

 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2020/1120			
Address	63 Northumberland Avenue STANMORE NSW 2048			
Proposal	To carry out alterations and additions to the existing building to provide a mixed use development containing a ground floor shop and 3 one bedroom apartments with associated landscaping and parking and construction of an office building at rear of the site.			
Date of Lodgement	18 December 2020			
Applicant	Mr Bill Jurukovski			
Owner	Mr Bill Jurukovski Mrs Neda Jurukovski			
Number of Submissions	Initial: 3			
Value of works	\$264,000			
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%			
Main Issues	Floor Space Ratio, Heritage			
Recommendation	Approval with Conditions			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Clause 4.6 Exception to Development Standards			
				
LOCALITY MAP				
Subject Site		Objectors		↑ N
Notified Area		Supporters		
Note: not all objections identified a property address.				

1. Executive Summary

This report is an assessment of the application submitted to Council to carry out alterations and additions to the existing building to provide a mixed-use development containing a ground floor shop and 3 one-bedroom apartments with associated landscaping and parking and construction of an office at rear of the site at 63 Northumberland Avenue Stanmore.

The application was notified to surrounding properties and 3 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- A portion of the development is not permissible under the zoning applying to the land and this portion of the proposal relies on existing use rights;
- The development represents a 34.2% breach to the FSR development standard; and
- The proposal is within the Annandale Farm Heritage Conservation Area (HCA) and some design elements detract from the HCA.

Despite the non-compliances, the proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011).

The potential impacts to the surrounding environment have been considered as part of the assessment process. Potential impacts from the development are considered to be acceptable given the context of the site and the desired future character of the precinct.

Therefore the application is recommended for approval.

The application represents a breach of more than 10% to the FSR development standard. While a portion of the development is subject to existing use rights and therefore not strictly subject to the development standards applicable to the site, the FSR of the proposal is still a consideration in assessing the suitability of the development. In the circumstances, having regard to the development as a whole, the application is put to the Panel for determination for an abundance of caution.

2. Proposal

Approval is sought to carry out alterations and additions to the existing building to provide a mixed-use development containing a ground floor shop and 3 one-bedroom apartments with associated landscaping and parking and construction of an office building at rear of the site, and includes the following:

- Internal alterations to the ground floor of the building to continue the existing use of a shop and separate apartment.
- Internal alterations to the first floor of the building to create 2 new apartments.
- Demolition of the rear garage.
- Construction of a new single storey office building to the rear of the site.
- Alterations to the northern and western façades of the main building to reinstate original windows and doors to the front portion of the building and new contemporary windows at the rear.
- Construction of a new pergola, stairway and green terrace/roof to the top of the building.

- Provision of a single car parking space to the rear of the main building and associated landscaping.
- Continue the use of the existing shop as a convenience store (neighbourhood shop) to operate from 7.00am to 8.00pm daily.
- Operate the proposed office from 7.30am to 8.00pm daily.

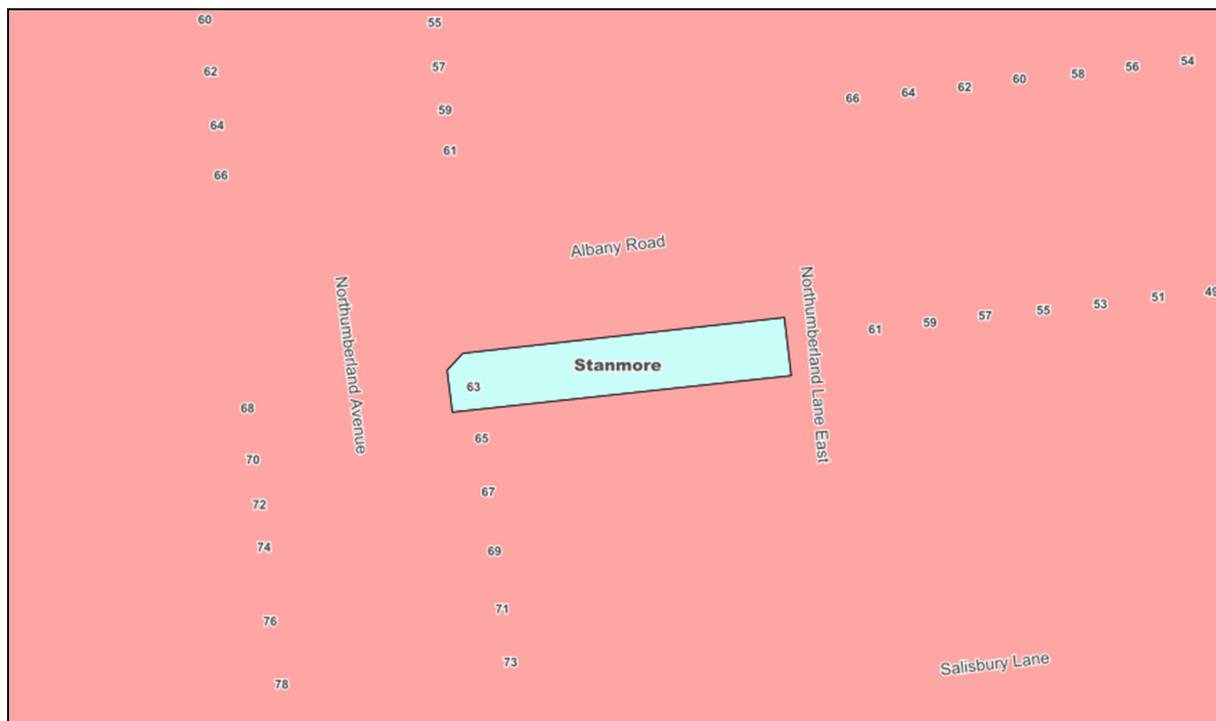
3. Site Description

The subject site is located on the south-eastern corner of the intersection of Northumberland Avenue and Albany Road. The site consists of 1 allotment and is generally rectangular in shape with a total area of 222.9sqm and is legally described as 63 Northumberland Avenue Stanmore.

The site has a frontage to Northumberland Avenue of 6.095 metres and a secondary frontage of approximately 36.575 metres to Albany Road.

The site supports a two-storey mixed use building containing a shop and separate apartment on the ground floor and a single apartment on the first floor with a detached single storey garage at the rear of the site. The adjoining properties support single and two storey dwelling houses.

The property is located within the Annandale Farm Heritage Conservation Area and is zoned B1 – Neighbourhood Centre under the Marrickville Local Environmental Plan 2011.



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site:

Application	Proposal	Decision & Date
BA 467/69	Alterations to existing shop and dwelling	Approved – 9 October 1969
BA 51/74	Additions to dwelling	Approved – 2 April 1974
PDA/2020/0365	Alterations and additions to existing buildings	Advice Issued – 9 November 2020

4(b) Application history

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

Date	Discussion / Letter / Additional Information
15 March 2021	Council wrote to the applicant requesting additional information to address the following: <ul style="list-style-type: none"> Existing use rights. Heritage conservation. The suitability of the roof top garden in relation to heritage, streetscape presentation and FSR. The rear office structure in relation to form, overshadowing and FSR. The materials and finishes proposed. The design and location of carparking and open space.
7 - 16 April 2021	Email correspondence between the applicant and Council seeks to address issues of BASIX compliance, heritage and discussing requested amendments.
5 May 2021	Access to information request made by applicant for historical files relating to the site provided by Council's Access to Information Team to the applicant and amended plans submitted for "discussion only".
19 & 20 May 2021	Meeting between Council and applicant to discuss final amendments and final heritage advice provided in writing.
26 May 2021	Amended plans, Heritage Impact Statement, Clause 4.6 variation request and historical documents to address existing use rights provided. These amended plans and information are the subject of this assessment report.
2 June 2021	Council requested information clarifying the overall height of the building and the proposed operating hours of the shop.
2 June 2021	The applicant provided amended plans clarifying the height and proposed operating hours for the shop. These amended plans and information also form part of this assessment report.

5. Assessment

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

5(a) Existing Use Rights

5(a)(i) *Environmental Planning and Assessment Act 1979*

The property is zoned B1 – Neighbourhood Centre under the zoning provision applying to the land. The commercial premises, dwellings above the commercial premises and detached office building are permitted with consent under the zoning provisions. However, within the B1 zone the only residential accommodation permitted with consent are *dwelling houses* and *shop top housing*. These uses are defined as follows:

“dwelling house means a building containing only one dwelling”

“shop top housing means one or more dwellings located above ground floor retail premises or business premises”

The development provides a building which contains a commercial tenancy and three dwellings. As such the development cannot be considered a dwelling house. Two of the proposed dwellings meet the definition of shop top housing being wholly located above the ground floor business premises. However, the ground floor dwelling provides a residential use on the ground floor. As this dwelling is not located above a ground floor retail or business premises, it cannot be considered shop top housing and is prohibited in the B1 zone and therefore not permissible under the zoning provisions applicable to the land.

