. Subclause 5.4(9) relates to secondary dwellings and provides that the total floor area of the dwelling, excluding any area used for parking, is not to exceed the greater of 60 square metres or 20 percent of the area of the principal dwelling. As the area of the proposed secondary dwelling will be 28.5 square metres, which is less than 60 square metres, the proposal complies with the subclause 5.4(9) development standard.

For the purposes of the clause 5.10 heritage provisions, the site is part of a heritage item of local significance, described in Schedule 5 as “terrace group”, including 150-160 King Street (Figure 6). The consent authority is required to consider the impact of the proposed development on the significance of the heritage item, and may request a heritage impact statement. Such a heritage impact statement will accompany the development application. It demonstrates that the proposed development will not unacceptably impact upon the heritage significance of the heritage item. The proposal is therefore acceptable in relation to the clause 5.10 heritage provisions.

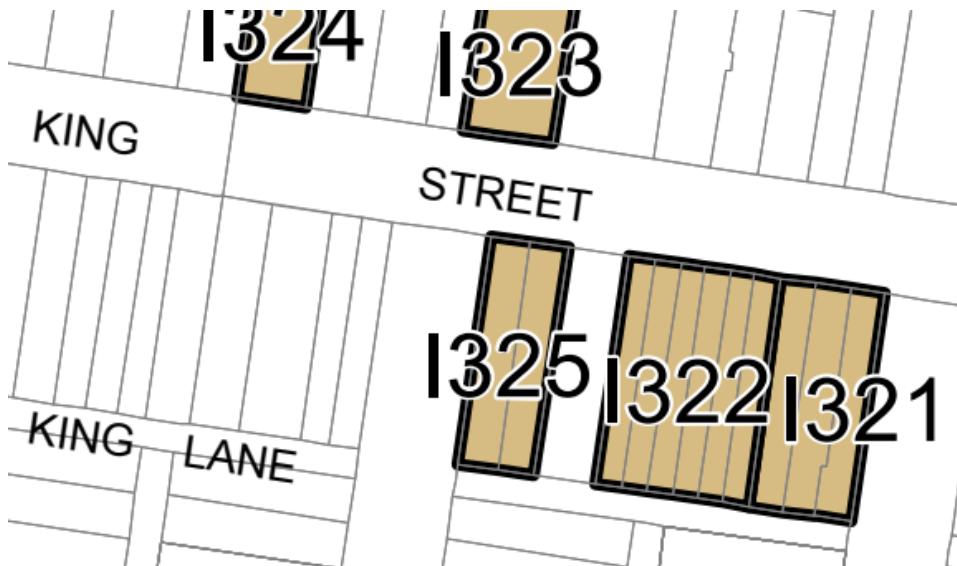


Figure 6: Extract from the BLEP2021 Heritage Map—the subject site is within the group labelled “1322”

The proposal does not involve ground disturbance and is acceptable in relation to the clause 6.1 acid sulfate soils provisions.

Clause 6.3 requires consideration of water sensitive urban design principles. The designer of the proposed development has taken into consideration the stormwater design requirements of the applicable development control plan, and the proposed development is therefore considered to satisfy those principles.

Clause 6.8 relates to development in areas affected by aircraft noise. It is applicable to the subject site because (inter-alia) the subject site is within the 25-30 ANEF contour for Sydney Airport. Subclause 6.8(3) provides that the consent authority—

- (a) *must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
- (b) *must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2015, and*
- (c) *must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015 for development for the following purposes—*

- (i) for development proposed to be located in an ANEF contour of 20 or greater—child care centres, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation,
- (ii) for development proposed to be located in an ANEF contour of 25 or greater—business premises, hostels, hotel or motel accommodation, office premises or retail premises.

The proposed development has the potential to increase the number of people affected by aircraft noise because it provides additional accommodation, including a new space within which a member of the household could sleep. The requirements specified in (b) and (c) above are addressed in an acoustic report that is to accompany the development application. On the basis of that information, the consent authority may be satisfied that the proposed new accommodation will include suitable acoustic insulation so that the occupants will not be unacceptably affected by aircraft noise. The proposal is therefore acceptable in relation to the requirements of clause 6.8.

Clause 6.11 relates to essential services and requires that consent not be granted unless the consent authority is satisfied that specified services will be available. As the relevant services are already provided to the existing dwelling, the consent authority may be satisfied as to the availability of those services.

There are no further BLEP2021 provisions of relevance to the proposed development. Having regard to the foregoing, the proposed development is acceptable in relation to BLEP2021.

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

*State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP 2021)* includes provisions that are relevant to the proposed development because the site of the proposed development is adjacent to a classified road (King Street).

Chapter 2 of T&I SEPP 2021 contains provisions relating to infrastructure.

Part 2.3 of Chapter 2 provides development controls.

Division 17 of Part 2.3 relates to roads and traffic.

Subdivision 2 of Division 17 relates to development in or adjacent to road corridors and is applicable to the proposed development because the subject site is adjacent to a road corridor.

Clause 2.119 within Division 17 relates to development with frontage to a classified road. Subclause (2) provides that the consent authority must not grant consent to development on such land unless it is satisfied that—

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

Comment: Complies. The proposal maintains vehicular access to the land by a garage off King Lane, which is not the classified road.

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of—*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and ...*

Comment: The proposal maintains suitable vehicular access into the existing garage. The proposed modifications to the garage maintain the required parking space dimensions in accordance with the relevant standards, which have been considered by the designer in their preparation of the design of the proposed development.

- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment: The proposed studio is located at the rear of the site, furthest away from the classified road, and therefore has sufficient spatial separation not to be subject to unacceptable impacts from the classified road.

The proposal therefore satisfied clause 2.119.

Clause 2.120 within Division 17 relates to the impact of road noise or vibration on non-road development. It is applicable to development adjacent to roads carrying greater than 20,000 vehicles AADT. King Street is not indicated on relevant data sources as carrying greater than 20,000 vehicles AADT. Clause 2.120 is therefore not applicable to the proposed development.

There are no further provisions within SEPP T&I 2021 of relevance to the proposed development. Having regard to the foregoing, the proposed development is acceptable in relation to SEPP T&I 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

*State Environmental Planning Policy (Resilience and Hazards) 2021* includes provisions relating to contaminated land, requiring the consent authority to be satisfied that the site of the proposed development is suitable in relation to its contamination status. In that regard, the subject site is already used for residential purposes and the proposed development is for alterations and additions to the already established residential use. The proposed additional accommodation is in a raised position and does not give rise to any additional considerations in relation to land contamination. On those grounds, the proposal is acceptable in relation to the relevant provisions.

State Environmental Planning Policy (Housing) 2021

*State Environmental Planning Policy (Housing) 2021* (SEPP Housing 2021) includes provisions relevant to secondary dwellings, such as the proposed development.

Chapter 3 of SEPP Housing 2021 relates to diverse housing. Part 1 of Chapter 3 relates to secondary dwellings.

Clause 49 provides that “development for the purposes of a secondary dwelling” includes (inter-alia) alterations or additions to an ancillary structure, including a garage, for the purposes of a secondary dwelling.

Clause 52 provides that development for the purposes of a secondary dwelling on land zoned (inter-alia) R2 is permitted with consent. It further provides (under subclause (2) that—

- (a) *no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and*
- (b) *the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and*
- (c) *the total floor area of the secondary dwelling is—*
  - (i) *not more than 60 sq m, or*

- (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.

The proposed secondary dwelling has an area of 28.5 square metres and complies with (c). In relation to (b), the proposed development does not comply with the maximum permissible floor space ratio of 0.55:1 that is applicable to a dwelling house under BLEP2021. It is recognised that a Section 35B document accompanies the development application in relation to the floor space ratio development standard contained in clause 52 of SEPP (Housing) 2021.

Clause 53 establishes non-discretionary development standards pursuant to Section 4.15(3) of the Act, meaning that they establish standards for which the consent authority may not impose a more onerous standard and are not standards that must be complied with. Those standards are—

- (a) minimum site area 450 sq m, and
- (b) the same number of parking spaces as existing are to be retained.

The subject lot area is 234 square metres. However, no other environmental planning instrument imposes a requirement for the site area for a secondary dwelling to be any specified size. Given that the proposed development contravenes the clause 53 site area standard, a document prepared pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* seeking to justify the development's proposed contravention.

In relation to car parking, it is recognised that the proposed development does not reduce the amount of car parking provided on the site. Therefore, the consent authority must not refuse the proposed development on the basis of any car-parking that may otherwise be required to be provided for the secondary dwelling in addition to the existing car parking provided on the subject site.

There are no further provisions within SEPP Housing 2021 of particular relevance to the proposed development.

Having regard to the foregoing, the proposed development is acceptable in relation to SEPP Housing 2021.

Bayside Development Control Plan 2022

*Bayside Development Control Plan 2022* (BDCP2022) contains provisions that are relevant to the proposed development. Consideration of those provisions is—

| Part or clause | Summary of relevant provision  | Compliance comment  |
|----------------|--|---|
| 3              | General development provisions   |   |
| 3.1            | Site analysis  |   |
| 3.1.1          | Site analysis plan   | The submitted architectural details include the required site analysis  |
| 3.1.2          | Interface with public domain<br>Buildings to have clearly defined entry point and are to address the street. | <u>Complies</u><br>The principal entry to the site will continue to be the existing dwelling, which has a clearly defined entry and which addresses King Street. The proposal includes a new door adjacent to the garage door facing King Lane and includes windows and a small balcony addressing King Lane. |
| 3.1.3          | Crime Prevention Through Environmental Design  | <u>Complies</u><br>The proposal includes windows facing King Lane which will enhance passive surveillance.  |
| 3.1.5          | Views  | <u>Not applicable</u><br>The proposal has no view impacts.  |
| 3.3            | Energy and sustainability  | <u>Complies</u><br>Relevant outcomes are demonstrated in accompanying BASIX documentation.  |

| Part or clause | Summary of relevant provision                    | Compliance comment  |
|----------------|--|---|
| 3.4            | Heritage   | <u>See accompanying heritage impact statement</u>   |
| 3.5            | Transport, parking and access                    | <u>Complies</u><br>The proposal maintains a car parking space in the garage. The space has been designed to comply with AS2890 standards.   |
| 3.7            | Landscaping, private open space and biodiversity |   |
| 3.7.1          | Landscaping                                      |   |
| 3.7.1 C12      | Minimum landscaped area 25%                      | <u>Acceptable outcome achieved</u><br>The proposal only affects existing landscaped areas by including a cantilevered extension adjacent to the northern side of the existing garage. On that basis, the proposal maintains the status quo in relation to landscaping, given that there would be no impact from the cantilevered component upon any vegetation adjacent to the northern wall of the garage, which will not have any overshadowing impact from the proposal.<br>Additionally, it is recognised that the proposal includes an additional 5.8 square metres of landscaping adjacent to the principal dwelling. This is intended to compensate for the proposed coverage of landscaped area by the proposed cantilevered structure. |

