





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	MOD/2020/0416
Address	2 Crown Street ST PETERS NSW 2044
Proposal	s4.55(2) application to modify a consent so as to carry out alterations and additions to the roof terrace to create an enclosed attic level
Date of Lodgement	16 November 2020
Applicant	Archispectrum
Owner	Mr Kent M Geeves
Number of Submissions	4
Value of works	\$900,000.00
Reason for determination at Planning Panel	Variation to development standard exceeds 10%
Main Issues	Floor space ratio
Recommendation	Refusal
Attachment A	Conditions of Consent (in the event the proposal is approved)
Attachment B	Plans of proposed development
Attachment C	Statement of Environmental Effects



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters	Nil	

1. Executive Summary

This report is an assessment of the application submitted to Council under s4.55(2) of the *Environmental Planning and Assessment Act, 1979* to modify Modified Land and Environment Court Order No. 10351 of 2013, dated 13 July 2015 so as to carry out alterations and additions to the roof terrace to create an enclosed attic level at 2 Crown Street, St Peters.

The application was notified to surrounding properties and 4 submissions were received in response to the notification.

The development results in a variation of 44.2sqm or 39% to the floor space ratio development standard prescribed by Clause 4.4(2A) of Marrickville Local Environmental Plan 2011. Furthermore, the enclosure of the approved roof level pergola is inconsistent with the desired future character of the Barwon Park Planning Precinct as prescribed by Part 9.26 of Marrickville Development Control Plan 2011.

The development is not considered to be in the public interest and is therefore recommended for refusal.

2. Proposal

The development seeks to modify Modified Land & Environment Court Order No. 10351 of 2013, dated 13 July 2015 to enclose the upper level pergola area and provide a new third floor room. The addition involves creating a mansard style roof and walls around the new room, and relocating the existing stairwell windows to the northern elevation of the room.

It is noted that the enclosure of the upper level constitutes an additional 14.7sqm of gross floor area (GFA) to the site. The 'basement' level is identified as such on the plans submitted however would not meet the definition of a basement as per the dictionary accompanying MLEP 2011 and therefore the bike storage and other storage areas constitute GFA. Excluding the car parking space and access thereto, the development has been calculated as having a GFA of 156.8sqm and a floor space ratio (FSR) of 1.18:1 on the 132.5sqm site.

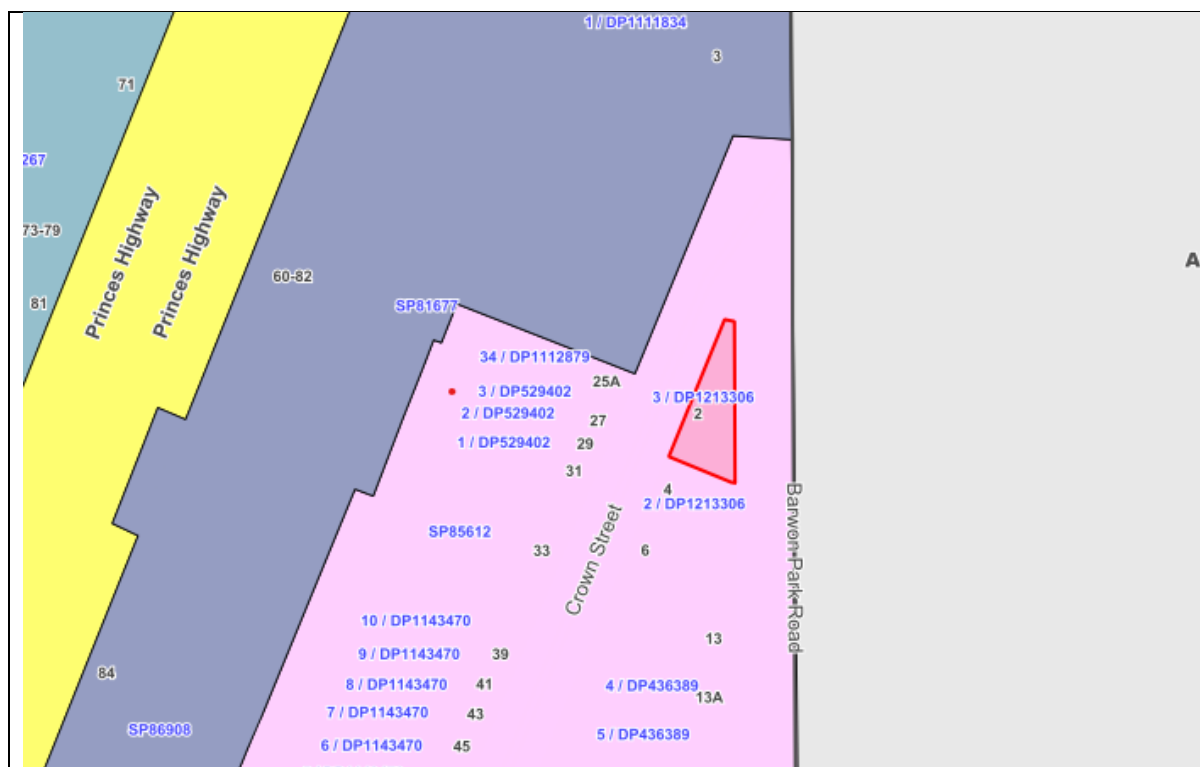
3. Site Description

The subject site is located on the corner of Crown Street and Barwon Park Road, St Peters. The lot is legally described as Lot 3 in DP 1213306, being an irregular triangle shape, with a frontage of 21.5m to Crown Street, a frontage of 23.5m to Barwon Park Road and having an area of 132.5sqm.

The site currently contains a 3 storey dwelling house with roof top pergola.

The area is characterised by 2 storey dwelling houses and residential flat buildings ranging from 3 to 6 storeys. Opposite the site to the east is Sydney Park.

The land zoning map of the area is reproduced below:



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Determination No. 201200276, dated 19 November 2012, refused an application to demolish the 2 single storey dwelling houses and erect 3 x two storey dwelling houses over basement garages with roof top terraces and associated landscaping. On 15 May 2013, a request under S82A to review Determination No. 201200276 was refused by Council.

Land & Environment Court Order No. 10351 of 2013, dated 8 July 2013, issued a deferred commencement consent for the construction of 3 attached dwellings with associated basement parking. An operative consent was issued on 4 June 2014.

The determination was subsequently amended on 13 July 2015 to modify the level of all floors in the development to provide increased head clearance to the basement, modify various windows, re-configure the dwelling layouts to reduce from 4 bedrooms to 3 bedrooms, modify Dwelling 3 deck treatment and include a pergola to the deck, and modify landscape treatment within the development.

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
16 November 2020	Application lodged with Council
24 November 2020 to 8 December 2020	Public notification

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments below:

5(a)(i) *Marrickville Local Environment Plan 2011 (MLEP 2011)*

The following table provides an assessment of the application against the development standards:

Standard	Proposal	Variation	Complies
Height of Building Maximum permissible: 11m	9.9m	N/A	Yes
Floor Space Ratio Maximum permissible: 0.85:1	1.18:1	44.2sqm or 39%	No

(i) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 0.85:1 applies to the land as indicated on the Floor Space Ratio Map that accompanies MLEP 2011. The development approved as part of the Modified Determination dated 13 July 2015 had a gross floor area (GFA) of 142.1sqm and an FSR of 1.07:1 for the subject dwelling. This calculation included those parts of the 'basement' level not used for car parking and access thereto.

The subject application seeks a further increase in GFA of 14.7sqm by providing a new third floor room, which increases the overall GFA on the site to 156.8sqm which results in a variation of 44.2sqm or 39% to the development standard.

Whilst a s4.55 application is not required to be accompanied by a written request for exceptions to development standard under Clause 4.6 of MLEP 2011, the application was accompanied by a written submission which seeks to justify the variation. The applicant submitted the following regarding the increased GFA for the subject application, in part:

"The development is consistent with the objectives of the R1 General Residential zone for the following reasons:

- **To provide for housing needs of the community**
The proposal provides an additional attic room for the existing dwelling that will support the housing needs of the occupant. Whilst there is a numerical non-compliance, the proposal retains compliance with this objective, by providing additional floor area for the dwelling to meet the housing needs of the occupant.
- **To provide for a variety of housing types and densities**
The dwelling is part of a multi-dwelling housing development and will provide additional floor area to support a growing family.

The development is consistent with the objectives of the FSR development standard for the following reasons:

- (b) **To control building density and bulk in relation to the site area in order to achieve the desired future character for different areas.**

The proposal increases the GFA of the site by 14.7sqm by enclosing a portion of the roof terrace level to create an attic room within a mansard roof form. The proposal retains the approved roof height level of the roof terrace and encloses the walls of a portion of the roof terrace area to create the attic room. In terms of density and bulk, the proposal does not adversely affect the existing bulk and density, as the works merely enclose an existing roof area to create floor area. The roof level is existing and so is the stair landing area. These existing areas are retained, and the works enclose the existing volume to create the attic. Therefore, the proposed density and bulk in relation to the site area is reasonable and acceptable and achieves the desired future character for the site.

(c) To minimise adverse environmental impacts on the adjoining properties and the public domain.

The proposed attic level encloses an existing roofed terrace area. In terms of shadow, the proposed enclosure generates a minimal increase in shadow however this does not create an adverse impact on adjoining property as the shadow is predominantly self-cast within the subject site and upon the public road. The attic enclosure does not create any adverse privacy impacts as it is suitably screened by the green wall and a window is provided to the north towards the public road and away from southern properties. In summary, the proposed enclosure does not result in adverse environmental impacts on the adjoining properties nor the public domain.

It is considered that the proposed development will be in the public interest in that it:

- *Retains consistency with the original development approval/substantially the same as the original approval.*
- *Has no environmental impacts on the site or surrounds.”*

The justification provided in the applicant's written request is not considered well founded or worthy of support. It is Council's opinion that compliance with the FSR development standard is reasonable in the circumstances of the case and that the creation of a new third floor room is not consistent with the desired future character for the area.

Whilst it is described in the application that the proposal seeks to enclose the upper level roof terrace, it is noted that the approval granted as part of the original and modified Determination included a roof top level pergola only, with no enclosing roof structure. An inspection of the site would suggest that the roof terrace was enclosed with a solid metal canopy, contrary to the Court's consent.