Notwithstanding, there is currently a ground floor residence at the site and this portion of the development relies on existing use rights which are examined below.

Division 4.11 (Part 4.65 – 4.68) of the Environmental Planning and Assessment Act 1979 contains provisions that provide a framework for the definition of an ‘existing use’ and provides further limitations and regulation for the continuation and development of existing uses.

Firstly, Part 4.65 of the Act provides a definition of an existing use. In plain terms an existing use is defined in the following manner:

- It is a use that was lawfully commenced
- It is a use that is currently prohibited
- It is a use that has not been abandoned since the time that it became a prohibited use

The applicant has supported the application with discussion and documentation to demonstrate the site benefits from existing use rights and that the use has not been abandoned. The main points are summarised below:

- Under the previous environmental planning instruments applying to the land, being the County of Cumberland Planning Scheme Ordinance, the Marrickville Planning Scheme Ordinance and the Marrickville Local Environmental Plan 2001, residential uses on the ground floor were permissible at the site.
- Two previous applications, being BA 467/69 and BA 51/74 included in the approval of a ground floor dwelling at the site provide evidence the site was lawfully approved for a shop and ground floor residence.
- The Marrickville Local Environmental Plan 2011 came into force in 2011, at which time the ground floor residential use became prohibited.
- The applicant provided leasing information from 2011 to 2021 confirming that that part of the site was continuously used/leased as a ground floor dwelling since 2011 when the ground floor residential use became prohibited.

Given the above, it is considered that the ground floor residential use of the premises is a use that was lawfully commenced on the site, which is prohibited under the current planning controls, and has not been abandoned since 2011 when the use became prohibited.

It is noted that Part 4.67(3) of the Act specifies that:

“An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any

provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force”.

As such, the provisions contained in MLEP 2011 do not apply to the portion of the development subject to existing use rights, being the ground floor dwelling. Rather, Division 4.11 of the Act services to enable the continuation of an existing use and refers to the relevant regulations (Environmental Planning and Assessment Regulation 2000) with respect to the premises being enlarged, expanded or intensified; or being altered or extended **for the existing use**.

5(a)(ii) Environmental Planning and Assessment Regulation 2000

Clauses 41-43 of the EP&A Regulations 2000 are relevant to the development as they set out the matters for consideration for enlargement, expansion or intensification of existing uses and the consent requirements for alterations and additions to an existing use.

The proposal involves alterations to the ground floor residential portion of the building which is permitted by Clause 41(1) of the EP&A Regulations 2000.

The existing use will undergo alterations and additions within the existing building footprint to provide a dwelling on the ground floor. The floor area associated with the ground floor apartment is being expanded. It is therefore considered that the proposal does result in an enlargement, expansion or intensification of the existing use. This enlargement, expansion or intensification relates to the existing use being carried out only on the land to which the use applies and Clause 42 is therefore satisfied.

The proposed works would be for the existing part residential use of the ground floor of the building, thereby satisfying Clause 43(2) of the EP&A Regulations 2000.

5(a)(iii) Land and Environment Court Planning Principles – Existing Use Assessments

In Land and Environment Court proceedings *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71* at 17, Senior Commissioner Roseth established a planning principle for the assessment of existing use rights. The ‘Redevelopment – existing use rights and merit assessment’ Planning Principle developed as a result of that judgement is used below to assess the merits of the development, specifically paragraph 17 which is reproduced below:

“17 Four questions usually arise in the assessment of existing use rights developments, namely:”

- 1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?*

Height

A maximum building height of 9.5 metres applies to the land and the immediately adjoining sites under Clause 4.3 of MLEP 2011. The proposal has a maximum height of approximately 9.5 metres which complies the height limit.

FSR

The site is afforded an FSR of 0.85:1 in accordance with Clause 4.4 in MLEP 2011.

Surrounding sites generally have a maximum permissible FSR of 0.6:1. However, it is noted that surrounding development is on land labelled "F" on the Floor Space Ratio Map and in accordance with Clause 4.4(2A) in MLEP 2011, should the development constitute only a dwelling house, the allowable FSR would be between 0.6:1 and 1.1:1 at neighbouring sites, depending on allotment size.

The proposed FSR is 1.14:1 (254.88sqm) which exceeds the maximum allowable FSR of 0.85:1 (189.46sqm). The extent of the breach is 64.83sqm or 34.2%. However, the proposed breach is supportable on environmental planning grounds and is discussed in detail later in this report under the provisions of Marrickville Local Environmental Plan 2011 in Section (b)(iii).

Setbacks

The setbacks proposed are generally consistent with the building setbacks of surrounding development and generally unaltered by the proposal. The development maintains the footprint of the existing main building on the site and as such the existing setbacks are retained.

These building setbacks are considered acceptable to ensure neighbours retain adequate access to sunlight, to allow view sharing, to preserve established tree and vegetation corridors and provide adequate separation between buildings to maintain privacy. The proposed building setbacks are consistent with the objectives for building setbacks within MDCP 2011.

2. *What is the relevance of the building in which the existing use takes place?*

The existing building on site contains a shop with an attached ground floor dwelling and dwelling at the first floor. The development would continue to be used as a mixed-use building with a commercial premises and attached dwellings. The development would not result in an expansion of the existing main building and the building remains of a scale and form that is consistent with surrounding development.

3. *What are the impacts of the development on adjoining land?*

The development has no significant adverse impacts on adjoining land. The requirements of MDCP 2011 do not strictly apply to the development. Despite this, the proposal is generally compliant with the relevant provisions of MDCP 2011 relating to privacy, overshadowing, visual bulk and general amenity, which is discussed later in this report.

4. *What is the internal amenity?*

The development incorporates suitably sized internal spaces, facilities, open space and a number of window openings for each dwelling which is resultant in acceptable internal amenity for this use.

Conclusion

The proposal has been assessed against the planning principle established by the Court in relation to existing use rights. The proposal is unlikely to have any unreasonable impacts upon adjoining properties or the streetscape.

It is noted that given the proposal has established existing use rights for ground floor dwelling, there is no requirement for this portion of the development to strictly comply with any requirements of MLEP 2011 and MDCP 2011.

Notwithstanding, the provisions contained within MLEP 2011 and MDCP 2011 are relevant to the application in that they provide guidelines to ensure the proposal is suitable with regard to bulk and scale, environmental considerations and amenity. An assessment of the development having regard to the provisions of the relevant controls is provided below.

5(b) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Marrickville Local Environmental Plan 2011*

The following provides further discussion of the relevant issues:

5(b)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(b)(iii) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.4 - Controls relating to miscellaneous permissible uses

- Clause 5.10 - Heritage Conservation
- Clause 6.1- Earthworks
- Clause 6.5 - Development in areas subject to aircraft noise

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

Standard	Existing	Proposal	Non compliance	Complies
Height of Building Maximum permissible: 9.5 metres	8.2 metres	9.5 metres	N/A	Yes
Floor Space Ratio Maximum permissible: 0.85:1 or 189.46sqm	1.09:1 242sqm	1.14:1 254.88sqm	64.83sqm 34.2%	No

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned B1 – Neighbourhood Centre under the *MLEP 2011*. The *MLEP 2011* defines the development as *shop top housing, neighbourhood shop and office premises*.

These land uses are permitted with consent within the zone. The development is consistent with the objectives of the B1 – Neighbourhood Centre zone.

The component of the development comprising a dwelling with residential accommodation on the ground floor is prohibited under the zoning provisions applying to the land. However, the site benefits from existing use rights under Division 4.11 of the Environmental Planning and Assessment Act 1979 and is acceptable in this regard.

(ii) Height of Buildings (Clause 4.3)

A maximum building height of 9.5 metres applies to the land as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum height of 9.5metres which complies with the height development standard.

(iii) 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 has a gross floor area (GFA) of 254.88sqm which equates to a FSR of 1.14:1 on the 222.92sqm site which does not comply with the FSR development standard. The application was accompanied by a written submission in relation to the contravention of the FSR development standard in accordance with Clause 4.6 of MLEP 2011.

(iv) Exceptions to Development Standards (Clause 4.6)

As outlined in table above, the proposal results in a breach of the following development standards:

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of MLEP 2011 by 34.2% (64.83sqm).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of MLEP 2011 below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of MLEP 2011 justifying the proposed contravention of the development standard which is summarised as follows:

- The existing building on the site already breaches the FSR development standard by 52.51sqm or 28%, having an FSR of 1.09:1.
- The additional floor area resulting from the proposal is minimal being an additional 12.32sqm.
- The proposal does not result in additional bulk at the site which would result in adverse impacts to neighbouring properties or the streetscape while improving the amenity of the existing building.
- The proposal largely maintains the building footprint and bulk already existing at the site and therefore remains compatible with the established character of the area.

The applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the B1 Neighbourhood Centre zone, in accordance with Clause 4.6(4)(a)(ii) of the MLEP 2011 for the following reasons:

- The proposal retains a small-scale neighbourhood shop and introduces a small scale office use that will serve the needs of the surrounding neighbourhood.
- The proposal provides housing attached to non-residential uses which is of a scale compatible with the surrounding area, as demonstrated by no adverse privacy, overshadowing or streetscape impacts resulting from the development.
- The development maintains the existing shop fronting both Northumberland Avenue and Albany Road which generates an active street frontage.

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the MLEP 2011 for the following reasons:

- The existing FSR at the site currently breaches the development standard and the additional FSR proposed is minimal and remains consistent with the established scale of the area.
- The bulk and scale of the proposal does not result in any adverse impacts to surrounding properties or the streetscape as a result of privacy, overshadowing, visual bulk or building setbacks and is therefore consistent with the desired future character of the area.
- The development generally complies with all other controls that seek to limit building scale including the maximum building height, building setbacks, and landscaping and open space and therefore is considered to have minimal environmental impacts on adjoining properties and the public domain.

- The development is acceptable having regard to the relevant heritage conservation and streetscape controls and therefore is considered to have minimal environmental impacts on the public domain

The concurrence of the Planning Secretary may be assumed for matters dealt with by Local Planning Panels.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio and it is recommended the Clause 4.6 exception be granted.

(v) Controls relating to miscellaneous permissible uses (Clause 5.4)

The proposal includes a neighbourhood shop which is limited in floor area to a maximum of 100sqm under Clause 5.4(7). The proposed shop has a floor area of 49.67sqm and is compliant.

(vi) Heritage Conservation (Clause 5.10)

The site is located within the Annandale Farm Heritage Conservation Area (HCA) The development is generally acceptable having regard to the relevant provisions of Clause 5.10 of MLEP 2011 and Part 8 of MDCP 2011 for the following reasons:

- The development reinstates period elements of the original front portion of the building which will contribute positively to the conservation area.
- The development is of a scale and form that is appropriate within the conservation area.
- The development is supported by a Heritage Impact Statement which outlines the suitability of the proposal within the conservation area.
- The additions to the roof top and the rear of the site will not result in adverse heritage impacts given there is limited visibility from the primary frontage and limited scale.
- Given the above, the development conserves the environmental heritage of the area.

The application was referred to Council's Heritage Specialist who generally supported the application, however some of the materials and finishes proposed are not consistent with the conservation area, particularly the grey and white colour scheme. As a result these finishes would detract from the significance of the conservation area. Conditions are recommended in Attachment A requiring amended colours and finishes that are more appropriate to the conservation area.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	No – see discussion
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	No – see discussion
Part 2.11 – Fencing	Yes
Part 2.18 – Landscaping and Open Space	No – see discussion
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 5 – Commercial and Mixed Use Development	Yes – see discussion
Part 8 – Heritage	Yes – see discussion under MLEP 2011
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

(i) Equity of Access and Mobility (Part 2.5)

Part 2.5 of MDCP 2011 requires consideration to be given to accessibility before granting development consent.

For the commercial component of the development Part 2.5 of MDCP 2011 requires the following:

- Appropriate access for all persons through the principal entrance of a building and a continuous accessible path of travel (CAPT), designed in accordance with the National Construction Code (Building Code of Australia) and relevant Australian Standards; and
- General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities and outdoor recreational facilities.

The existing commercial premises is not accessible and no works are proposed to make the commercial tenancy accessible. While this is contrary to MDCP 2011, the proposal largely maintains the existing commercial tenancy and includes limited work to the commercial area and internal fit out. As such, it considered onerous to require the development to upgrade the commercial premises to provide accessibility.

Additionally, any accessible upgrade that would be required to the principal entrance of the commercial tenancy would compromise the heritage shopfront which is a positive element of the building and streetscape and severely limits the functionality of the internal space given any ramp would occupy a substantial amount of floor area.

Given the circumstances, the proposed development is considered reasonable having regard to accessibility and a variation to the requirements of Part 2.5 of MDCP 2011 is considered acceptable in the circumstances.

Despite the above, the requirements of MDCP 2011 are effectively superseded by the introduction of the Premises Standards. An assessment of whether or not these aspects of the proposal fully comply with the requirements of relevant Australian Standards and the Premises Standards has not been undertaken as part of this assessment. That assessment is required to form part of the assessment under the Premises Standards at the Construction Certificate stage of the proposal.

Notwithstanding the above, the new tenancy located at the rear of the site does not contain the same encumbrances and such is required to be accessible, and conditions are included in the recommendation to ensure this.

(ii) Acoustic and Visual Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains objective and controls relating to visual and acoustic privacy. The development is acceptable having regard to privacy for the following reasons:

- Windows to the northern and western elevations of the development look to the street and do not result in visual privacy impacts.
- The windows to the southern elevation of the development are all existing and as such the existing level of visual privacy is maintained.
- The deck and rear facing windows at the ground floor of the main building look to the open space and carparking of the subject site and will not result in overlooking impacts to neighbours.
- The balcony and rear facing windows to the first floor of the main building incorporate suitable screening to the southern and eastern elevations to mitigate any overlooking impacts.
- The new roof top terrace is orientated towards the public domain and away from southern neighbouring properties thereby mitigating any adverse overlooking or acoustic privacy impacts.
- The office building contains windows that look to the street and into the subject site and do not result in overlooking impacts to neighbours.
- The low impact nature of the office and neighbourhood shop use coupled with limited hours of operation indicates the proposed uses are unlikely to result in acoustic privacy impacts to surrounding residents.
- Standard conditions are included in the recommendation regarding noise levels to ensure the commercial uses do not result in adverse amenity impacts.

(iii) Solar Access and Overshadowing (Part 2.7)

Part 2.7 of MDCP 2011 contains objectives and controls regarding overshadowing and solar access.

Overshadowing

The applicant submitted hourly shadow diagrams in accordance with Control 1 within Part 2.7 MDCP 2011. The shadow diagrams illustrate that the solar access to adjoining properties will not be adversely impacted upon by the carrying out of the development. The extent of the overshadowing caused by the development is summarised as follows:

21 June, 9:00am: Minor additional overshadowing will occur to a portion of the private open space of 65 Northumberland Avenue.

21 June, 12:00pm: Minor additional overshadowing will occur to a portion of the private open space of 65 Northumberland Avenue.

21 June, 3:00pm: No additional overshadowing to neighbouring private open space or windows.

Control 2 within Part 2.7 of MDCP 2011 sets out the requirements for new development with regard to solar access for surrounding buildings which include the retention of a minimum of 2 hours direct solar access to neighbouring private open space and principal living area windows between 9.00am and 3.00pm on June 21.

The development results in some additional overshadowing to the neighbouring private open space of 65 Northumberland Avenue, which is to the south of the subject site. This additional overshadowing is very minor and the neighbouring private open space would still retain 2 hours solar access between 9.00am and 3.00pm on June 21. As such, the development is acceptable and complies with the requirements of MDCP 2011. It also noted that March/September shadow diagrams were provided which demonstrate a high level of solar access will also be retained to the neighbour's private open space during the equinoxes.

Solar Access

The mixed-use development has been designed in an energy efficient manner for the following reasons:

- Each apartment has a living area window positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; and
- The communal open space provided for the development receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.

Given the above the development is reasonable having regard to the objectives and controls relating to solar access and overshadowing as contained in MDCP 2011.

(iv) Parking (Part 2.10)

Part 2.10 of MDCP 2011 contains objectives and controls relating to car parking.

The site is located within Parking Area 2 under MDCP 2011 and would require the provision of 2 car parking spaces having regard to the provisions table in Control 1 and the calculation requirements of Control 2. The development provides 1 car parking space and as such does not comply with the relevant provisions and has a shortfall of 1 car parking space.

However, the development is within close proximity of public transport with access to bus routes along Salisbury Road and Parramatta Road and is within walking distance of Stanmore Railway Station. Given the proximity to public transport, the small unit size and limited commercial uses, a variation to the car parking requirements is acceptable in this circumstance.

(v) Landscaping and Open Space (Part 2.18)

Part 2.18.11.7 of MDCP 2011 contains objectives and controls relating to landscaping and private open space for mixed use developments.

Control 26 requires each apartment to have private open space in the form of a deck or balcony accessible from the principal living area with a minimum size of 8sqm and minimum width of 2 metres. Each unit is provided with private open space in the form of a deck or balcony accessible from the principal living area. Unit 2 has access to the roof top terrace which far exceeds the minimum size requirements. Units 1 and 3 have access to a balcony or deck with sizes of 8.4sqm and 9.74sqm respectively. However, both have a width of only 1.7 metres and as such do not strictly comply with Control 26. Notwithstanding, the non-compliance is minor and given the units are 1 bedroom this minor non-compliance in width is not considered to adversely impact the amenity of the dwellings and the private open space proposed will be a suitable area of recreation. It is also noted that the car parking space is a landscaped area and could be used as common open space if required.