| Part or clause | Summary of relevant provision   | Compliance comment  |
|----------------|---|---|
| 3.7.3          | Communal and private open space   |   |
| 3.7.3 C10      | 50 sq m POS to be provided  | <u>Complies</u>   |
| 3.9            | Stormwater management   | <u>See accompanying stormwater management details</u>   |
| 3.12           | Waste minimisation  | <u>See accompanying waste management plan</u>   |
| 3.13           | Development in areas affected by aircraft noise   | <u>See accompanying acoustic report</u>   |
| 5              | Residential or mixed use developments   |   |
| 5.1            | All residential   |   |
| 5.1.2          | Ancillary residential uses—rear and side lane additions...and studios   |   |
| 5.1.2.1        | General   |   |
| 5.1.2.1 C1     | Minimum side and rear lane setback 900mm.<br>A nil setback may be considered if implementing masonry walls with no eaves, gutters or windows.<br>Compliance with <i>Building Code of Australia</i> is required. | <u>Acceptable outcome achieved</u><br>The proposal includes nil rear lane and side setbacks. The proposed side walls are of fire-rated construction and do not have eaves or windows. The proposal therefore achieves the intent of this control. |
| 5.1.2.1 C2     | Outbuildings are not to result in non-compliances with minimum landscaped area, private open space, overshadowing, privacy and other relevant provisions.   | <u>Complies</u><br>The proposal includes only a minor cantilevered projection into the existing landscaped open space which will not affect the capacity of the area below to   |

| Part or clause | Summary of relevant provision   | Compliance comment   |
|----------------|---|--|
|                |   | <p>accommodate landscaping. The proposed north elevation includes only high sill height windows and will therefore not cause any unacceptable visual privacy intrusion to neighbouring properties. The proposal is sufficiently separated from 1 Alfred Street, which has its rear area opposite King Lane to the subject site, by the laneway and that part of that property contains a garage and is not sensitive to overshadowing impact. No other properties have the potential to be unacceptably impacted by overshadowing from the proposed development.</p> <p>Additionally, it is recognised that the proposal includes an additional 5.8 square metres of landscaped area. This is intended to compensate for the cantilevered component.</p> |
| 5.1.2.1 C3     | <p>The outbuilding must have a traditional pitched form with dormers.</p> | <p><u>Acceptable outcome achieved</u></p> <p>A secondary dwelling adjacent to King Lane exists one property removed to the east of the subject site, at 154 King Street (see below). It was consented to under DA2016/148 on 25 August 2016. That building was approved under an earlier LEP and DCP—nonetheless it establishes a supportive context for the proposal. That form is not</p>  |

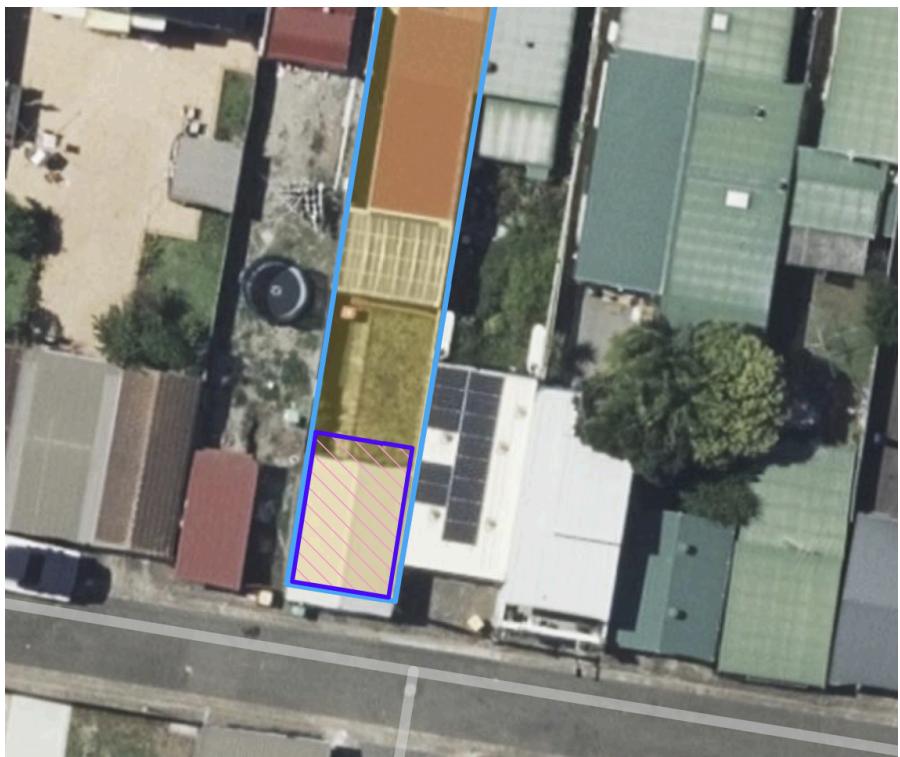
| Part or clause | Summary of relevant provision  | Compliance comment  |
|----------------|--|---|
|                |  | of a pitched roof and dormer style. Having regard also to the submitted heritage impact statement, the existence of that development in close proximity to the subject site demonstrates that the proposed development is visually acceptable for the King Lane streetscape. In that regard, it is recognised that the proposal includes a pitched roof with dormer components. |
|                |                       | Subject site is to the left, 156 King Street is in the middle, and 154 King Street is to the right—as viewed from King Street (Source: Google Street View)  |
| 5.1.2.1 C8     | The selection of materials and colours must be compatible with the surrounding environment and dwelling. | <u>Complies</u><br>The proposed fibre cement sheeting has a suitably visually lightweight appearance and will be painted in a neutral tone.   |
| 5.1.2.2        | Development on side and rear lanes   |   |