The proposed new third floor room is inconsistent with the desired future character for the following reasons:

- The precinct specific planning controls for the Barwon Park Planning Precinct (Precinct 26) as contained in Part 9.26 of MDCP 2011 prescribes a maximum building height of 2 storeys for the subject site. The subject site presents as 3 storeys with a lightweight roof canopy structure to Barwon Park Road. Whilst exceeding the prescribed height in number of storeys, the approved pergola structure is sufficiently open and lightweight in its design so as to not present as an additional storey and does not currently constitute habitable GFA. The enclosure of the structure with solid walls and reducing the setbacks of the structure to Crown Street and Barwon Park Road would be inconsistent with the height controls for the site as prescribed by Part 9.26.4.1 of MDCP 2011;
- The development represents a significant increase to the existing variation to the floor space ratio development standard prescribed by Clause 4.4(2A) of MLEP 2011. The development is inconsistent with the objectives of the development standard in that the

additional storey results in increased density and is inconsistent with the desired future character for the area;

- The enclosure of the roof structure would be visible from the neighbouring dwellings to the west of the site on the opposite side of Crown Street and increase the perceived bulk and scale of the development; and
- Whilst the subject proposal only constitutes 14.7sqm additional GFA, the approval of a third floor habitable room would set an undesirable precedent for the adjacent row of developments approved as part of the original Determination, and would encourage those dwellings (4 and 6 Crown Street) to match the proposed development in scale. This would result in an undesirable outcome and the cumulative effect would be unacceptable from a streetscape and amenity outcome. It is noted that the rooftop terraces for 4 and 6 Crown Street were provided to ensure they conformed with the prescribed level of private open space of 45sqm (as the ground level for those lots does not accommodate for this). The provision of an additional storey on the lot closest to the corner (i.e. 2 Crown Street) would be an anomaly given the current consistency in street presentation.

Considering the above and having regard to the objectives of the development standard, the variation to the FSR development standard is not considered worthy of support and therefore the proposal is recommended for refusal.

5(e) The Likely Impacts

The assessment of the application to modify a consent demonstrates that the proposal will have an adverse impact on the locality in that the development is inconsistent with the desired future character of the area as envisioned by the controls contained in MLEP 2011 and MDCP 2011.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. 4 submissions were received in response to the initial notification.

The following issues raised in submissions have been discussed in this report:

- The increase in visual bulk from the development - see Section 5(i)
- Overdevelopment of the site – FSR variation - see Section 5(i);
- Over development of the site – too many storeys - see Section 5(i)
- Not substantially the same development - see Section 6; and
- Unacceptable precedent set for other development in Crown Street - see Section 5(i).

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Inconsistencies in the Statement of Environmental Effects

Comment: The submissions raise concern regarding a number of errors and inconsistencies in the SEE, including the number of storeys not being correctly described, the development being described incorrectly as an “attic”, the ground floor private open space. Those matters have been reviewed and whilst they are technically incorrect, the development has been assessed on its merits and the details provided on the architectural plans are considered to

accurately describe the development. Notwithstanding, the development has been assessed as unacceptable.

Issue: Visual privacy concerns

Comment: The submissions raises concern over visual privacy. The development is not considered to result in unacceptable impacts on adjoining development with regards to visual privacy as it would not present and increased impact as the top floor is already utilised.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest given the significant variation from Council's controls contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011.

6. Section 4.55 of the Environmental Planning and Assessment Act

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, the consent authority, when considering a request to modify a Determination, must:

- (a) be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted;
- (b) consult with any relevant authority or approval body;
- (c) notify the application in accordance with the regulations;
- (d) consider any submissions made; and
- (e) take into consideration the matters referred to in Section 4.15 as are of relevance to the development the subject of the application.

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's policy and 11 submissions were received. Those submissions are considered and discussed in Section 5(g) of this report.

7. Conclusion

The proposal is inconsistent with the objectives and controls contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 and the proposal is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

8. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse MOD/2020/0416 to modify a consent so as to carry out alterations and additions to the roof terrace to create an enclosed attic level at 2 Crown Street, St Peters for the following reasons:
1. The development represents a significant variation from the floor space ratio development standard prescribed by Clause 4.4 of Marrickville Local Environmental Plan 2011. The written request submitted in support of the application is not considered worthy of support given the circumstances.
 2. The development is inconsistent with the desired future character objectives for the Barwon Park Planning Precinct (Precinct 26) as contained in Part 9.26 of MDCP 2011.
 3. The approval of a third floor habitable room would set an undesirable precedent for the row of developments approved as part of the original Determination and an enclosed third floor level is not in the spirit of the Court's consent.
 4. The proposal is contrary to the public interest given the significant variation from Council's controls contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011.

Attachment A – Modified conditions of consent (in the event the development is approved)

Attachment A – Modified conditions of consent (in the event the development is approved)

(i) That Condition 1 of Part B of the Determination be modified as follows:

- The development being carried out substantially in accordance with plans and details listed below:

Plan No. and Issue	Plan/Cert Type	Date Issued	Prepared by	Date Submitted
A01, Issue A	Site Analysis Plan	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A02, Issue A	Basement and Level 1 Plan	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A03, Issue A	Level 2 and Roff Terrace Plan	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A04, Issue A	Roof Plan and Site Plan	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A05, Issue A	Sections and Elevations	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A06, Issue A	Elevation East and West	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
A11, Issue A	Finishes	12 February 2013	Julie Cracknell & Peter Lonergan	14 February 2013
12MB5099/C01, Sheet 1 of 1, Issue A	Driveway Longsection	24 April 2012	United Consulting Engineers Pty Ltd	17 July 2012
12MB5099/D01, Sheet 1 of 2 Issue B	Site and rood Drainage	5 February 2013	United Consulting Engineers Pty Ltd	14 February 2013
12MB5099/D02, Sheet 2 of 2 Issue B	Basement Drainage Plan	5 February 2013	United Consulting Engineers Pty Ltd	14 February 2013
420309M_03	Basement Certificate	11 February 2013	The Department of Planning and Infrastructure	14 February 2013

and details submitted to the Council on 17 July 2012 and 14 February 2013 with the application for development consent and as amended by the plans and details listed below:

Plan No. and Issue	Plan/Cert Type	Date Issued	Prepared by	Date Submitted
A02, Issue C	Basement Plan	17 June 2015	Cracknell & Lonergan Architects	18 June 2015
A03, Issue C	Level 1 Plan	17 June 2015	Cracknell & Lonergan Architects	18 June 2015
A04, Issue C	Level 2 Plan	17 June 2015	Cracknell & Lonergan Architects	18 June 2015

A05, Issue D	Roof Terrace Plan	6 July 2015	Cracknell & Lonergan Architects	8 July 2015
A07, Issue D	Section 1	6 July 2015	Cracknell & Lonergan Architects	8 July 2015
A08, Issue D	Section 2	6 July 2015	Cracknell & Lonergan Architects	8 July 2015
A09, Issue C	North Elevation	17 June 2015	Cracknell & Lonergan Architects	18 June 2015
A10, Issue C	South Elevation	17 June 2015	Cracknell & Lonergan Architects	18 June 2015
A11, Issue C	East Elevation	17 June 2015	Cracknell & Lonergan Architects	18 June 2015
A12, Issue D	West Elevation	6 July 2015	Cracknell & Lonergan Architects	8 July 2015
A16, Issue A	Driveway Layout	3 March 2015	Cracknell & Lonergan Architects	23 March 2015
L01, Issue D	Landscape Concept Plan	6 July 2015	Cracknell & Lonergan Architects	8 July 2015

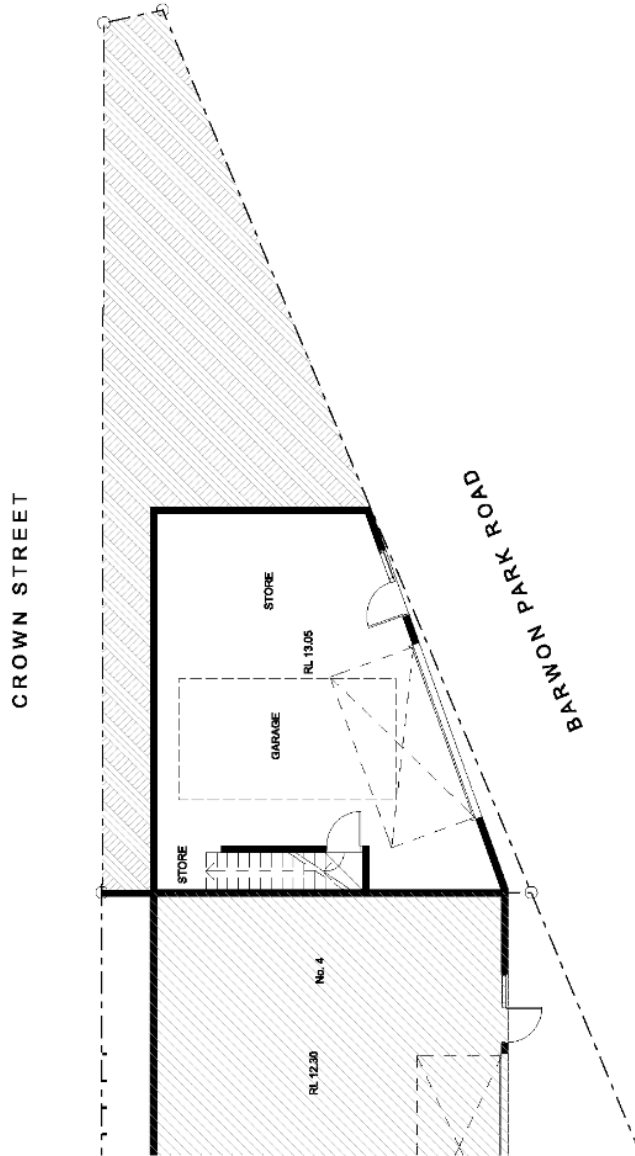
and details submitted to the Council on 23 March 2015, 18 June 2015 and 8 July 2015 with the application under Section 96 of the Environmental Planning and Assessment Act and *as amended by the plans and details listed below:*

Plan No. and Issue	Plan Type	Prepared by	Date Submitted
DA07 Rev. A	Proposed Terrace Plan	Archispectrum	16 November 2020
DA08 Rev. S	Proposed Roof Plan	Archispectrum	16 November 2020
DA09 Rev. A	North Elevation	Archispectrum	16 November 2020
DA10 Rev. A	East Elevation	Archispectrum	16 November 2020
DA11 Rev. A	West Elevation	Archispectrum	16 November 2020
DA12 Rev. A	Section A-A	Archispectrum	16 November 2020

and details submitted to Council on 16 November 2020 with the application under Section 4.55(2) of the Environmental Planning and Assessment Act and as amended by the following conditions.

Reason: To confirm the details of the application as submitted by the applicant.