The development provides landscaping to all areas of the site not covered by building, including Grasscrete to the car parking area. The level of landscaping is considered acceptable for the site given the small lot size, its B1 zoning and is comparable with the level of landscaping of similar surrounding properties. As such, the development complies with Control 25 regarding landscaped area.

Given the above the development is reasonable having regard to the objectives and controls relating to landscaping and open space as contained in MDCP 2011.

(vi) Hours of Operation (Part 5.3.1.4)

The proposal seeks to use the convenience store and office for the following hours:

- **Shop:** 7.00am to 8.00pm Mondays to Sundays
- **Office:** 7.30am to 8.00pm Mondays to Sundays

The site is located within a small neighbourhood centre at the intersection of Northumberland Avenue and Albany Road. While there is residential accommodation within close proximity of the site the hours of operation proposed are within reasonable business hours and are unlikely to result in any adverse impacts. The use of the premises as a small office and convenience store is a use that is unlikely to result in adverse amenity impacts by way of noise, patrons or deliveries and the hours of operation proposed are acceptable.

A condition is included in Attachment A restricting the hours of operation to the hours proposed.

5(e) Other Matters(i) Office Fitout

The office building fit out includes a full kitchen and bathroom and has a design akin to a residential use. Concern is raised that the building is designed in manner which is easily adaptable to accommodate an additional dwelling on the site which would not be permissible under the planning controls. As such, a condition is included in the recommendation to delete the proposed shower in the office and limit the size of the bathroom to only include the toilet and wash basin to ensure the building cannot be used for a residential purpose.

5(f) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(h) Any submissions

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. 3 submissions were received in response to the initial notification.

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

- Floor space ratio – see Section 5(b), LEP discussion.
- Heritage – see Section 5(b), LEP discussion.
- Permissibility of office use – see Section 5(b), LEP discussion.
- Overshadowing – see Section 5(d), DCP discussion.
- Privacy – see Section 5(d), DCP discussion.

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

Issue: Streetscape impacts as a result of the roof top terrace
Comment: Concern is raised that the roof top terrace will be 'unsightly' and visible from the street and the use of the area by one of the dwellings will result in washing and other elements on the roof which will further impact the street. The roof top will not be highly visible from the street being setback to the south-eastern side of the roof away from the street frontages. Additionally, not the whole roof top is usable with planting proposed to the northern and western edges of the roof which further increases the setback of the usable area from the street. As such, the roof top is considered acceptable from a streetscape perspective and activities taking place on the roof top will not be readily visible from the streetscape.

Issue: Ceiling heights
Comment: Concern was raised that some ceiling heights would not comply with the National Construction Code. All proposed ceiling heights are compliant.

Issue: First floor to rear office building
Comment: The first floor proposed to the office building was removed during the assessment process and the rear structure is now single storey.

5(i) 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 not considered to be contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage
- Urban Ecology
- Building
- Waste
- Engineering

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal. The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$2728.34 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

The applicant has made a written request pursuant to Clause 4.6 to vary Clause 4.4 of the *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

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*, grant consent to Development Application No. DA/2020/ To carry out alterations and additions to the existing building to provide a mixed use development containing a ground floor shop and 3 one bedroom apartments with associated landscaping and parking and construction of an office building at rear of the site at 63 Northumberland Avenue STANMORE NSW 2048 subject to the conditions listed in Attachment A.

Attachment A – Recommended conditions of consent

ATTACHMENT A- CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA 103 Issue B	Site Plan	07.04.2021	Inner Architecture
DA 201 Issue B	Ground Floor Plan	07.04.2021	Inner Architecture
DA 202 Issue B	First Floor Plan	07.04.2021	Inner Architecture
DA 203 Issue B	Roof Top Plan	07.04.2021	Inner Architecture
DA 301 Issue C	Elevations	07.04.2021	Inner Architecture
DA 302 Issue C	Elevations	07.04.2021	Inner Architecture
DA 303 Issue C	Elevations	07.04.2021	Inner Architecture
DA 304 Issue B	Office Elevations	07.04.2021	Inner Architecture
DA 401 Issue C	Sections	07.04.2021	Inner Architecture
DA 701 Issue B	Schedule of Finishes	07.04.2021	Inner Architecture
DA 901 Issue A	Window Details	18.05.2021	Inner Architecture
DA-LA-0.0.01 Issue C	Landscape Plan	12.04.2021	LSA Design
A397750_03	BASIX Certificate	25.05.2021	Ecological Design P/L

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with information and amended plans demonstrating the following:

- a. Evidence that patch testing has been undertaken to the front portion of the building that is to be returned to face brick finish and that the patch testing has revealed that the existing bricks are to a suitable condition to be returned to returned to face brick. A suitable condition is face brick that is in good working order that is generally the same colour across the building; and
- b. Should the brick be unable to be returned to face brick due to poor condition (as per condition (a)), amended plans must be provided showing a rendered painted finish to the front portion to the original building finished in a historic colour palette of stone colours for the walls and dark green and/or cream colours for the trims deleting references to grey and off white colours; and

- c. The schedule of finishes to be amended such that the paint colour finish for the newer addition to the original building to be compromised of the same colour palette of stone colours for the rendered wall and the window frames and boxed reveals shall be a lighter grey tone instead of ironstone; and
- d. The shower within the office building at the rear of the site being deleted and the bathroom being shortened in length so as to only accommodate a toilet and sink.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$8250.00
Inspection Fee:	\$236.70

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$2728.34 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 3 June 2021.

*NB Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Public Amenities Type:	Contribution \$
Recreation Facilities	2216.07
Community Facilities	80.78
Traffic Facilities	377.99
Plan Administration	53.50
TOTAL	2728.34

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

5. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

6. Separation of Commercial and Residential Waste and Recycling

The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.

7. Dry-weather Flows

Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be disposed of onsite.

8. Awnings without Lighting

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council or the RTA to do so.

9. Car Parking

The development must provide and maintain within the site:

- a. 1 car parking spaces must be paved and line marked.

10. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

11. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

12. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

13. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

14. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

15. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

16. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

PRIOR TO ANY DEMOLITION**17. Resource Recovery and Waste Management Plan - Demolition and Construction**

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

18. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

19. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by

a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

20. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

21. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE

22. Bin Storage Area - Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.

23. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

24. Stormwater Drainage System – Minor Developments (OSD is not required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No.1 Rev A prepared by DIH Engineering & Drafting Services and dated November 2020, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;

- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. No nuisance or concentration of flows to other properties;
- g. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- h. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- i. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; and
- j. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

25. Parking Facilities - Domestic

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The parking space must have minimum clear internal length of 5400mm. The dimension must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.

26. Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.

27. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

28. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

29. Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably

qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

30. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

31. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a suitably qualified person demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#) including but not limited to using species selected from the suggested species list, water proofing and drainage.

32. Access

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with amended plans and details addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards) where applicable.

33. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any commercial lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

34. Fire Safety Upgrade

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a. A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans;
- b. Review the current on site fire safety measures including their relevant standard of performance; and
- c. The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

DURING DEMOLITION AND CONSTRUCTION

35. Documentation of Demolition and Construction Waste

All waste docketts from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

36. Construction Hours – Class 2-9

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

37. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

PRIOR TO OCCUPATION CERTIFICATE**38. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone; and
- b. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.

39. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

40. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

41. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

42. Whiteway Lighting - New

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the Under awning lighting matches the existing Whiteway lighting scheme in the area.

43. Aircraft Noise –Alterations and Additions

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

44. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

45. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

ON-GOING**46. Bin Storage**

All bins are to be stored within the site. All bins are to be returned to the property within 12 hours of having been emptied.

47. Documentation of Businesses Waste Services

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

48. Hours of Operation - Convenience Store

- a. The hours of operation of the convenience store must not exceed the following:

Day	Hours
Mondays to Sundays	7.00am to 8.00pm

49. Hours of Operation - Office

- a. The hours of operation of the office must not exceed the following:

Day	Hours
Mondays to Sundays	7.30am to 8.00pm

50. Green Roofs, Walls and Facades Establishment

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

51. Use of Office

The building at the rear of the site must be used as an *office premises* and must not be adapted for any residential use or other purpose.

52. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

53. No Food Preparation (Pre-Packaged Only)

The convenience store is not to be used for the preparation and processing of food and relates only to the sale of food sold and served in the supplier's original package.