| Part or clause | Summary of relevant provision   | Compliance comment  |
|----------------|---|---|
| 5.1.2.2 C1     | The prevailing setback to a side or rear lane is to be retained.  | <u>Complies</u><br>The proposed nil side setbacks are consistent with prevailing nil side setbacks for buildings adjacent to King Lane.<br>The proposed nil rear setbacks are consistent with prevailing nil rear setbacks for the existing garage and for other garages along King Lane. |
| 5.1.2.2 C2     | The secondary dwelling on a lot is to be clearly subservient to the principal dwelling.   | <u>Complies</u><br>The proposed secondary dwelling will be of a significantly smaller size and will clearly be visually and functionally subservient to the principal dwelling.   |
| 5.1.2.2 C3     | The secondary dwelling is to present to the laneway as if it were the principal dwelling.   | <u>Complies</u><br>The proposed secondary dwelling includes a doorway and windows that serve to provide visual presentation to King Lane, addressing the laneway as if it were the principal dwelling.  |
| 5.1.2.2 C4     | For outbuildings presenting to a rear lane, <ul style="list-style-type: none"> <li>(a) the street wall height is a maximum of 3.6 metres,</li> <li>(b) the structure is not to exceed a maximum roof height of 6.0 metres,</li> <li>(c) the pitch of the roof is not to exceed 36 degrees,</li> <li>(d) dormer windows are</li> </ul> | <u>Acceptable outcome achieved</u><br>(a) The proposal has a street wall height of 5.995 metres, which is greater than the 3.6 metre control. However, the adoption of the proposed flat roof design (rather than the pitched design envisaged by the control) is consistent with the     |

| Part or clause | Summary of relevant provision   | Compliance comment  |
|----------------|---|---|
|                | <p>permitted, subject to specified controls. Passive surveillance of the laneway is encouraged. Visual privacy impacts are to be limited.</p> | <p>approved development at 154 King Street and is acceptable in that context. The proposal is visually acceptable and does not cause adverse amenity impacts. The proposed departure from the wall height control is therefore justified in those circumstances.</p> <p>(b) Complies<br/>(c) Complies<br/>(d) Not applicable having regard to (a)</p>   |
| 5.1.2.2 C5     | <p>Secondary dwelling not permitted on lot less than 150 sq m</p>   | <p><u>Complies</u><br/>Subject lot is 234 sq m</p>  |
| 5.1.2.2 C6     | <p>Where a laneway is highly intact, the original pattern of development to be retained.</p>  | <p><u>Not applicable</u><br/>The rear laneway has a variety of forms and scales and is not highly intact.</p>   |
| 5.1.2.2 C7     | <p>The predominant scale of the laneway development is to be retained.</p>  | <p><u>Complies</u><br/>The proposal is not inconsistent with the established scales of development in the laneway, which includes buildings of a two storey scale at 154 King Street and at 164A King Street, as well as oversized garage forms. Given that structures of such a scale will not cause significant overshadowing impacts, being on the northern side of the lane, the proposal will not establish an</p> |

| Part or clause | Summary of relevant provision   | Compliance comment   |
|----------------|---|--|
|                |   | undesirable scale of development along the laneway and will allow appropriate accommodation to be provided.  |
| 5.2            | Residential and mixed use development                                   |  |
| 5.2.1          | Low density residential   |  |
| 5.2.1.1        | Streetscape, local character and quality of design                      |  |
| 5.2.1.1 C1     | Reflect local character in Chapter 7                                    | See assessment under Chapter 7 further below.  |
| 5.2.1.1 C2     | Developments to address both frontages                                  | <u>Complies</u><br>The retained and proposed developments address both King Street and King Lane.  |
| 5.2.1.1 C3     | Proposed materials not to include extensive glazing or glass blockwork. | <u>Complies</u><br>The proposed development does not use extensive glazing or glass blockwork.   |
| 5.2.1.1 C4     | Materials to be compatible with the existing building                   | <u>Acceptable outcome achieved</u><br>The proposed use of weatherboard is consistent with the typology of outbuildings and is appropriate for the context. |
| 5.2.1.1 C5     | Elevations to avoid large expanses of wall surface.                     | <u>Complies</u><br>The proposed dwelling includes suitable windows and avoids extensive blank wall surfaces.   |
| 5.2.1.2        | Built form controls   |  |
| 5.2.1.2 C1     | Comply with BLEP2021 height   | <u>Complies</u>  |

| Part or clause | Summary of relevant provision   | Compliance comment  |
|----------------|---|---|
|                | standard  | The proposal complies with the BLEP2021 height standard, as demonstrated elsewhere in this statement.   |
| 5.2.1.2 C2     | Maximum building height above ground level existing, for a secondary dwelling, is 1 storey  | <u>Not applicable</u><br>See 5.2.1.2 C3, below.   |
| 5.2.1.2 C3     | A secondary dwelling may be located at first floor level above a garage which fronts a rear lane subject to controls in 5.1.2 and Chapter 3 plus other provisions in 5.2.1. | <u>Complies</u><br>The proposal is acceptable in relation to the 5.1.2 controls as set out above and is acceptable in relation to the other controls as set out elsewhere in this table.              |
| 5.2.1.2 C4     | Maximum building length is to be compatible with adjoining sites.   | <u>Complies</u><br>The figure below demonstrates that the proposed development extends less far towards the street than the majority of structures adjacent to King Lane in the vicinity of the site. |