Attachment B – Plans of proposed development



Existing Basement Floor Plan
SCALE 1:100

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EXISTING BASEMENT FLOOR PLAN

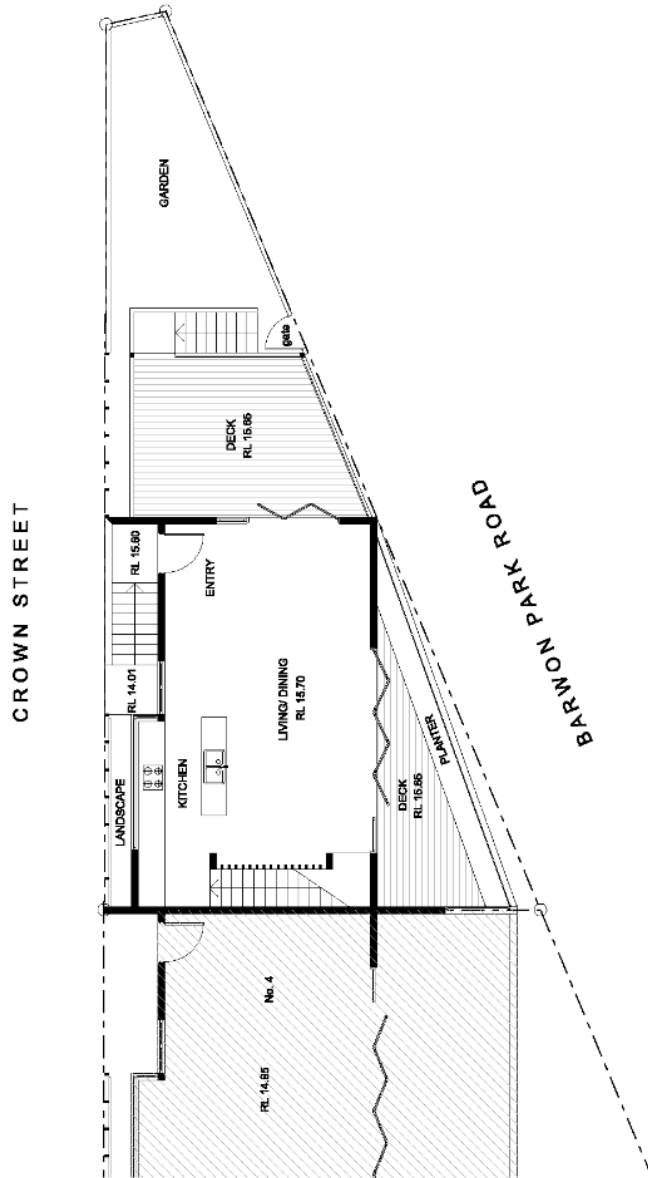
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 DRAWN: ANDREW
 SHEET NO. A3 DA02 a

NO.	DATE	DESCRIPTION
A	09.11.2020	DA Issue for council

PROJECT:
 Alterations & Additions
 2 Crown St, St Peters

CLIENT:
 Kent Geeves
 2 Crown St, St Peters

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Existing Ground Floor Plan
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PROJECT: Alterations & Additions
 2 Crown St, St Peters

CLIENT: Kent Geeves
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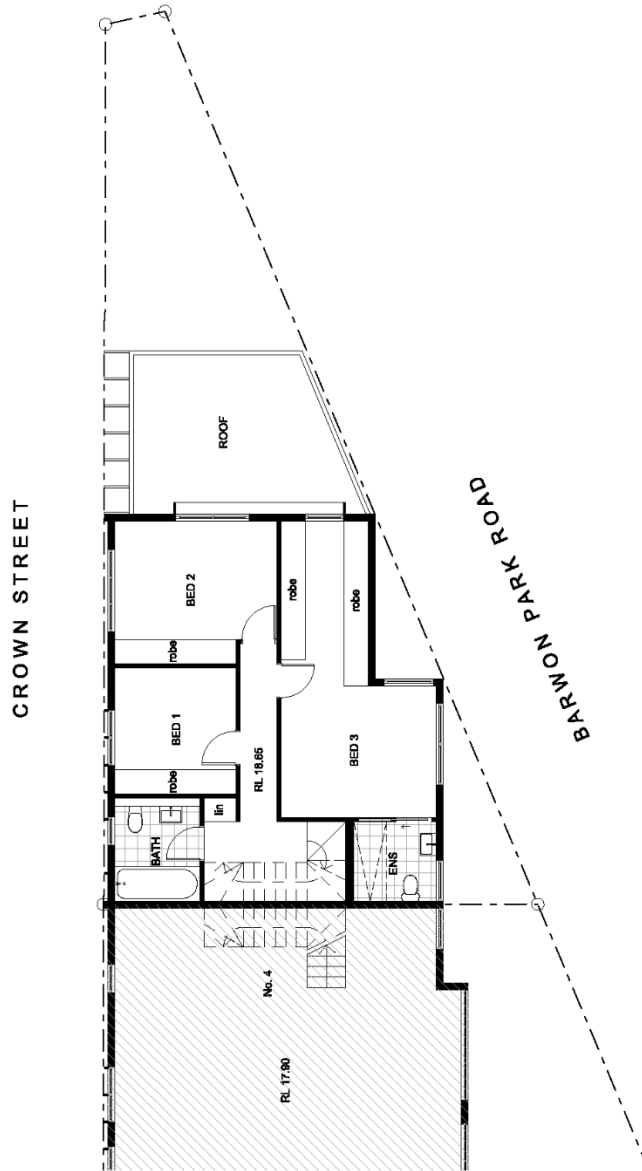
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DATE: 09.11.2020

DESCRIPTION: DA Issue for council

DATE: 09.11.2020

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PROJECT: A3 DA03 a



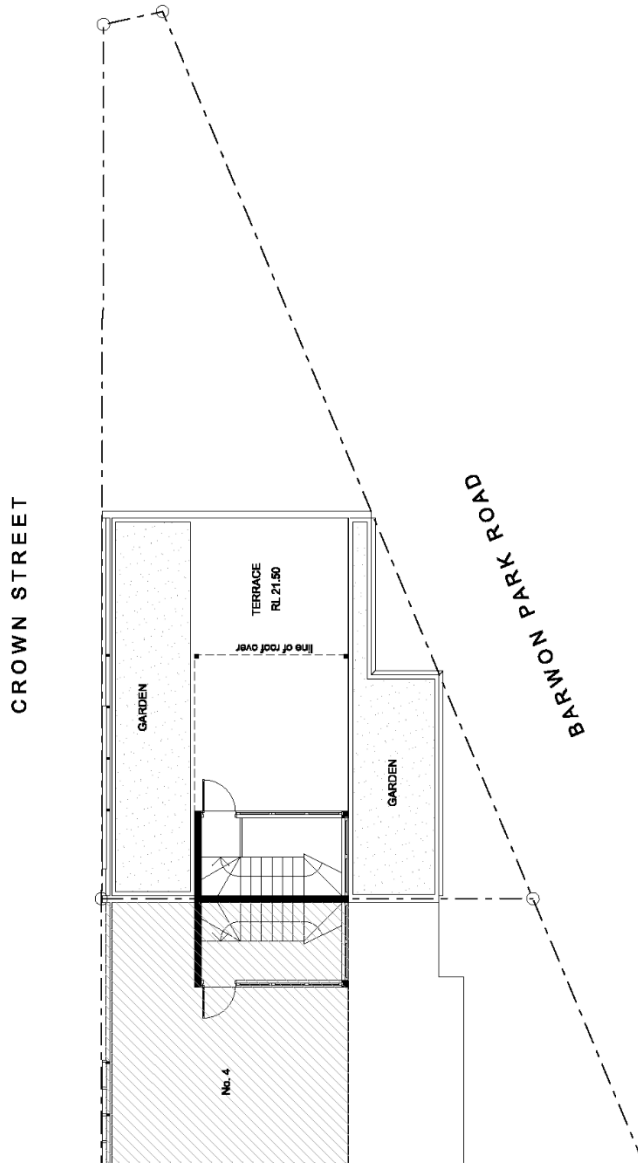
Existing First Floor Plan
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SCALE	DATE	DESCRIPTION	PROJECT:	SHEET TITLE:
A	08.11.2020	DA Issue for council	Alterations & Additions 2 Crown St, St Peters	Existing First Floor Plan

OWNER:	SCALE:	SHEET NO.:	REVISION:
Kent Geeves 2 Crown St, St Peters	1:100 @ A3	A3 DA04 a	



Existing Terrace Plan
SCALE 1:100


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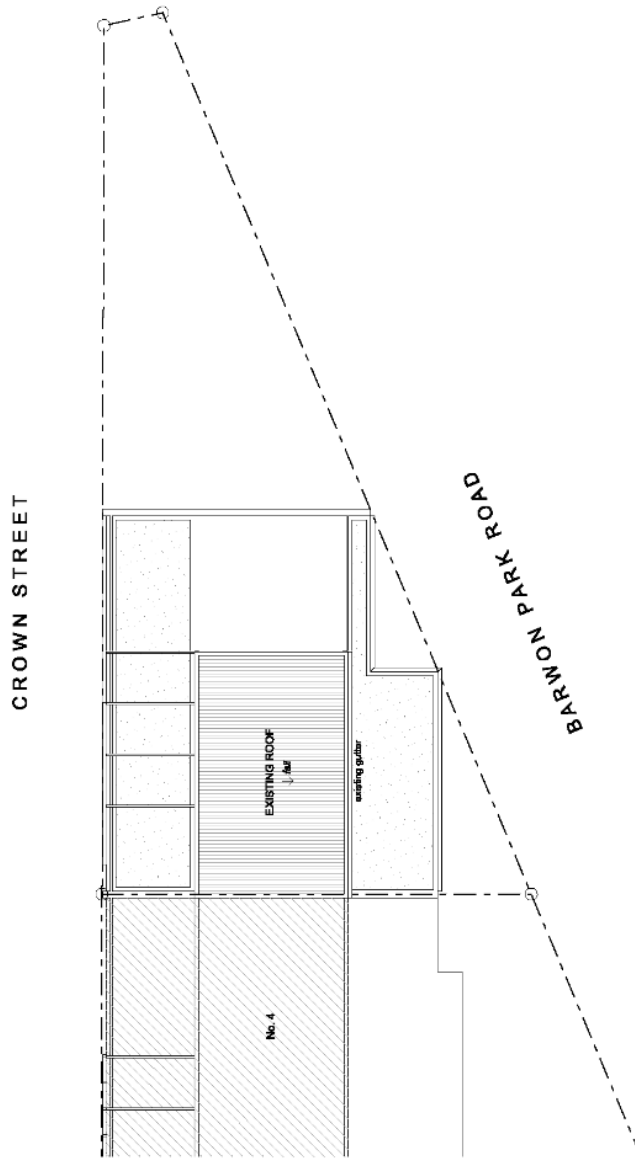
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 PROJECT: **Alterations & Additions**
 2 Crown St, St Peters