ADVISORY NOTES

Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;

- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

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

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660

		To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441	
NSW Food Authority		www.lspc.nsw.gov.au
		1300 552 406
		www.foodnotify.nsw.gov.au
NSW Government		www.nsw.gov.au/fibro
		www.diysafe.nsw.gov.au
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	www.environment.nsw.gov.au
Sydney Water	13 20 92	www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA 1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50	www.workcover.nsw.gov.au
		Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

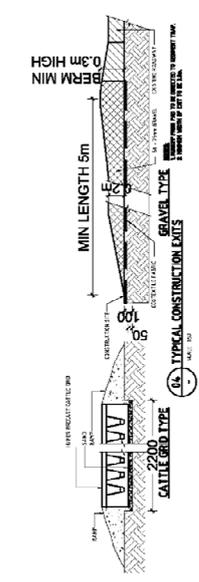
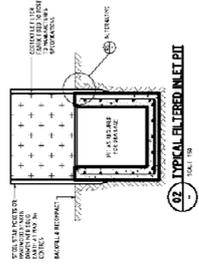
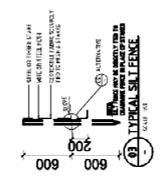
Accessibility

The Access to Premises Code is applicable to this development as new work is proposed. The applicant(s) should investigate whether there are any exemptions for the requirement to upgrade the 'affected' part and principal pedestrian entrance.

The applicant should be made aware of their legislative requirements and shall provide an Accessibility Report from an accredited Access Consultant prior to issue of the DA determination / with the CC documentation to investigate the implications relating to their proposed development.

Building Access requirements:

- a. Table D3.1 requires an accessway to the building and within all areas normally used by the occupants of the building at the main point(s) of entry, car parking area, and sanitary compartments in accordance with Part D3, BCA Vol 1 and AS 1428.1;
- b. **Class 2:** Table D3.1 requires an accessway from a common use pedestrian entrance required to be accessible to at least 1 floor containing sole-occupancy units and to the entrance doorway of each sole-occupancy unit located on that level. Further, where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift; and
- c. This may include compliant accessways, walkways, ramps, stairs, doorways and circulation space, braille & tactile design, signage, and all associated finishes and fittings throughout the building.

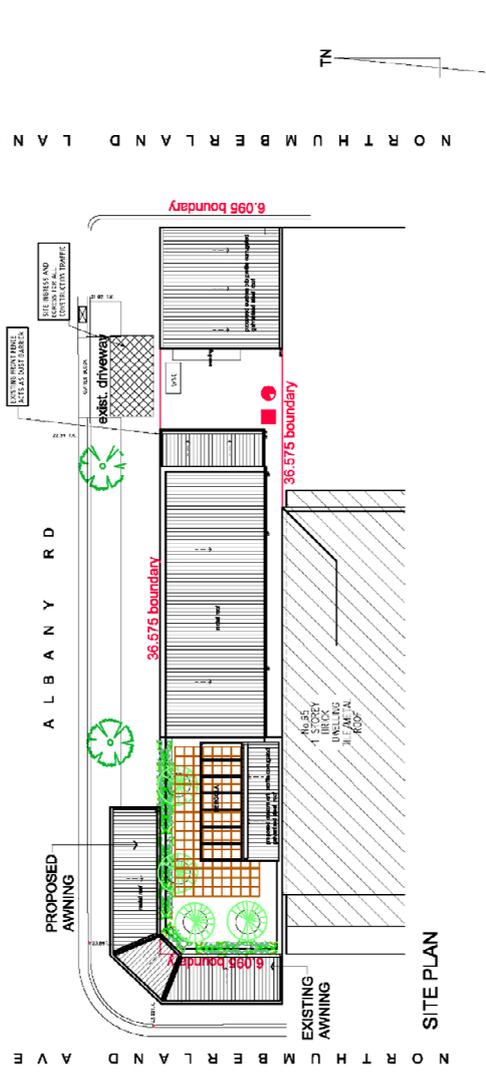


KEY

- WASTE STORAGE CONTAINER
- TREE PROTECTION FENCE
- TEMPORARY TOILET
- CHAIN WIRE FENCE C/W SHADECLOTH FOR DUST CONTROL
- TEMPORARY CONSTRUCTION EXIT
- SILT FENCE
- TEMPORARY OVERLAND FLOW PATH
- GRAVEL SAUSAGES (IN GUTTER)
- UNDISTURBED VEGETATION
- STOCKPILES

NOTES

- ALL WORK IS TO BE KEPT WITHIN THE CONFINES OF THE SILT FENCES. WORK AREAS ARE TO BE MINIMISED.
- DUST CONTROL MEASURES ARE TO BE EMPLOYED AS RECOMMENDED BY THE DEPT. OF CONSERVATION.
- ALL STRIPPED TOPSOIL IS TO BE STOCKPILED AND REUSED.
- ALL CLEARED AND DISTURBED AREAS ARE TO BE REVEGETATED.
- ALL SOIL CAUGHT BY THE SILT FENCE AND OTHER DEVICES IS TO BE STOCKPILED AND REUSED.
- SEDIMENT CONTROL DEVICES ARE TO BE PROPERLY MAINTAINED AT ALL TIMES THROUGHOUT CONSTRUCTION.
- ALL WORK IS TO COMPLY WITH COUNCIL'S RELEVANT CODE AND REQUIREMENTS.
- LOCATION OF THE CONSTRUCTION EXIT IS SHOWN APPROXIMATELY. EXACT LOCATION MAY BE DETERMINED ON SITE, AS NECESSARY.



copyright ©
 InnerArchitect
 07/24/21 Issue B, Rev.1 DEVELOPMENT APPLICATION
 18/12/20 Issue A, Rev.1 DEVELOPMENT APPLICATION
 21/09/20 Issue A, Rev.1 DEVELOPMENT APPLICATION

79 a stirlia street campdown nsw 2050 t 02 9572 7281 e aia@innerarchitect.com.au
 Notarised Architect - BA Jurovisevic - NSW Architects Registration No. 7855 AIN 28 053 346 491
 copyright © INNERARCHITECTURE
 proposed site & addrs- 63 northumberland ave stanmore development application 1:200@A3 soil & water management 12-20161 DA 102 B
 sheet No:
 0 5 10m

BASIC COMMITMENTS

Lighting

The applicant must ensure a minimum of 40% of new or altered light fixture are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

Fixtures

The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating. The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating. The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

Construction

The applicant must construct the new or altered construction (floors, walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m², b) insulation specified is not required for parts of altered construction where insulation already exists.

Construction	Additional insulation required (R-value)	Other Specs
external wall, framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	
ceiling, phibadiktion roof, framed	ceiling R2.04 (up), roof: thermocellular reflective	dent (clear overhang>0.70)

Windows and glazed doors

The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.

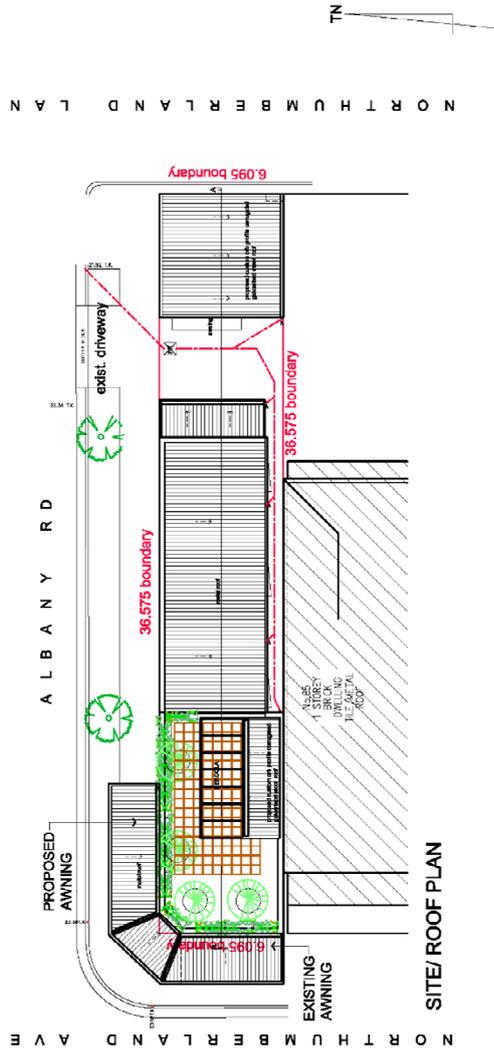
The following requirements must also be satisfied in relation to each window and glazed door:

Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or be a minimum 3 star SHGC (SHGC) or SHGC (SHGC) as listed below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.

Each window or glazed door with improved aluminium or pyrolytic low-e glass, or clear/air gap/clear glazing, or low-e/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.

For projections described as a ratio, the ratio of the projection from the wall to the height above the window or glazed door still must be at least that shown in the table below.

External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.