| Part or clause  | Summary of relevant provision   | Compliance comment  |
|---|---|---|
|  | Aerial photo from NSW Explorer showing the approximate footprint of the proposed development within the purple bordered shape |   |
| 5.2.1.2 C5  | Provide vertical and horizontal articulation of walls   | <p><u>Complies</u></p> <p>The King Lane elevation demonstrates vertically proportioned elements whilst the small balcony provides a horizontal element. It is recognised that the northern elevation will not be visually prominent when viewed from surrounding properties, as only the upper part will be visible above the fence line. There would</p> |

| Part or clause | Summary of relevant provision   | Compliance comment  |
|----------------|---|---|
|                |   | therefore be no utility in providing vertical proportioning elements to that elevation.   |
| 5.2.1.2 C6     | Where roof forms in the street are predominantly pitched, roof pitches are to be between 22.5 and 40 degrees.   | <u>Not applicable</u><br>There is no predominant use of pitched roof forms along King Lane. The proposal uses a pitched roof form.  |
| 5.2.1.2 C7     | Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner site and is consistent with the streetscape. | <u>Complies</u><br>The proposal includes pitched roofing..  |
| 5.2.1.3        | Setbacks  |   |
| 5.2.1.3 C1     | Minimum road setback is the average of dwellings on adjoining lots or otherwise 6 metres.   | <u>Complies</u><br>As demonstrated in the aerial photo in the above part of this table, King Lane is characterised by nil setbacks from the lane boundary. The proposed nil setback from King Lane is therefore acceptable. |
| 5.2.1.3 C2     | Minimum building setback to a secondary road is 1.5 metres.   | <u>Not applicable</u><br>The site does not have a boundary to a secondary road.   |
| 5.2.1.3 C5     | Minimum rear boundary setback is 5 metres.  | <u>Not applicable</u><br>That control is not intended to be applied to a rear lane boundary.  |
| 5.2.1.3 C6     | Minimum side setback 1.5 metres.  | <u>Not applicable</u><br>Provisions relating to rear outbuildings adjoining a lane take precedence over that control.   |

| Part or clause | Summary of relevant provision  | Compliance comment  |
|----------------|--|---|
| 5.2.1.4        | Landscaping and open space   |   |
| 5.2.1.4 C1     | Comply with Section 3.7 provision  | <u>Acceptable outcome achieved</u><br>The proposed development does not alter the status quo landscape and private open space provision because the proposed minor cantilevered extension will not affect the capacity of the adjacent ground level wall of the garage (which is to be unaltered) to accommodate plantings, particularly given the northern aspect. The proposal includes additional landscaped area to compensate for the proposed cantilevered component. |
| 5.2.1.4 C8     | Overlooking into the private open space of neighbours should be avoided.                                   | <u>Complies</u><br>The proposal includes high windows in the northern elevation so that there will be no unacceptable visual privacy impacts from the proposed secondary dwelling.  |
| 5.2.1.5        | Solar access and overshadowing<br>Adjoining dwellings to receive a minimum 2 hours midwinter solar access. | <u>Complies</u><br>The proposed development is on the northern side of the laneway and overshadowing will be to areas of adjoining properties where garages are located and will be onto the laneway.   |
| 5.2.1.7        | Visual and acoustic privacy  |   |
| 5.2.1.7 C1     | Habitable windows above the ground floor, which face side or   | <u>Complies</u><br>The proposed north-facing  |

| Part or clause | Summary of relevant provision   | Compliance comment                                      |
|----------------|---|---|
|                | rear windows that adjoin a residential property, must provide offsetting, or 1.5 metre sill heights, or opaque glazing, or fixed privacy screens. | windows have 1.5 metre raised sill heights as required. |
| 5.2.1.7 C2     | Balconies should minimise overlooking.  | Not applicable  |

There are no further BDCP2022 provisions of particular relevance to the proposed development. Having regard to the foregoing, the proposed development is acceptable in relation to BDCP2022.

#### Other Section 4.15 assessment considerations

There are no draft environmental planning instruments of particular relevance to the proposed development.

Consideration of the impact of the development on the environment and of the suitability of the site for the proposed development is encapsulated by the assessment of the proposed development under the applicable environmental planning instrument and development control plan, which both cover all relevant considerations.

As required by the regulations, the development application will be accompanied by the required BASIX documentation and the development has been designed to comply with the *Building Code of Australia*.

## 5. Findings

The proposal is for alterations to the existing garage and construction and use of a new secondary dwelling at the first floor level, plus associated works, at 158 King Street, Mascot.

Part 4 of this statement demonstrates that the proposed development is acceptable in relation to the applicable town planning controls. The proposed development will contribute to the supply of housing. It does not cause any unacceptable amenity impacts. The accommodation provided will be of an acceptable standard. The proposal is suitable for the streetscape of King Lane. The proposal does not cause any

unacceptable impacts to the heritage significance of the heritage item of which the subject site is part, as demonstrated in the accompanying heritage impact statement.

In those circumstances, the proposed development warrants the granting of development consent subject to suitable conditions.