DATE: 08.11.2020
 DESCRIPTION: DA Issue for council


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 DRAWING: ANDREW
 SHEETS: A3 DA05 a

CLIENT: **Kent Geeves**
 2 Crown St, St Peters

DRAWING NO.: A3 DA05 a



Existing Roof Plan
SCALE 1:100


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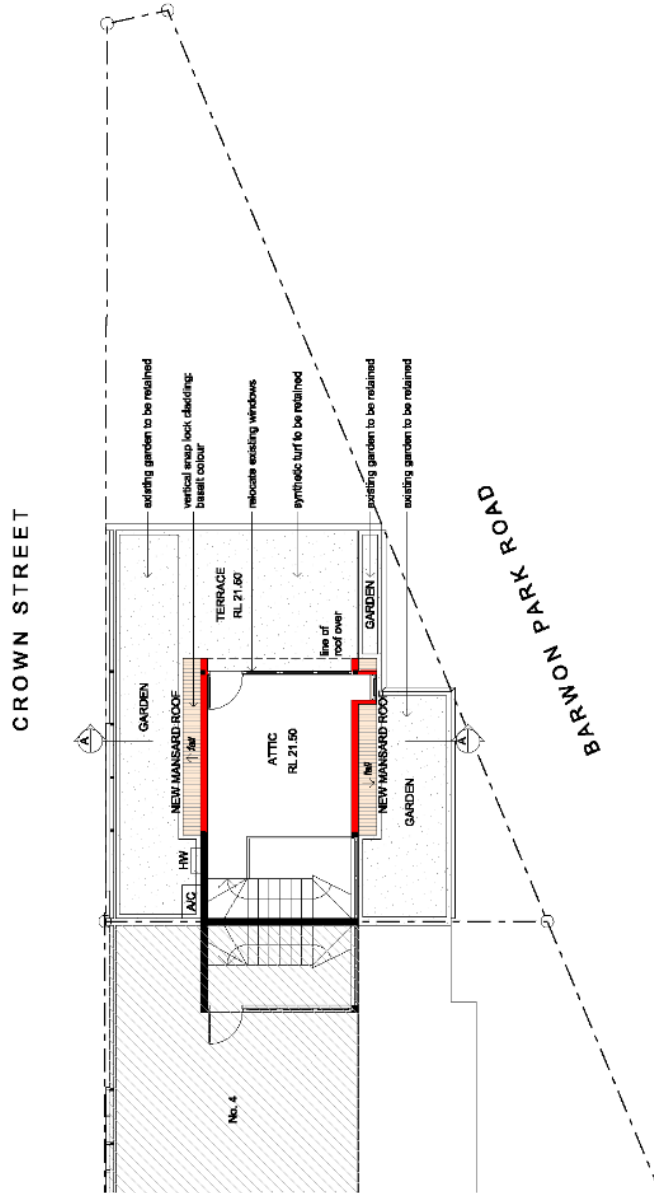
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PROJECT: **Alterations & Additions**
 2 Crown St, St Peters


DRAWN BY: **Kent Geeves**
 2 Crown St, St Peters

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Proposed Terrace Plan
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PROJECT: **Alterations & Additions**
 2 Crown St, St Peters

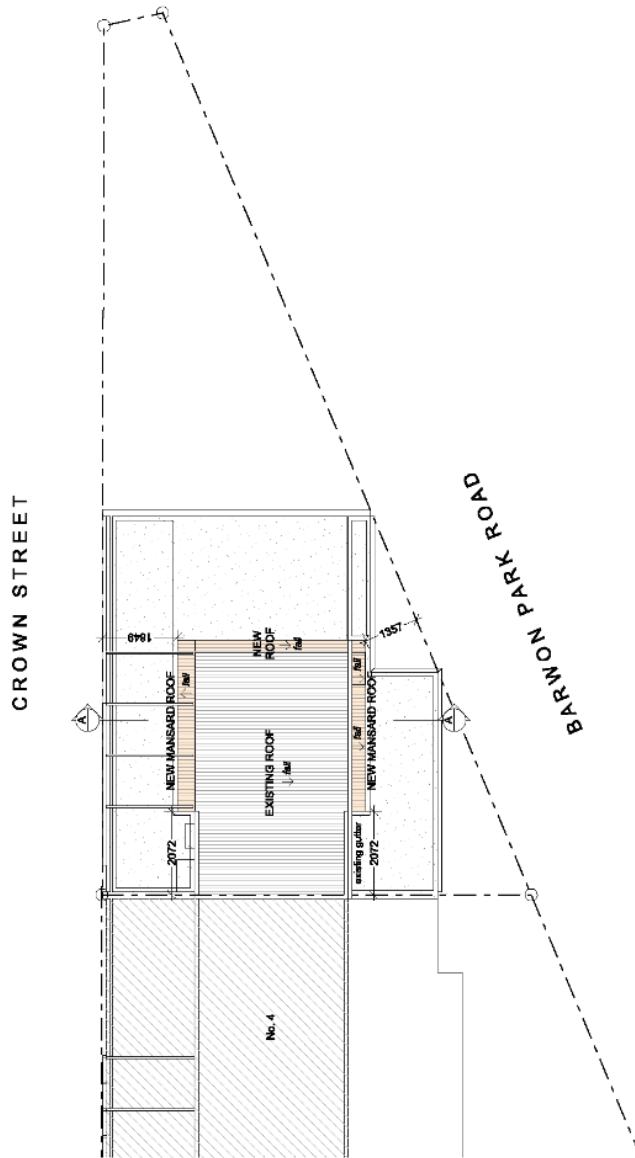
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DRAWN BY: **Kent Geeves**
 2 Crown St, St Peters


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 SHEET NO.: **A3 DA07 a**

DATE: 09.11.2020
 DESCRIPTION: DA Issue for council

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Proposed Roof Plan
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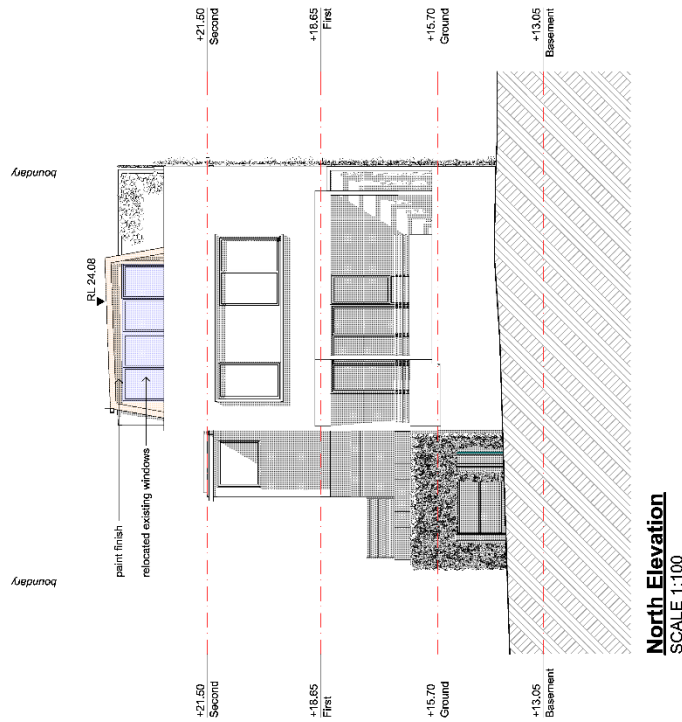
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PROJECT: Alterations & Additions
 2 Crown St, St Peters

DRAWN BY: Kent Geeves
 2 Crown St, St Peters

SCALE: 1:100 @ A3
 DRAWN BY: ANDREW

SHEET TITLE: Proposed Roof Plan
 SHEET NO.: A3 DA08 a
 DRAWING NO.: 1000000



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PROJECT: Alterations & Additions
 2 Crown St, St Peters

CLIENT: Kent Geeves
 2 Crown St, St Peters

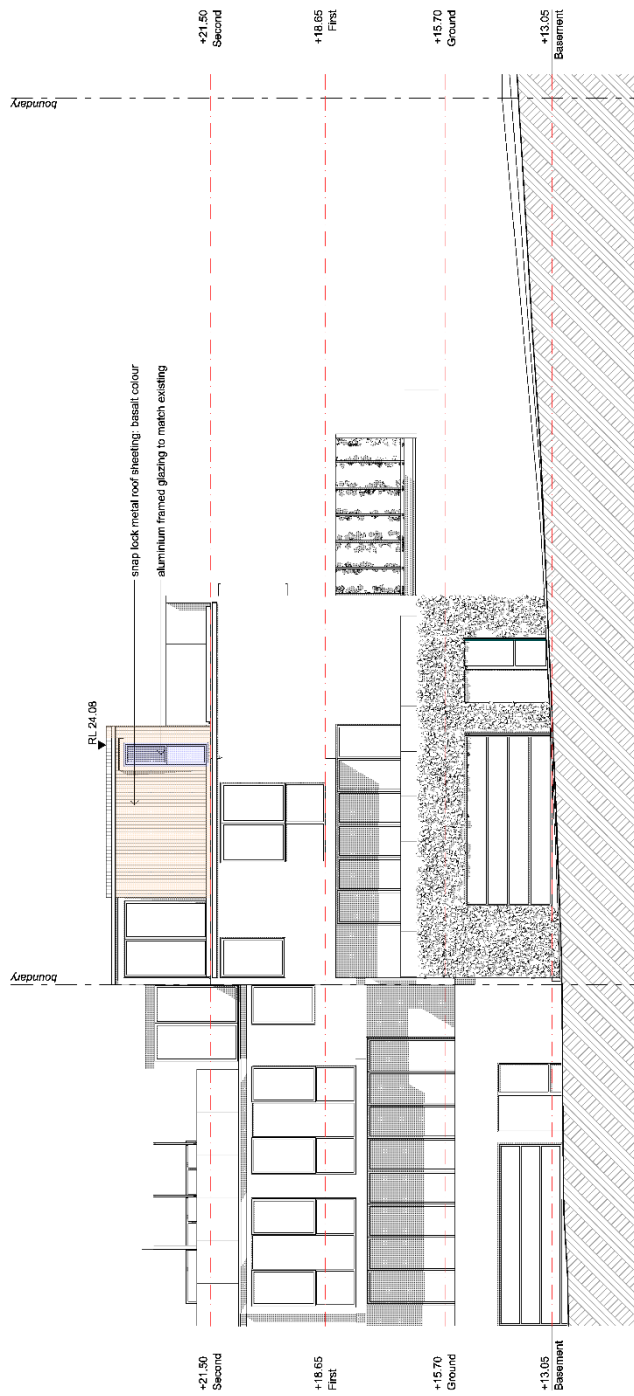
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SHEET NO: DWG NO
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REVISION:

ISSUE DATE DESCRIPTION
 A 09/11/2020 DA Issue for council

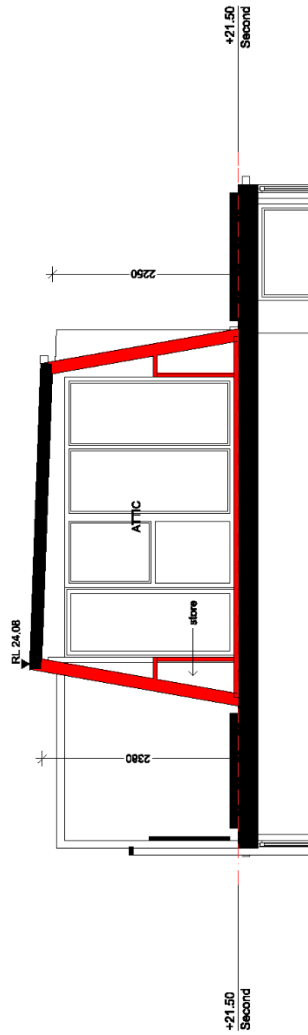


East Elevation
SCALE 1:100


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DATE: 06.11.2020
DESCRIPTION: DA Issue for council
PROJECT: Alterations & Additions
2 Crown St, St Peters
CLIENT: Kent Geeves
2 Crown St, St Peters
DRAWN: ANDREW
SCALE: 1:100 @ A3
SHEET SIZE: DWS/NO
REVISION: A3 DA10 a



Section A-A
SCALE 1:50


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IMAGE	DATE	DESCRIPTION	PROJECT	PROJECT TITLE
A	09.11.2020	DA issue for council	Alterations & Additions 2 Crown St. St. PETERS	Section A-A

CLIENT: **Kent Geeves**
 2 Crown St. St. PETERS
 SCALE: 1:50 @ A3
 DRAWN: ANDREW
 SHEET SIZE: A3 DA12 a

Attachment C – Statement of Environmental Effects

Section 4.55 Modification Application

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposal: Section 4.55 Modification seeking amendments to Consent granted by Court Appeal No 10351 of 2013 (DA 2012 00276)

Site: 2 Crown Street St Peters NSW 2044

Submitted to: Consent Authority

Prepared by:



town planning consultants

September 2020

Project no. 01011


NUPD |

CONTENTS PAGE

1. Introduction	3
2. Site Description	4
3. Proposed Development	6
4. Planning Assessment	9
Marrickville LEP 2011	10
Marrickville DCP 2011	15
5. Recommendation and Conclusion	23



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Revision	Date	Revision Status		
		Status	Written	Approved
01011 – Rev 2	22.09.2020	Final	W.N	 Wil Nino MPA B Planning (UNSW) M Construction + Project Management (UNSW) Director
Rev 1	22.08.2020	Final Draft	W.N	

Note: This document is preliminary unless it is signed by the Director of NUPD

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1. INTRODUCTION

NUPD have been engaged to prepare this Statement of Environmental Effects report to accompany a Section 4.55(8) Modification Application to the Consent Authority that seeks consent to amend a Development Consent granted by the Land & Environment Court under Appeal 10351 of 2013 of a Development Application 2012 00276 at 2 Crown Street St Peters (referenced in DA 2012 00276 as 9-11 Barwon Park Road St Peters). The application relates to the attached dwelling at 2 Crown Street St Peters (the site).

The application seeks consent for the following works at the site:

- Alterations to the roof terrace level of the existing dwelling to create an attic level.

The following consultants have been involved in the preparation of the Section 4.55 Application documentation:

- Statement of Environmental Effects report prepared by NUPD.
- Architectural Plans prepared by *Archispectrum*.

The proposal seeks to amend Condition 1 of Part B of the Consent which relates to the conditions of consent.

The proposal seeks to enclose the existing roofed terrace level by the addition of a mansard roof form in a metal roof sheeting material to create an attic room, whilst retaining an external terrace area. The proposal retains the existing roof level and proposes to enclose the area via the addition of walls. The proposal seeks to make the best use of the existing terrace level for floor area for use of the occupants. Adequate private open spaces areas are retained on the existing ground floor and terrace level.

Whilst the proposal increases the floor area of the dwelling above the FSR standard, the increase is not discernible and generates no environmental planning impact. As the application is a S4.55 modification, a Clause 4.6 exception is not required. Notwithstanding this, justification for the increase in floor area is provided within this report.

This report addresses the nature of the proposed development and the characteristics of the site and surrounding areas. It provides an assessment under the relevant Council and State Planning Instruments and the relevant provisions of the Environmental Planning and Assessment Act 1979, including Part 4 Section 4.15.

The proposal is assessed under the following Planning Legislation:

- Marrickville Local Environmental Plan 2011.
- Marrickville Development Control Plan 2011.
- Relevant State Environmental Planning Policies/Instruments.

The proposal is considered to be compliant with the objectives and standards of Council and State Planning Instruments. Accordingly, the proposal is submitted to Consent Authority for development consent.

2. SITE DESCRIPTION

The subject site is located at 2 Crown Street St Peters and is legally known as Lot 3 in Deposited Plan (DP) 1213306. The site has a total area of 132.5 sqm and is located on the corner of Crown Street and Barwon Park Road, with a 21.5 metre frontage to Crown Street and a frontage of 23.5 metre frontage to Barwon Park Road.

The site accommodates a three storey attached dwelling with ground floor garage that is accessed from both Barwon Park Road and Crown Street. Due to the topography and design of the dwelling, the living area is elevated from the street level with the garage access at-grade. The dwelling has private open space areas on the ground floor level and roof terrace level.

The site forms part of three attached dwellings that were constructed under Development Application No. 2012 00276 that was approved by the Land & Environment Court under Appeal No. 10351 of 2013.

Site photos and an aerial photo are provided below.

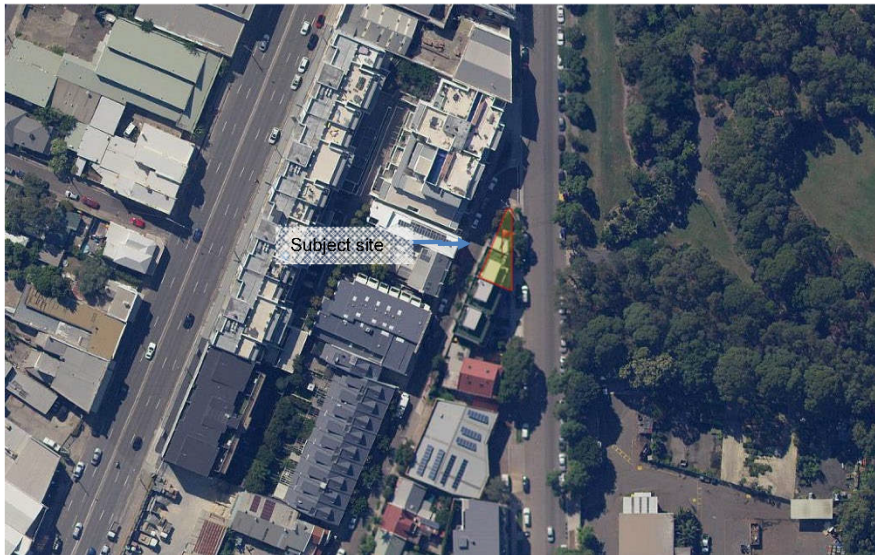


Image 1: Context aerial (Source: NSW Six Maps)



Image 2: Subject site as viewed from Barwon Park Road (Source: nupd)



Image 3: Subject site as viewed from Crown Street (Source: nupd)

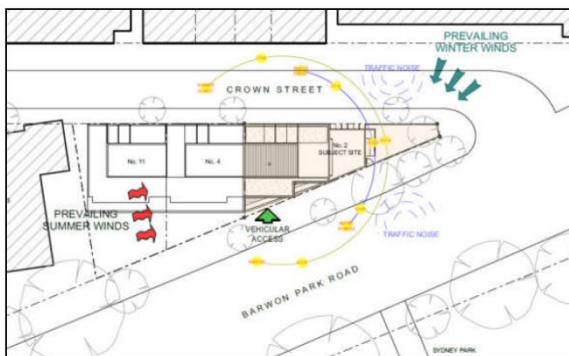


Image 4: Site Analysis plan (Source: Archispectrum)

3. PROPOSED DEVELOPMENT

A Section 4.55(8) Modification Application under Part 4 of the Environmental Planning and Assessment Act 1979 is submitted to the Consent Authority seeking approval for the following works at 2 Crown Street St Peters:

- Alterations to the roof terrace level of the existing dwelling to create an attic level.

The proposal seeks to enclose the existing roofed terrace level by the addition of a mansard roof form to create an attic room of approximately 14.7sqm. The proposal retains an external terrace area on the roof level. The proposal retains the existing roof level and proposes to enclose the area via the addition of walls. The proposed attic is setback from both street frontages. A nook window is proposed facing Barwon Park Road. The proposal seeks to make the best use of the existing terrace level for floor area for use of the occupants. Adequate private open spaces areas are retained on the existing ground floor and terrace level.