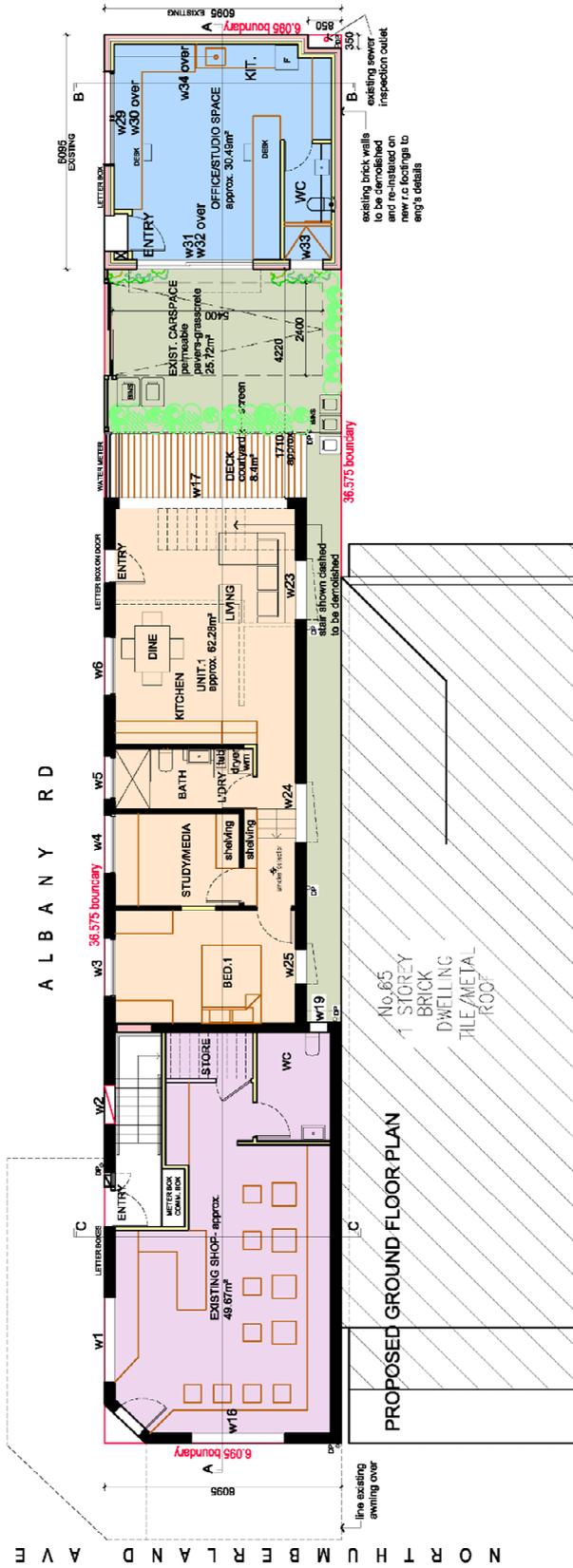


NOTE:
 ● Smoke Alarms
 All works to comply with the NCC's Building Code of Australia
 Stormwater & Sewerage to be connected to existing



copyright ©
 innerarchitectures floor form new studio
 18.12.20 issue A Rev: 1 DEVELOPMENT APPLICATION
 24.03.20 issue A Rev: 1 DEVELOPMENT APPLICATION
 07.04.21 issue B Rev: 1 DEVELOPMENT APPLICATION

73 australia street camperdown new 2030 t. 02 8672 7263 e. studio@innerarchitecture.com.au
 Nominated Architect - Jill Jurulovsk - NSW Architects Registration No. 7555 ABN 28 055 346 481
 INNERARCHITECTURE
 copyright ©
 proposed site & addn- 63 northumberland ave stammore
 development application
 1:200 @A3
 site plan
 12-20161
 DA 103 B



Calculations:

Land.....	222.92m ² *
Allowable FSR -0.86:1	
Existing Ground Floor - Shop	= 49.87m ²
Existing Ground Floor - Unit 1	= 57.39m ²
Existing Ground Floor - Unit 2	= 51.79m ²
Existing Ground Floor - Unit 3	= 62.28m ²
Existing Ground Floor - Office/Studio	= 30.45m ²
Total	= 242.00m²
Existing Garage	= 37.19m ²
Existing FSR	= 1.09:1

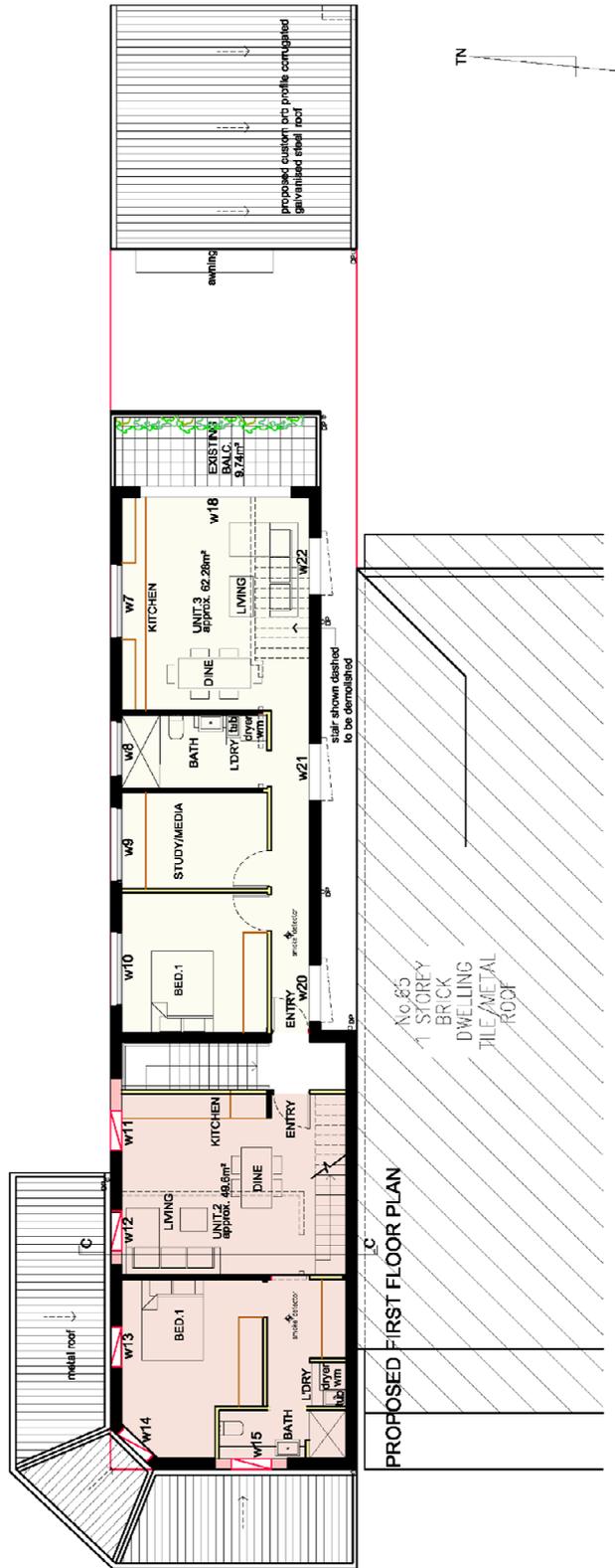
Proposed Floor Area (total)	
Proposed Ground Floor - Shop	49.87m ²
Unit 1 =	62.28m ²
Proposed First Floor - Unit 2 =	50.16m ²
Unit 3 =	62.28m ²
Proposed Office/Studio	30.45m ²
Total	254.89m²
Proposed FSR	= 1.14:1

Landscaping = Min. 20% of site area (222.92m² x 20% = 44.58m²)
 Proposed Soft Landscaping/ open spaces/ decking= 111.25m²
 Site Coverage= Merit Based

- WALL LEGEND**
- external timber stud wall + battens + cladding
 - internal timber stud wall
 - existing 270mm brick cavity wall
 - existing 110mm single brick wall
 - brick wall



73 australis street camden NSW 2650, t: 02 9572 2263, e: shadi@innerarchitecture.com.au
 Nominated Architect-Bill Jankovic- NSW Architects Registration No. 7655 JAN 28 053 346 481 INNERARCHITECTURE copyright © proposed allis & adds- 63 northumberland ave stammore development application 1:100@A3 floor plans 12-2016 DA 201 B