Matthew Bartinel  
19 January 2026

Matthew Bartinel Bach Urb & Reg Plan (Hons) UNE  
1/698 Pacific Highway  
KILLARA NSW 2071

158 King Street, Mascot NSW

Proposed secondary dwelling above existing garage of attached dwelling

**Section 35B document—Site area**

Issue B—19 January 2026

158 King Street, Mascot—Section 35B document (site area)—19 January 2026

## 1. **Introduction**

This Section 35B document has been prepared in support of a development application to Bayside Council for the construction of a secondary dwelling above the garage of an attached dwelling.

The Section 35B document supports a variation to a non-discretionary development standard within *State Environmental Planning Policy (Housing) 2021*, being within clause 53(2) of that policy.

This document has been prepared having regard to amended architectural details by MGroupe, project 30/25, issue E dated 18 January 2026, including—

- 1 Site plan
- 1A Site analysis plan
- 2 Floor plans and south and east elevations
- 3 West and north elevations and section
- 4 Ground floor plan (primary dwelling) and BASIX
- 5 Soil and water management plan
- 6 Landscape plan

Part 2 of this document provides a brief description of the site and of the proposed development.

Part 3 of this document identifies the proposed contravention of the non-discretionary standard and explains why this statement has been prepared.

Part 4 of this document sets reasons why compliance with the development standard is unreasonable or unnecessary in the circumstances.

Part 5 of this document sets out environmental planning grounds to justify the contravention of the development standard.

It is hereby submitted that those reasons and grounds are sufficient by virtue of the arguments contained therein.

Part 6 of this document presents the findings in summary.

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## 2. **Site, locality, and proposal**

The site of the proposed development is 158 King Street, Mascot, having the real property description of Lot B, DP436563. It is on the south side of King Street, which is a regionally classified road, and is on the north side of King Lane, which is non-RMS-classified road.

The lot is 5.112 metres wide, measured across the King Street boundary, and has an area of 234 square metres by calculation.

The lot contains a single storey attached dwelling and, to its rear and adjacent to King Lane, a garage. There is an open yard area between the dwelling and the garage.

The dwelling is part of a row of similar dwellings on approximately similar lots.

The lot and locality are not characterised by changes of level of significance to the casual observer.

The proposal is to modify the garage and to construct an additional storey upon it. The additional storey is to contain a secondary dwelling, to be accessed by new stairs alongside the northern wall of the garage connected to King Lane by a new door. The dwelling is to have an area of 28.5 square metres. It is to be contained within front and rear wide dormer forms extending from the roof ridge, with the non-dormer parts of the roof to be traditionally pitched, and within 900mm high wall extensions above the proposed floor level extending across the full width of the building, to the northern and southern faces of the building. The secondary dwelling is to contain a bedroom, living area with kitchenette, and bathroom.

## 3. **Proposed contravention and reason for this document**

The principal environmental planning instrument for the site is *Bayside Local Environmental Plan 2021* (BLEP2021), under which the site is zoned R2 Low Density Residential. “Attached dwellings” and “secondary dwellings” are permitted in that zone with consent. It is also recognised that the site is a heritage item pursuant to Clause 5.10 of BLEP2021.

The proposed development complies with all of the development standards within that instrument except for the clause 4.4(2) floor space ratio standard. An assessment of the proposal against the BLEP2021 development standards is—

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|  |                                     |
|--|-------------------------------------|
| Clause 4.3 Height of buildings<br>Maximum 9 metres             | Proposal 5995mm<br>Complies         |
| Clause 4.4 Floor space ratio<br>Maximum 0.55:1                 | Proposal 0.575:1<br>Does not comply |
| Clause 5.4(9) maximum floor area of secondary dwelling 60 sq m | Proposal 28.5 sq m<br>Complies      |

A separate Section 35B document is being submitted concerning floor space ratio. In summary, the proposed floor space ratio is justified because it is no greater than could be permitted for a similar structure to that proposed if that similar structure was used as a studio rather than as a secondary dwelling. The impacts of the structure that are relevant to the objectives of that development standard are met notwithstanding that proposed contravention.

Clause 52(1) of *State Environmental Planning Policy (Housing) 2021* (SEPP Housing 2021) provides that secondary dwellings may be carried out with consent.

Clause 52(2) of SEPP Housing 2021 provides that development consent must not be granted for such development unless (amongst other things) "(b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument". The maximum floor area for a "dwelling house" on the land is that which is possible within a 0.55:1 floor space ratio. The proposal results in a 0.575:1 floor space ratio and therefore has a greater total floor area than is permitted by clause 52(2). That provision is a development standard. A separate Section 35B document is being submitted concerning the proposed contravention of that development standard. In summary, the proposed density is justified because it is no greater than could be permitted on the site for an attached dwelling, and the impacts of the proposed development are no greater than could be permitted on that basis.

Clause 52(3) of SEPP Housing 2021 provides that the total floor area of the secondary dwelling is to be not more than 60 square metres (or a greater amount if another environmental planning instrument permits a greater amount). The total floor area of

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the proposed secondary dwelling is 28.5 square metres and complies with that development standard.

Clause 53 of SEPP Housing 2021 relates to non-discretionary standards under Section 4.15 of the Act.

Section 4.15(2) of the Act provides as follows—

**Compliance with non-discretionary development standards—development other than complying development** *If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority—*

- (a) *is not entitled to take those standards into further consideration in determining the development application, and*
- (b) *must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) *must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

*and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

Section 4.15(3) of the Act further provides as follows—

*If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—*

- (a) *subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*
- (b) *a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

Clause 53(1) of SEPP Housing 2021 sets out the following object for the clause—

*The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

Clause 53(2) of SEPP Housing 2021 sets out the following non-discretionary development standards—

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*The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—*

- (a) *for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,*
- (b) *the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

The proposed development contravenes (a) because the site area of the lot is 234 sq m. The proposed development does not contravene (b) because there will continue to be a car parking space after the proposed development is carried out, and there is one existing car parking space.