3.2 Development Calculations

- Site Area: 132.5 m²
- Approved GFA: 112.1 m²
- Approved FSR: 0.846:1
- Proposed GFA: 126.8 m²
- Proposed FSR: 0.96:1
- Approved Height: 11.03 metres
- Proposed Height: 11.03 metres (no amendment)

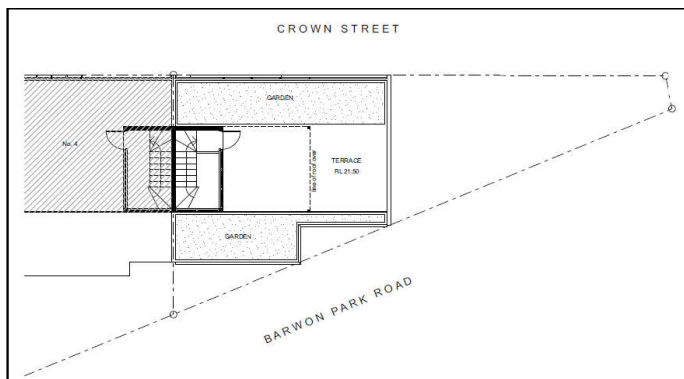


Image 5: Existing roof terrace level plan (Source: Archispectrum)

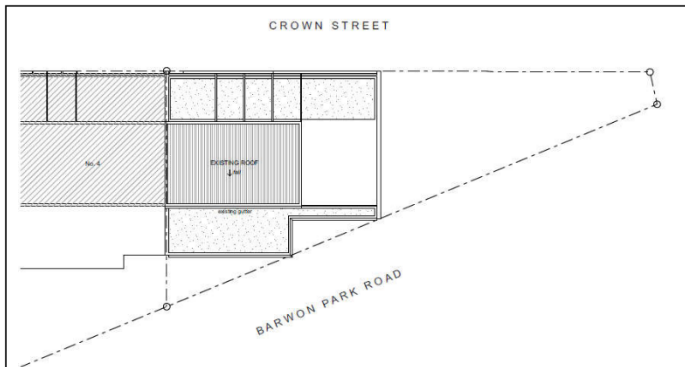


Image 6: Existing roof plan (Source: Archispectrum)

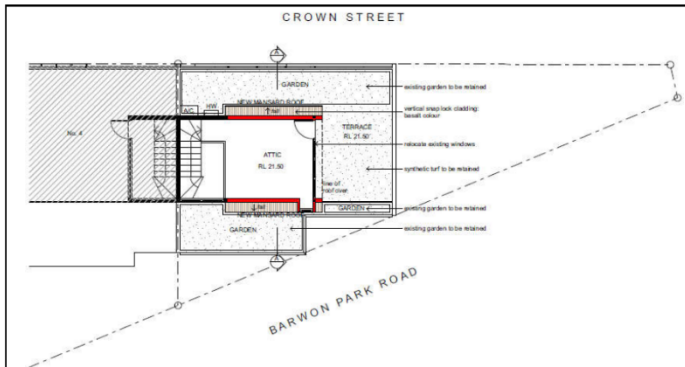


Image 7: Proposed roof terrace plan (Source: Archispectrum)

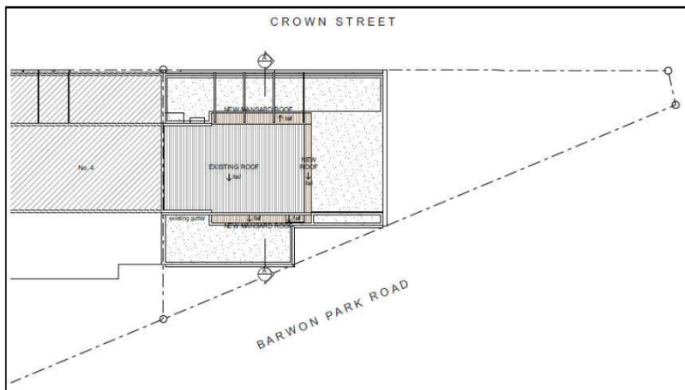


Image 8: Proposed roof plan (Source: Archispectrum)

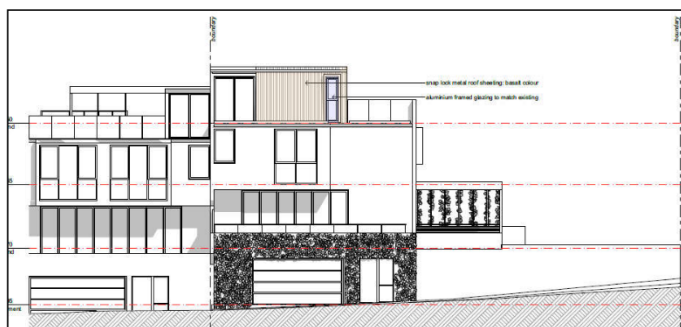


Image 9: Proposed east elevation plan (Source: Archispectrum)

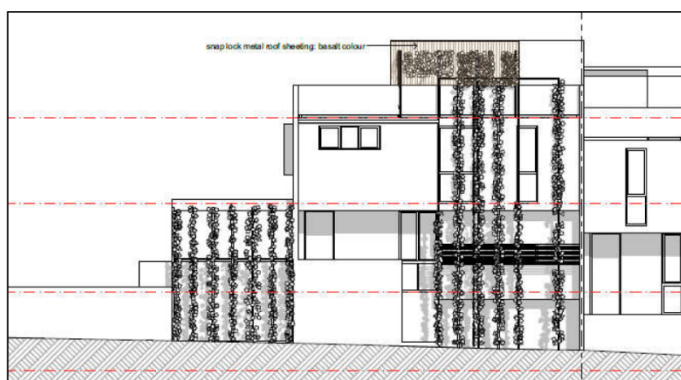


Image 10: Proposed west elevation plan (Source: Archispectrum)

4. PLANNING ASSESSMENT

The amendment seeks consent to modify the Consent granted by the Land & Environment Court under Appeal 10351 of 2013. In accordance with S4.55(8) the application is submitted to the Court for consent.

Section 4.55 of the Environmental Planning and Assessment Act stipulates the following:

(1A) Modifications involving minimal environmental impact

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

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

The proposed amendment seeks to amend Condition 1 which relates to the architectural plans. The proposed amendments are of minimal environmental impact as detailed within this report.

Accordingly, the proposed modification has minimal environmental impact.

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

The proposed amendments is substantially the same development as the development for which the consent was originally granted. The proposal retains the approved roof terrace level, however reduces the extent of the space by enclosing the area to provide an attic level.

The proposed Section 4.55 will retain substantially the same development.

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

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

The Consent Authority is to determine the notification requirements for the application.

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

The Consent Authority is to consider any submissions.

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

Section 4.15 of the Environmental Planning & Assessment Act 1979 as amended specifies the matters which a consent authority must consider when determining an application. An assessment is provided below.

Section 4.15 Assessment

- s.4.15(1)(a)(i)- the provisions of any environmental planning instrument (EPI)

An assessment under the relevant provisions of the Marrickville LEP 2011 is provided below.

- [Marrickville Local Environmental Plan 2011](#)

The following maps under the Marrickville LEP 2011 apply to the site. An assessment under the provisions of the Marrickville LEP 2011 is provided within this report.

Applicable Maps – Subject site outlined in red

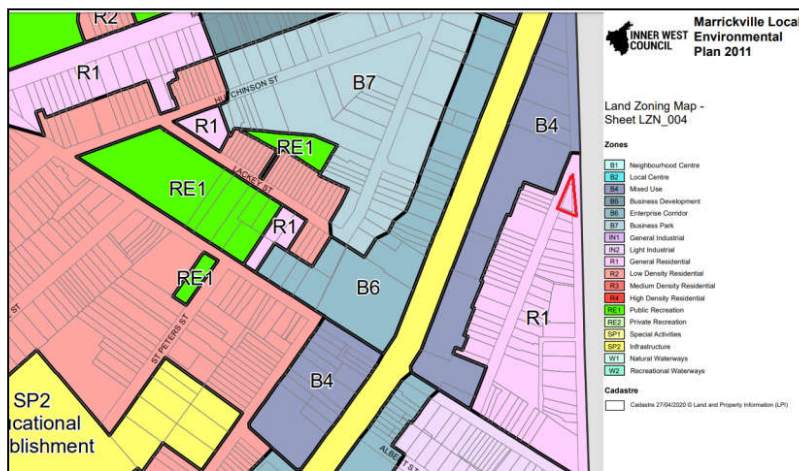


Image 11: Land Zoning map (Source: Marrickville LEP 2011)

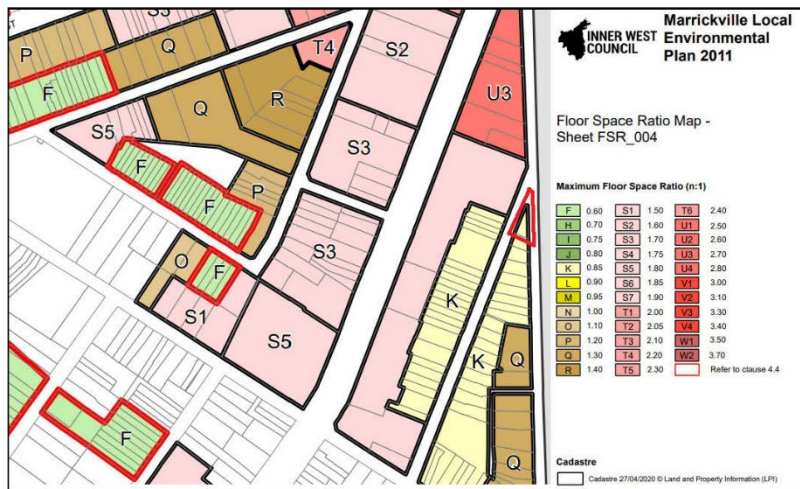


Image 12: Floor Space Ratio map (Source: Marrickville LEP 2011)

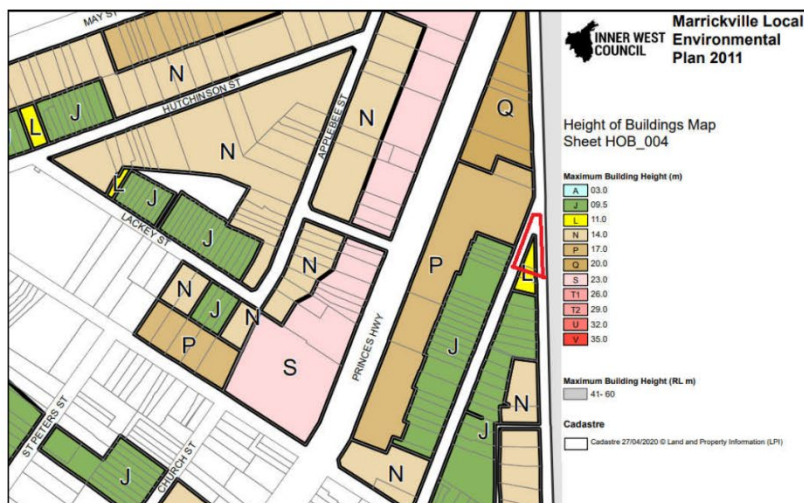


Image 13: Height of Buildings map (Source: Marrickville LEP 2011)



Image 14: Flood Planning Map (Source: Marrickville LEP 2011)

The following table demonstrates the proposal's compliance with the Marrickville LEP 2011. Clauses which are not applicable to the proposal have not been included. Following the table, further assessment is undertaken where relevant.