07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

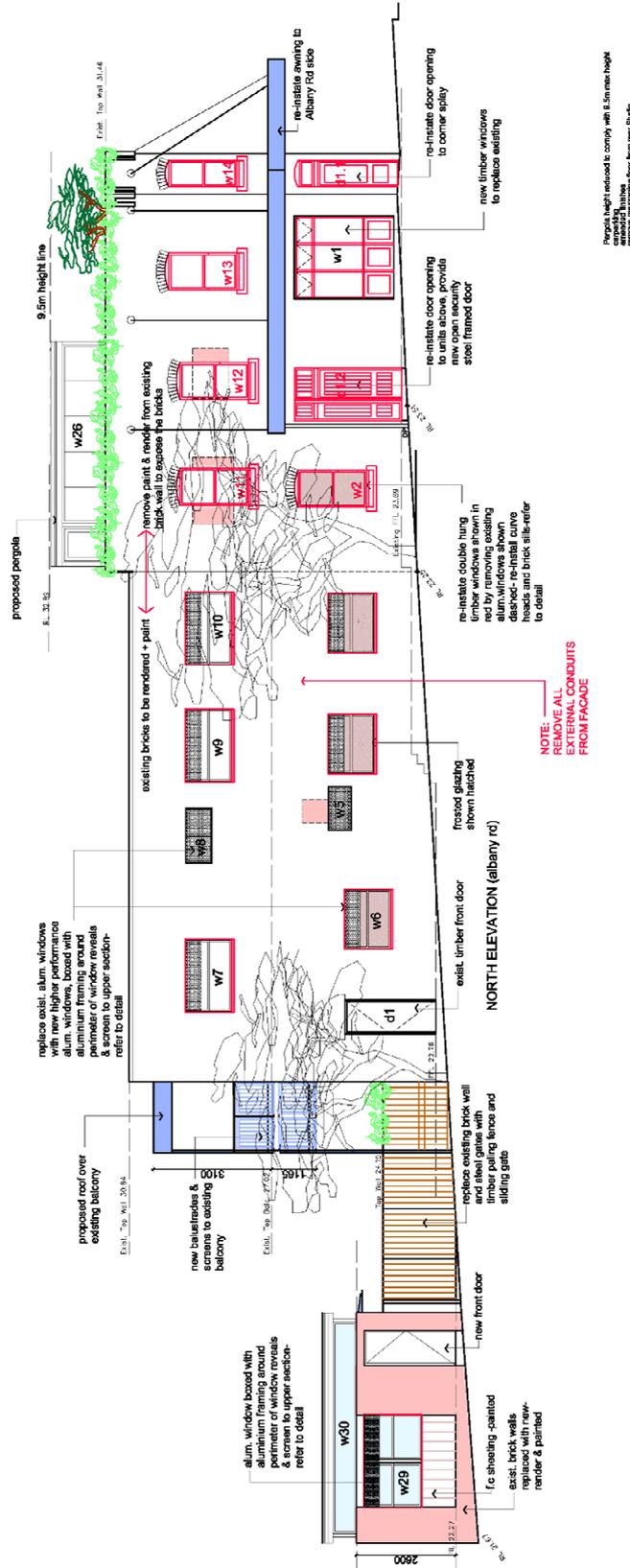
07.04.21 Issue B Rev.1 NEW SED DEVELOPMENT APPLICATION
 18.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev.1 DEVELOPMENT APPLICATION

development application 1:100 @A3 floor plans 12-20161 DA 202 B

proposed atis & add- 63 northumberland ave stanmore

copyright © INNERARCHITECTURE





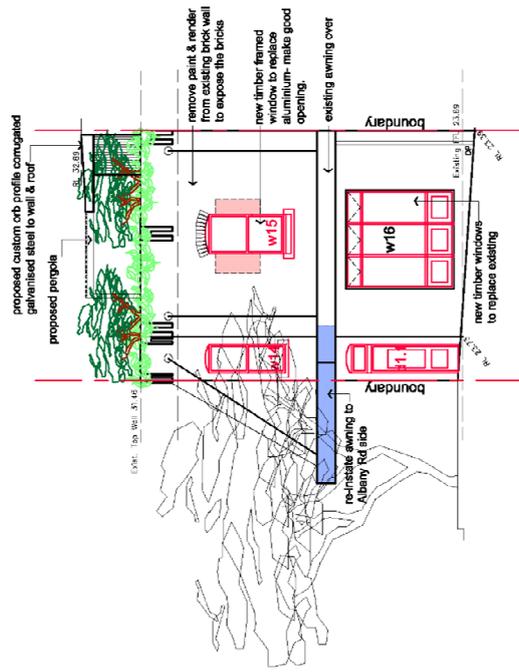
73 australis street camperdown new 2020 e. aupa@innerarchitecture.com.au
 Nominated Architect- Bill Jurkewski- NSW Architects Registration No. 7555

ASB 28 853 348 491
 INNERARCHITECTURE

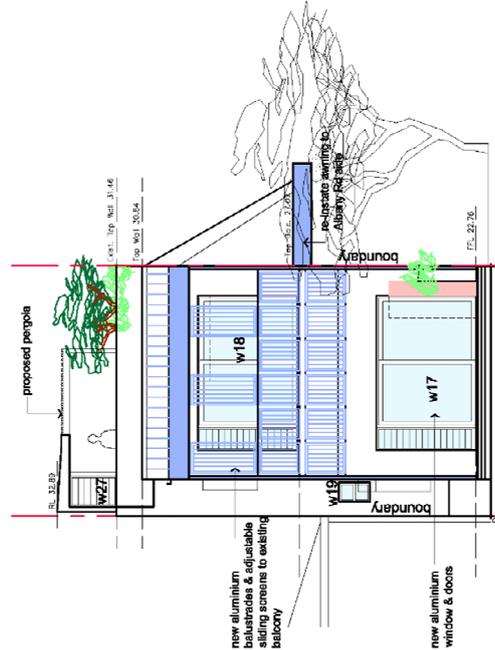
copyright ©
 proposed a11s & addis- 63 northumberland ave stanmore
 development application
 1:100 @A3 elevation north
 12/20/15
 DA 301 C

0 5 10m

Perpetual height reduced to comply with 8.5m max height
 amended to include
 remove render from new studio
 remove render from
 DEVELOPMENT APPLICATION
 15.12.18 Issue A Rev. DEVELOPMENT APPLICATION
 21.02.20 Issue A Rev. DEVELOPMENT APPLICATION



WEST ELEVATION (northumberland ave)

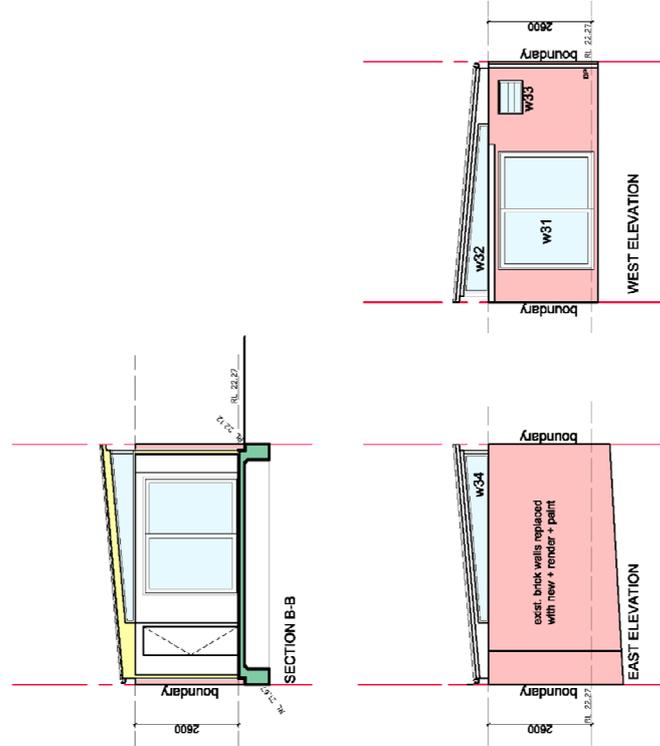


EAST ELEVATION

Plans to be submitted to comply with 0.9m max height
 copyright ©
 INNERARCHITECTURE
 73 aurelia street, camperdown new 2050 e. studs@innerarchitecture.com.au
 Nominated Architect: Bill Jurkewitz - NSW Architects Registration No. 7565

07.04.21 Issue B Rev.1 DEVELOPMENT APPLICATION
 16.12.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 23.08.20 Issue A Rev.1 DEVELOPMENT APPLICATION
 12-2016 DA 303 C

development application 1:100 @A3 proposed site & address- 63 northumberland ave stammore east & west elevations



07/24/21 Issue B Rev:1 DEVELOPMENT APPLICATION
 18/12/20 Issue A Rev:1 DEVELOPMENT APPLICATION
 21/08/20 Issue X Rev:1 DEVELOPMENT APPLICATION