Section 4.15(2) of the Act is not applicable, because the proposed development does not comply with the non-discretionary development standard.

Section 4.15(3) of the Act is applicable. A provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Clause 4.6(2) of BLEP2021 provides—

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

Therefore, despite the proposed contravention of the lot area standard in clause 53(2) of SEPP Housing 2021, the consent authority may consent to the proposed development.

Clause 4.6(3) of BLEP2021 provides—

*Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

This document, which is provided as required by Section 35B of the regulations, has been prepared to demonstrate (a) and (b).

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Clause 4.6(5) of BLEP2021 sets out development standards that are excluded from the operation of clause 4.6(3). The SEPP Housing 2021 clause 53(2)(a) site area standard is not referred to in that clause and is therefore not so-excluded.

The subject lot size of 234 sq m contravenes the non-discretionary development standard lot size of 450 sq m by 216 sq m, which is 48 percent of a compliant amount.

**4. That compliance with the development standard is unreasonable or unnecessary in the circumstances**

The reasons why it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances are—

First of the reasons

The proposal is not inconsistent with the object of the provision because that object is to identify standards that prevent the consent authority from applying a more onerous standard. That object is distinct from that of applying the standard itself. It is recognised that the objects of the standard do not include matters such as amenity, visual impacts, site suitability or the like. The objects are limited to one—being a facilitative object rather than a restrictive one. For that reason, the proposal is not inconsistent with the attainment of that object.

Second of the reasons

The proposal does not contravene any minimum lot size standard in the principal environmental planning instrument. BLEP2021 permits secondary dwellings with consent and does not limit the size of a lot that is permitted to include a secondary dwelling. Therefore, subject to other aspects of the assessment of the proposed development, the proposed development is of a type envisaged by the town planning controls notwithstanding its contravention of the non-discretionary site area standard.

Third of the reasons

Approval of the proposal notwithstanding the proposed contravention of the non-discretionary site area standard is consistent with Principle 3(a) of SEPP Housing 2021, being “enabling the development of diverse housing types, including purpose-built rental housing”. In that regard, the non-discretionary development

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standard is (as referenced in its own objective) a facilitative standard, rather than a restrictive one.

Fourth of the reasons

Approval of the proposal notwithstanding the proposed contravention of the non-discretionary development standard is consistent with Principle 3(c) of SEPP Housing 2021, being that new housing development provides residents with a reasonable standard of amenity, notwithstanding the proposed contravention. The design of the proposed development includes bedroom dimensions sufficient for a reasonable bed with adjacent spaces and a separate wardrobe, and with an adjacent bathroom of suitable dimension, and a living area with a kitchenette. A single occupant or couple could comfortably occupy the space as a dwelling.

In relation to the amenity of neighbours, the bedroom space will have high windows and its separation from adjacent principal dwellings, and from the principal dwelling within the site, combined with that high window treatment, will avoid unacceptable visual privacy impacts.

The proposed development is on the northern side of King Lane and will not cause unreasonable or unacceptable overshadowing onto adjacent properties.

Fifth of the reasons

Approval of the proposal notwithstanding the proposed contravention of the non-discretionary development standard is consistent with Principle 3(d) of SEPP Housing 2021, relating to the promotion of new housing in locations where it will make good use of existing infrastructure and services. The proposed dwelling is in an area with excellent access to frequently operating bus services and only a 200 metre walking distance from shops and business on Botany Road.

Sixth of the reasons

Approval of the proposal notwithstanding the proposed contravention of the non-discretionary development standard is consistent with Principle 3(f) of reinforcing the importance of designing housing in a way that reflects and enhances its locality. In that regard, the development is consistent with the scale of a secondary dwelling approved one property removed to the east of the subject site on a similarly sized and configured allotment—at 154 King Street. The proposed development will have a scale and character that is in keeping with the scale and character of development

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along the lane established by that approved development. Similarly, the scale and character of the development as it presents towards principal dwellings is consistent with the scale and character established by that approved development. Additionally, the heritage impacts of the proposed development are demonstrated to be acceptable by the accompanying heritage impact statement.

Seventh of the reasons

The proposal is consistent with the first objective within BLEP2021 of the R2 Low Density Residential zone because the proposed development contributes to the provision of housing to meet the needs of the community in a low density residential environment. The density of the proposed development, expressed as gross floor area, is acceptable because that density is less than the 0.75:1 density that is permitted for “attached dwellings”, and because the use of the proposed secondary dwelling as a separate domicile does not alter that acceptable outcome.

Eighth of the reasons

The proposal is consistent with the third objective within BLEP2021 of the R2 Low Density Residential zone because the development will be carried out in a context and setting that minimises impact on the character and amenity of the area. In that regard, the location of the proposed secondary dwelling to the northern side of King Lane minimises its overshadowing impacts on surrounding residential properties; the location of the proposed upper level form on King Lane is acceptable in its streetscape impact to King Lane because of its contextual relationship with the development at 154 King Lane and because of the context of King Lane being characterised by garaging structures such as will be maintained; because the proposed development is designed using wide dormer forms that are suitable for a laneway setting; and because the proposal is designed and located to minimise its visual privacy impacts.

Ninth of the reasons

The proposal is consistent with the fourth objective within BLEP2021 of the R2 Low Density Residential zone because it involves residential development within a highly accessible location and will encourage walking, as well as the use of public transport.