Marrickville Local Environmental Plan 2011		
Standard and Objectives	Proposed	Compliance
<p>1.2 Aims of Plan</p> <p>(2) The particular aims of this Plan are as follows—</p> <p>(a) to support the efficient use of land, vitalisation of centres, integration of transport and land use and an appropriate mix of uses,</p> <p>(b) to increase residential and employment densities in appropriate locations near public transport while protecting residential amenity,</p> <p>(c) to protect existing industrial land and facilitate new business and employment,</p> <p>(d) to promote sustainable transport, reduce car use and increase use of public transport, walking and cycling,</p> <p>(e) to promote accessible and diverse housing types including the provision and retention of affordable housing,</p> <p>(f) to ensure development applies the principles of ecologically sustainable development,</p> <p>(g) to identify and conserve the environmental and cultural heritage of Marrickville,</p> <p>(h) to promote a high standard of design in the private and public domain.</p>	<p>The proposed amendment to the roof terrace level retains compliance with the aims and objectives of the Marrickville LEP 2011.</p> <p>The proposal will facilitate additional floor area within an existing roofed area that will not generate any environmental planning impacts.</p> <p>The proposal supports the aims of the Marrickville LEP 2011.</p>	<p>Yes</p>

Marrickville Local Environmental Plan 2011		
Standard and Objectives	Proposed	Compliance
<i>Part 2 Permitted or Prohibited development</i>		
<p>2.3 – Land Use Table and Zone</p> <p>Zone R1 General Residential</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To provide for retail premises in existing buildings designed and constructed for commercial purposes. To provide for office premises in existing buildings designed and constructed for commercial purposes or as part of the conversion of existing industrial or warehouse buildings. 	<p>The proposed works are permissible with consent in the R1 General Residential zone.</p> <p>The proposal retains the residential use of the dwelling and provides additional floor area within the roof terrace level.</p> <p>The proposal complies with the objectives of the zone.</p>	Yes
<i>Part 4 Principal development standards</i>		
<p>4.3 – Height of buildings</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to establish the maximum height of buildings,</p> <p>(b) to ensure building height is consistent with the desired future character of an area,</p> <p>(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,</p> <p>(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.</p> <p>Standard: 11 Metres</p>	<p>The proposed roof area is designed in a mansard roof form and retains the existing roof level. The approved height is 11.03 metres and the proposal does not amend this.</p>	No amendment
<p>4.4 – Floor Space Ratio</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to establish the maximum floor space ratio,</p> <p>(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,</p> <p>(c) to minimise adverse environmental impacts on adjoining properties and the public domain.</p> <p>Standard: 0.85:1</p>	<p>The existing dwelling has an FSR of 0.846:1 or 0.85:1 which is compliant.</p> <p>The proposed enclose of the roof level to create an attic results in an increase in GFA of 14.7sqm, resulting in an increased FSR of 0.96:1. Therefore, the proposal departs from the standard.</p> <p>Justification is provided at Note 1.</p>	No Refer to Note 1.
<p>4.6 Exceptions to development standards</p>	<p>Whilst the proposal seeks to vary the FSR standard, a Clause 4.6 Exception is not required as the proposal is a S4.55 modification.</p> <p>Notwithstanding, justification is provided at Note 1.</p>	Refer to Note 1.

▪ Note 1 – Justification for Floor Space Ratio

Notwithstanding that Clause 4.6 is not a requirement for a S4.55 Modification application, it is necessary to consider the performance of the proposal against the objectives of both the land use zone and the relevant development standard for which variation is sought. This is addressed below:

<i>Standard and Objectives</i>	<i>Justification</i>
<i>Zone R1 General Residential</i>	
<ul style="list-style-type: none"> <i>To provide for the housing needs of the community.</i> 	The proposal provides an additional attic room for the existing dwelling that will support the housing needs of the occupants. Whilst there is a numerical non-compliance, the proposal retains compliance with this objective, by providing additional floor area for the dwelling to meet the housing needs of the occupants.
<ul style="list-style-type: none"> <i>To provide for a variety of housing types and densities.</i> 	The dwelling is part of a multi-dwelling housing development and will provide additional floor area to support a growing family.
<ul style="list-style-type: none"> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> 	This objective is not applicable to the proposal.
<ul style="list-style-type: none"> <i>To provide for retail premises in existing buildings designed and constructed for commercial purposes.</i> 	This objective is not applicable to the proposal.
<ul style="list-style-type: none"> <i>To provide for office premises in existing buildings designed and constructed for commercial purposes or as part of the conversion of existing industrial or warehouse buildings.</i> 	This objective is not applicable to the proposal.

4.4 – Floor Space Ratio

<i>(a) to establish the maximum floor space ratio,</i>	The site has an FSR standard of 0.85:1. The proposed FSR is 0.96:1.
<i>(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,</i>	The proposal increases the GFA of the site by 14.7sqm by enclosing a portion of the roof terrace level to create an attic room within a mansard roof form. The proposal retains the approved roof height level of the roof terrace and encloses the walls of a portion of the roof terrace area to create the attic room. In terms of density and bulk, the proposal does not adversely alter the existing bulk and density, as the works merely enclose an existing roofed area to create floor area. The roof level is existing and so is the stair landing area. These existing areas are retained and the works enclose the existing volume to create the attic. Therefore, the proposed density and bulk in relation to the site area is reasonable and acceptable and achieves the desired future character for the site.

Standard and Objectives	Justification
<i>(c) to minimise adverse environmental impacts on adjoining properties and the public domain.</i>	<p>The proposed attic level encloses an existing roofed terrace area. In terms of shadow, the proposed enclosure generates a minimal increase in shadow however this does not create an adverse impact on adjoining property as the shadow is predominantly self cast within the subject site and upon the public road.</p> <p>The attic enclosure does not create any adverse privacy impacts as it is suitably screened by the green wall and a window is provided to the north towards the public road and away from southern properties.</p> <p>In summary, the proposed enclosure does not result in adverse environmental impacts on adjoining properties nor the public domain.</p>

Conclusion: Given the above compliance with the relevant objectives, the proposed modification is considered to be consistent with the objectives of the applicable standards and the numerical departure can be supported.

- *s.4.15(1)(a)(ii)- the provisions of any draft environmental planning instrument that has been notified*

There is no draft LEP that is applicable.

- *s.4.15(1)(a)(iii)- any development control plan*

- [Marrickville Development Control Plan 2011](#)

The subject dwelling forms part of three dwellings approved as multi-dwelling housing. Therefore, the proposal is assessed under the DCP provisions of Part 4.2 Multi dwelling housing.

The following table demonstrates the proposal's compliance with Council's Development Control Plan. Clauses which are not applicable to the proposal have not been included. Following the table, further assessment is undertaken where relevant.

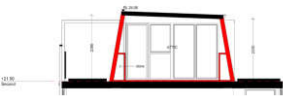
<i>Marrickville DCP 2011</i>		
<i>Standard and Objectives</i>	<i>Proposed</i>	<i>Compliance</i>
<i>2.1 – Urban Design</i>		
<i>All development applications involving substantial external changes that are visible from or effect public space or have significant land use implications must be consistent with the relevant aspects of the 12 urban design principles that make good public environments.</i>	The proposed works to the roof terrace level will retain a dwelling that is compliant with the urban design principles of the DCP.	Yes

2.6 – Acoustic and Visual Privacy		
<p>2.6.1 Objectives</p> <p><i>O1 To ensure new development and alterations and additions to existing buildings provide adequate visual and acoustic privacy for the residents and users of surrounding buildings.</i></p> <p><i>O2 To design and orientate new residential development and alterations and additions to existing residential buildings in such a way to ensure adequate acoustic and visual privacy for occupants.</i></p> <p><i>O3 To ensure new development does not unreasonably impact on the amenity of residential and other sensitive land uses by way of noise or vibration.</i></p>	<p>The proposal retains the existing roof level and encloses the area with metal roof sheeting providing an attic within a mansard roof. The proposal retains the existing vertical climbers on the façade and the enclosure of the area is not considered to result in adverse privacy impacts nor significant loss of any views.</p> <p>The length of wall is 4.15 metres which will not create any significant view loss.</p>	Yes
Part 4.2 Multi dwelling housing		
<p>4.2.2 Good urban design practice</p> <p><i>NB Refer to Section 2.1 (Urban Design) for principles of urban design and other guidelines.</i></p> <p><i>To achieve good urban design, multi dwelling housing and residential flat buildings or apartments should:</i></p> <ol style="list-style-type: none"> <i>1. Consider the characteristics of the site and the adjoining development through site and context analysis;</i> <i>2. Ensure new development maintains the same setback and enhances the streetscape character of the locality;</i> <i>3. Ensure the scale of development is appropriate for the site;</i> <i>4. Ensure dwellings will be accessible to people with a disability or can be modified to facilitate easy access;</i> <i>5. Ensure the development is designed and uses materials and finishes which complement the locality;</i> <i>6. Ensure the dwellings and open space areas are orientated to achieve good solar access, are energy efficient and are environmentally friendly;</i> <i>7. Ensure building entries address the street and are clearly visible from the street or internal driveways/footpaths;</i> <i>8. Design development to fit in with the type and quality of landscaping found in the locality;</i> <i>9. Consider the quality of private open space and how it relates to the layout of the dwelling;</i> <i>10. Ensure entries, parking areas and paths are well lit and able to be viewed from public spaces;</i> <i>11. Ensure driveways or garages do not dominate the view of the development from the street and consider alternative modes of transport and car share options to reduce on-site parking;</i> 	<p>The proposed works to the roof terrace level support the urban design principles of the Part 4.2 of the DCP.</p> <p>The enclosure of the roof terrace level in the form of a mansard roof will enhance the use of the space and provide useable floor area whilst retaining adequate private open space areas.</p> <p>The proposed metal sheeting material will match seamlessly to the existing roof material.</p> <p>The proposed enclosure retains the green climbers on the façade of the building.</p> <p>It is considered that the proposed scale, form, material and overall design is appropriate for the site.</p>	Yes

<p>12. Include communal open space and play facilities for children;</p> <p>13. Plan for acoustic and visual privacy protection; and</p> <p>14. Use design techniques which promote safety and reduce crime.</p> <p>Council is committed to the design of residential flat buildings and multi dwelling housing that uses accessible and adaptable design principles to benefit a cross-section of the community and caters for the changing needs of individual residents.</p>		
<p>4.2.4.2 Building Heights</p> <p>Objectives</p> <p>O17 To use the maximum height limits specified in MLEP 2011 to assist in responding to the desired future character of the locality.</p> <p>O18 To ensure the height of development relates to the local topography with minimal cut and fill.</p> <p>O19 To ensure development has minimal impact on neighbouring properties in terms of building dominance (bulk and scale), overshadowing and privacy.</p> <p>Controls</p> <p>C9 The maximum permissible height for any development must be consistent with the height standards prescribed on the MLEP 2011 Height of Buildings Map.</p> <p>C10 With generic heights partially modified to relate to different areas and site circumstances, applicants must refer to the MLEP 2011 Height of Buildings Map and the Planning Precinct in which the site is located to check for any site specific controls.</p>	<p>The proposal retains the existing approved roof level and approved height.</p> <p>No amendment is proposed.</p>	<p>Yes</p>
<p>4.2.5 Streetscape, general appearance and materials</p> <p>Objectives</p> <p>O23 To encourage development which reflects contemporary values through design approach, materials and construction technique, to provide an appropriate response to the historical context of the street and the wider locality.</p> <p>O24 To ensure new development achieves a cohesive relationship with existing development to maintain the overall character of the area.</p> <p>O25 To ensure a high standard of building design, detailing and finish at an appropriate scale to the street that complements the existing built form and streetscape.</p> <p>O26 To avoid adverse changes to existing residential flat buildings and to encourage positive changes.</p> <p>4.2.5.1 Facade and streetscape design</p> <p>C15 Multi dwelling housing and residential flat building development must be sensitive to the</p>	<p>The proposed enclosure of the roof terrace will not be highly visible from the street level. This is because it is setback from both street frontages which reduces its visibility and is contained within an existing roofed area.</p> <p>Along Crown Street, the vertical green climbers are retained which further conceal the addition.</p> <p>To Barwon Park Road, a matching window is provided. The additional seamlessly appears as part of the existing landing for the roof terrace level, thereby reduces its visibility. The addition sits harmoniously with within the roof terrace level and is neither obtrusive nor bulky.</p> <p>The proposal is compliant with the objectives of this control.</p>	<p>Yes</p>

<p><i>specific characteristics of the site and its locality.</i></p> <p><i>C16 External building materials and finishes, in particular for street facades and roofing, must not contrast with the existing character of the street.</i></p> <p><i>C17 Pedestrian access and establishing a sense of place and street identity must be encouraged.</i></p> <p><i>C18 New development must be oriented to complement the existing pattern of development found in the street.</i></p> <p><i>C19 New development must address the principal street frontage and provide an attractive visible facade from the street.</i></p> <p><i>C20 Facade design must enhance the existing built character by interpreting and translating any positive characteristics found in the street and locality into design solutions, with particular reference to:</i></p> <ul style="list-style-type: none"> <i>i. The massing - that is, the overall bulk and arrangement, modulation and articulation of building parts;</i> <i>ii. Roof shape, pitch and overhangs;</i> <i>iii. Verandahs, balconies and porches; and</i> <i>iv. Window shape, textures, patterns, colours and decorative detailing.</i> <p><i>C21 Facades must be composed with an appropriate scale, rhythm and proportion that responds to the building's use and desired future character by, for example:</i></p> <ul style="list-style-type: none"> <i>i. Providing bays or units of dimensions appropriate to the scale of the building proposed and that of adjoining development;</i> <i>ii. Using vertical control lines set by such elements as blade/party walls, nib walls, exposed downpipes, attached piers, setbacks or changes in facade planes, to establish bays;</i> <i>iii. Repeating bays along the facade with bay width uniform and similar to the bay or full width dimension of adjoining buildings;</i> <i>iv. Using horizontal control lines set by elements such as ground level string courses, cornices, balcony balustrades or roofs, eaves lines or door or window heads to align elements of new buildings with similar elements of adjoining buildings;</i> <i>v. Articulating building entries with awnings, porticos, recesses, blade walls and projecting bays;</i> <i>vi. Selecting balcony types which respond to the street context, building orientation and residential amenity;</i> <i>vii. Avoiding long straight walls;</i> <i>viii. Providing regular modulation or division of massing and facade treatment;</i> <i>ix. Ensuring an acceptable ratio of facade openings to wall areas; and</i> 		
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<p><i>x. Varying balcony proportions and orientation.</i></p>		
<p>4.2.5.2 Bulk and scale relationship</p> <p><i>C24 New development must provide a sympathetic transition in scale between old and new buildings by dividing building mass, roof form and facade into smaller units which sympathetically relate to adjoining properties.</i></p> <p><i>C25 For development where the Height Of Building standard is equal to or greater than 14 metres and the proposed development will involve roof top structures within the topmost 3 metres of the maximum height control, the following provisions apply:</i></p> <p><i>i. The top 3 metres of the building must not contain a dwelling or part of a dwelling; and</i></p> <p><i>ii. Where any structure is greater than 1.5 metres above the roof level directly below:</i></p> <p><i>a. The perimeter of this area must be no greater than 20% of the roof perimeter area of the level directly below;</i></p> <p><i>b. The roof top structure must not be visible when viewed from 1.8 metres above the footpath pavement on the edge of the road reserve on the opposite side of the street to the building;</i></p> <p><i>c. The roof top structure must not be visible when viewed from 1.8 metres above the lane pavement or natural ground level of an adjoining property, 6 metres out from the rear boundary; and</i></p> <p><i>d. If the roof top structure would be visible from oblique views if built to the side edge of the building (such as where adjoining buildings that are separated or low or the site is on a street corner), it must be setback 3 metres from the side edge of the building.</i></p> <p><i>iii. Any parapets or balustrades must be a maximum 1 metre above the roof level directly below.</i></p> <p><i>C26 Continuous wrap around balconies that add to the bulk of the building are not desirable.</i></p> <p><i>C27 The enclosure of balconies or verandahs for the purpose of providing additional floor space is not permitted.</i></p>	<p>The proposed mansard sits seamlessly within the existing roofed level and does not adversely alter the bulk and scale of the roof level.</p> <p>The proposal is retained within the existing roof level and does not create additional bulk.</p> <p>Additionally, the attic is well setback from both street frontages which reduces its visibility.</p>	<p>Yes</p>
<p>4.2.5.3 Materials, finishes, textures and colours</p> <p><i>C29 Face brickwork must be used only where this is common in the immediate vicinity of the proposed development. Bricks must be of a uniform colour, without mottle (except for traditional sandstock) or wire cut.</i></p> <p><i>C30 Development must:</i></p> <p><i>i. Avoid large expanses of glass and reflective wall cladding (including glass blocks);</i></p> <p><i>ii. Use roof cladding which conforms with contributing neighbouring development; and</i></p>	<p>The proposed material for the mansard roof is a snap lock metal sheeting in basalt colour that matches the existing roof finish.</p> <p>This will provide a seamless addition that forms part of the existing roof structure.</p> <p>The proposed material is appropriate for the site.</p>	<p>Yes</p>

<p>iii. Use colour schemes that reflect and draw references from the locality, ensuring the colour of the building is not excessively light or dark.</p> <p>C31 The use of the following materials or techniques is not permitted:</p> <p>i. Rough textured bagged finish;</p> <p>ii. Extensive areas of glass sheeting; and</p> <p>iii. Circular pattern render.</p> <p>C32 Highly contrasting coloured bricks must be restricted to building elements such as sills, window heads, string courses and to assist in the division of the building into bays and sections.</p>		
<p>4.2.7 Ceiling Heights</p> <p>Controls</p> <p>C37 Developments must have minimum ceiling heights, measured from finished floor level to finished ceiling level, of:</p> <p>i. 3.3 metre minimum for ground floor street fronting dwellings to promote future flexibility of use;</p> <p>ii. in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25 metres is permitted;</p> <p>iii. for two storey units, 2.4 metre minimum for second storey if 50 percent or more of the apartment has 2.7 metre minimum ceiling heights;</p> <p>iv. for two-storey units with a two storey void space, 2.4 metre minimum ceiling heights;</p> <p>v. attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum ceiling slope.</p>	<p>The area is proposed as an attic space.</p> <p>The DCP permits a height of 1.5m at edge of wall with a 30 degree ceiling slope.</p> <p>The proposed ceiling height is between 2250mm to 2380mm and retains the existing roof level.</p> <p>The architect has confirmed that the proposed height retains compliance with the NCC/BCA.</p> <p>Extract below.</p> 	<p>Yes</p>
<p>Part 9 Strategic Context – 9.26 Barwon Park (Precinct 26)</p>		
<p>9.26.2 Desired Future Character</p>	<p>The proposed enclosure of the roof level retains compliance with the desired future character of the area.</p>	<p>Yes</p>
<p>9.26.4 Precinct specific planning controls</p> <p>Guidelines for height controls</p> <p>1. The permitted building heights provide redevelopment opportunities for larger sites and for sites constrained by environmental factors such as traffic noise and poor ground floor amenity.</p> <p>2. Opportunities for greater building height exist along the Princes Highway, however the design of new development must respect other buildings for retention. Upper level setbacks are to reinforce the desired scale of the buildings on the street.</p> <p>3. A larger scale building at the corner of the</p>	<p>Figure 26.1 stipulates a 2 storey height control.</p> <p>The existing dwelling is 4 storeys in height and was approved in this configuration.</p> <p>The proposal seeks to enclose the roof terrace and maintains the existing approved height and roof level.</p> <p>Therefore, whilst there is a departure from the storey control, the departure is existing and the proposed enclosure of the roof to provide an attic will not generate</p>	<p>Considered acceptable</p>

<p><i>Princes Highway and Barwon Park Road will help define this acute corner and will signify the northern gateway to the precinct.</i></p> <p><i>4. New development on the Princes Highway should respond in part to the scale and function of existing residential buildings on Crown Street.</i></p> <p><i>5. The transition between taller development and adjacent lower scaled buildings must be done with development of an intermediate scale.</i></p>	<p>adverse environmental planning impacts.</p>	
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- *s. 4.15(1)(a)(iia)- any planning agreement*

There are no voluntary planning agreements that apply to the proposal.

- *s. 4.15(1)(a)(iv)- any matters prescribed by the regulations*

There are no matters prescribed by the regulations that are relevant to the proposed development.

- *s. 4.15(1)(b)- the likely impacts of that development*

It is considered that the proposed amendments shall have no adverse environmental planning impact upon adjoining properties, the streetscape or the locality in general. Therefore the proposed amendments are considered acceptable.

- *s. 4.15(1)(c)- the suitability of the site for the development*

The Section 4.55 shall not alter the approved use of the site.

- *s. 4.15(1)(d)- any submissions made in accordance with this Act or the Regulations*

Not applicable.

- *s. 4.15(1)(e)- the public interest*

It is considered that the proposed development will be in the public interest in that it:

- Retains consistency with the original development approval/substantially the same as the original approval.
- Has no environmental impacts on the site or surrounds.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any

other Act to a development consent includes a reference to a development consent as so modified.

The requested Section 4.55 modification includes a reference to a development consent being Appeal N.o 10351 of 2013, by amending the relevant conditions.

5. RECOMMENDATION AND CONCLUSION

The proposal provides a suitable conversion of a roof terrace into an attic room that will enable additional floor area for use by the occupants. Whilst the additional floor area results in a departure from the FSR standard, the enclosure of the space does not result in any environmental planning impacts.

The proposal is permissible with Council consent and is compliant with the objectives and standards of the Marrickville LEP 2011, Marrickville DCP 2011 and the Environmental Planning & Assessment Act, 1979. Where a departure exists, it has been justified within this report.

The proposal is considered an appropriate response to the context, setting, planning instruments and Section 4.15(1) of the Environmental Planning & Assessment Act, 1979.

Accordingly the application is considered worthy of approval.

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