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**4. Environmental planning grounds to justify contravention of the development standard**

The environmental planning grounds that justify the proposed contravention of the development standard are—

**First of the grounds**

Approval of the proposed development notwithstanding the proposed contravention of the development standard would be consistent with the apparent intent behind the non-discretionary development standard.

The intent of the non-discretionary development standard is to identify standards so that a consent authority is prevented from imposing a more onerous standard. The operation of the provision as part of the whole system of environmental planning is therefore intended to be facilitative rather than restrictive.

If the relevant planning authority had intended for there to be a restriction on the lot sizes within which secondary dwellings can be carried out, that would properly be contained within the principal environmental planning instrument, being BLEP2021. However, there is no such restriction within that principal environmental planning instrument.

Furthermore, the relevant *Bayside Development Control Plan 2022* contains multiple provisions that anticipate both studios and secondary dwellings being allowed to be constructed over a garage facing a rear laneway, and is consistent with the expectation that such structures may be constructed on smaller lots that are characteristic of those laneway settings.

If development consent was refused on the grounds of contravention of the lot size standard, that would be inconsistent with the expectations created both by the principal environmental planning instrument and by the development control plan. That would be inconsistent with the intent of the development standard as facilitative rather than as restrictive.

**Second of the grounds**

The proposed development is consistent with good environmental planning because it contributes to making good use of scarce urban resources.

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The laneway setting provides a suitable opportunity for the provision of additional residential accommodation because of its separation distance from the principal dwelling and other principal dwellings in the group and because it is on the northern side of the laneway (and therefore the development causes minimal overshadowing to other residential properties).

If consent was refused to the proposed development on the grounds of its site area, that would cause a waste of scarce urban resources and would be contrary to object 1.3(a) of the Act in that it would represent poor management of resources.

Third of the grounds

Allowing contravention of the development standard will promote object 1.3(c) of the Act, being to promote the orderly and economic use and development of land, because it will, in an orderly and appropriate manner, make good economic use of the opportunity to use the space above the garage for a purpose that assists in meeting the housing needs of the community.

Fourth of the grounds

Allowing contravention of the development standard will represent good environmental planning because it will be consistent with the pattern already established by development within the laneway, in particular the pattern of development established at 154 King Street, one property removed to the east of the subject site, where a secondary dwelling has been approved and located. It is generally good environmental planning practice to allow the continuation of an established pattern unless there are particular circumstances to the contrary.

Fifth of the grounds

Allowing contravention of the development standard is consistent with allowing development to attain the anticipated density of development on the site without impacting the heritage significance of the heritage item.

If there was no heritage listing of the subject site, then it is likely that reasonable development of the site could be achieved through a first floor level addition to the principal dwelling. The heritage listing of the site imposes a constraint. The proposed development is consistent with that constraint because it does not impact upon the heritage significance of the heritage item. In those circumstances, it is reasonable to allow the proposed development.

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## 5. **Findings**

This Section 35B document supports a development application for a proposed secondary dwelling above an existing garage at 158 King Street, Mascot.

The Section 35B document relates to the non-discretionary development standard within clause 53(2)(a) of *State Environmental Planning Policy (Housing) 2021*. The minimum site area is 450 sq m. The proposed site area is 234 sq m. The proposal involves a 48 percent variation.

Compliance with the development standard is unreasonable and unnecessary because—

First of the reasons: The proposed contravention is not inconsistent with the objective of the development standard.

Second of the reasons: The proposed contravention does not contravene any minimum lot size in the principal environmental planning instrument.

Third of the reasons: The proposed contravention is consistent with Principle 3(a) of SEPP Housing 2021.

Fourth of the reasons: The proposed contravention is consistent with Principle 3(c) of SEPP Housing 2021.

Fifth of the reasons: The proposed contravention is consistent with Principle 3(d) of SEPP Housing 2021.

Sixth of the reasons: The proposed contravention is consistent with Principle 3(f) of SEPP Housing 2021.

Seventh of the reasons: The proposed contravention is consistent with the first of the objectives of the R2 Low Density Residential Zone under BLEP2021.

Eighth of the reasons: The proposed contravention is consistent with the third of the objectives of the R2 Low Density Residential Zone under BLEP2021.

Ninth of the reasons: The proposed contravention is consistent with the fourth of the objectives of the R2 Low Density Residential Zone under BLEP2021.

The environmental planning grounds that justify the proposed contravention of the development standard are—

158 King Street, Mascot—Section 35B document (site area)—19 January 2026

First of the grounds: Approval of the proposed development notwithstanding the proposed contravention of the development standard would be consistent with the apparent intent behind the non-discretionary development standard.

Second of the grounds: The proposed development is consistent with good environmental planning because it contributes to making good use of scarce urban resources.

Third of the grounds: Allowing contravention of the development standard will promote object 1.3(c) of the Act, being to promote the orderly and economic use and development of land, because it will, in an orderly and appropriate manner, make good economic use of the opportunity to use the space above the garage for a purpose that assists in meeting the housing needs of the community.

Fourth of the grounds: Allowing contravention of the development standard will represent good environmental planning because it will be consistent with the pattern already established by development within the laneway, in particular the pattern of development established at 154 King Street, one property removed to the east of the subject site, where a secondary dwelling has been approved and located.

Fifth of the grounds: Allowing contravention of the development standard is consistent with allowing development to attain the anticipated density of development on the site without impacting the heritage significance of the heritage item.

Matthew Bartinel  
Town Planner