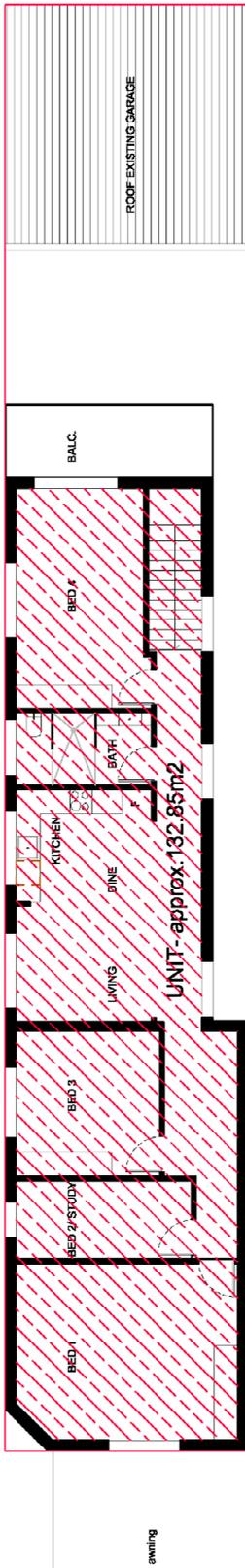
office/studio 12/20/161 DA 304 B

design development

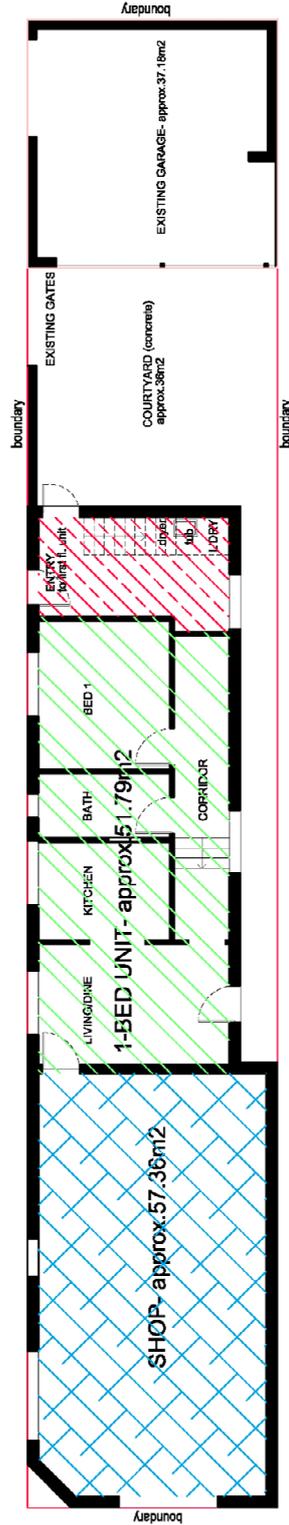
proposed a/s & add-s- 63 northumberland ave stanmore

copyright @
 INNERARCHITECTURE

73 australia street campdown nsw 2050 e. st.jdc@innerarchitecture.com.au
 Nominated Architect- Bill Jurutowski- NSW Architects Registration No. 7655



EXISTING FIRST FLOOR PLAN



EXISTING GROUND FLOOR PLAN



73 australis street campdown nsw 2050 t. 02 8672 7283 e. studio@innerarchitecture.com.au
 Notified Architect: Bill Jurkovic - NSW Architects Registration No. 7655 ABN 28 633 346 491

copyright ©
 INNERARCHITECTURE

proposed ails & adds- 63 northumberland ave stanmore

development application

1:100 @A3 floor plans existing 12-2016¹ Project No. DA 601 A

Issue A Rev. 21/09/2016 Issue A Rev. 21/09/2016 Issue A Rev. 21/09/2016

Shop front finishes



Existing brick walls to shop- if possible due to condition of bricks- reinstated to original face bricks

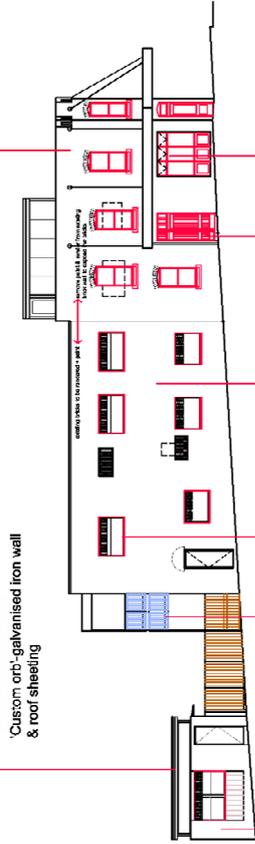


'Custom orb'-galvanised iron wall & roof sheeting

Rear Studio finishes



'Custom orb'-galvanised iron wall & roof sheeting



proposed brick wall rendered- Paint 'Whisper White'



existing red brick wall rendered- Paint 'Whisper White'



Aluminium powdercoated window frames & boxed screens balustrades & steel posts- 'Ironstone'

Timber Windows, Door frames & Awning- 'Ironstone'



Timber Windows & Door Trims- 'Surfmis'

Rear portion of existing building finishes



73 a patricia street campandown nsw 2050 e. studio@innerarchitecture.com.au
 Nominated Architect- Bill Jurcovecki- NSW Architects Registration No. 7655

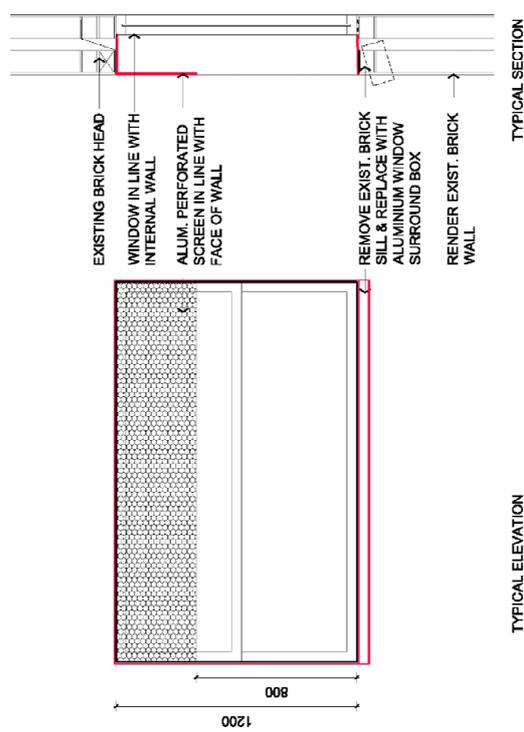
ABN 25 053 346 451
 INNERARCHITECTURE copyright @

proposed ails & acds- 63 northumberland ave stannmore

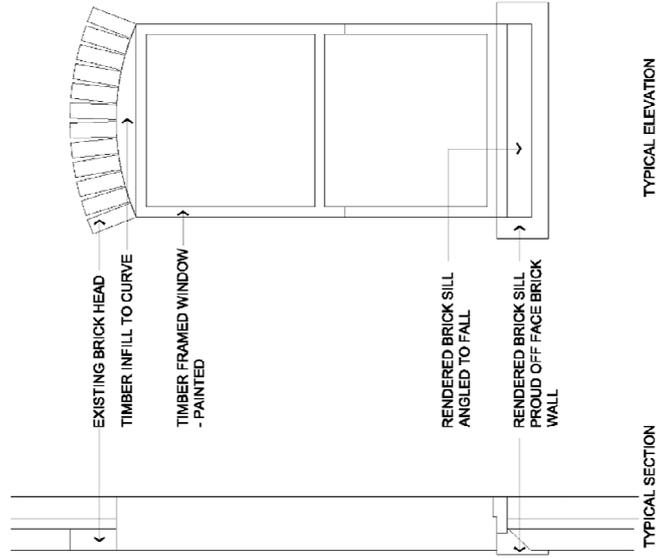
development application 1:200 @A3

finishes 12.20.161 DA701 B

DATE: 07.04.21 ISSUE: B Rev: 1 REVISION: REVISIONS FROM NEW STUDIO
 15.12.20 ISSUE: A Rev: 1 DEVELOPMENT APPLICATION
 2.10.20 ISSUE: A Rev: 1 DEVELOPMENT APPLICATION



TYPICAL WINDOW DETAIL REAR NORTH ELEVATION



TYPICAL WINDOW DETAIL SHOP



75 australiastreet.com.au
 Nominated Architect: Bill Jurkovic - NSW Architects Registration No. 7656
 e: studio@innerarchitecture.com.au

ABN 29 065 546 461
 INNERARCHITECTURE
 copyright ©

proposed site & addn-63 northumberland ave stanmore

development application

1:20 @A3 window details 12-20161

19.05.21 Issue A Rev 1 window detail

Project No: DA 901 A
 Sheet No: DA 901 A

LSA DESIGN
LANDSCAPE ARCHITECTURE

7-75 ALBANY STREET
CAMPAIGNER BUILDING
NEWCASTLE NSW 2260
PH: 02 4929 2000
WWW.LSADESIGN.COM.AU

GOVERNMENT ENDORSEMENT
LANDSCAPE ARCHITECTURE
NO. 10000000000000000000

PROJECT NO: 2020.068

CLIENT: INNER ARCHITECTURE
63 NORTHUMBERLAND AVE
STANMORE NSW 2048

PROJECT TYPE: LANDSCAPE CONCEPT PLAN

DATE: 2020.06.11

SCALE: 1:100

PROJECT NO: 2020.068

CLIENT: INNER ARCHITECTURE
63 NORTHUMBERLAND AVE
STANMORE NSW 2048

PROJECT TYPE: LANDSCAPE CONCEPT PLAN

DATE: 2020.06.11

SCALE: 1:100

PROJECT NO: 2020.068

CLIENT: INNER ARCHITECTURE
63 NORTHUMBERLAND AVE
STANMORE NSW 2048

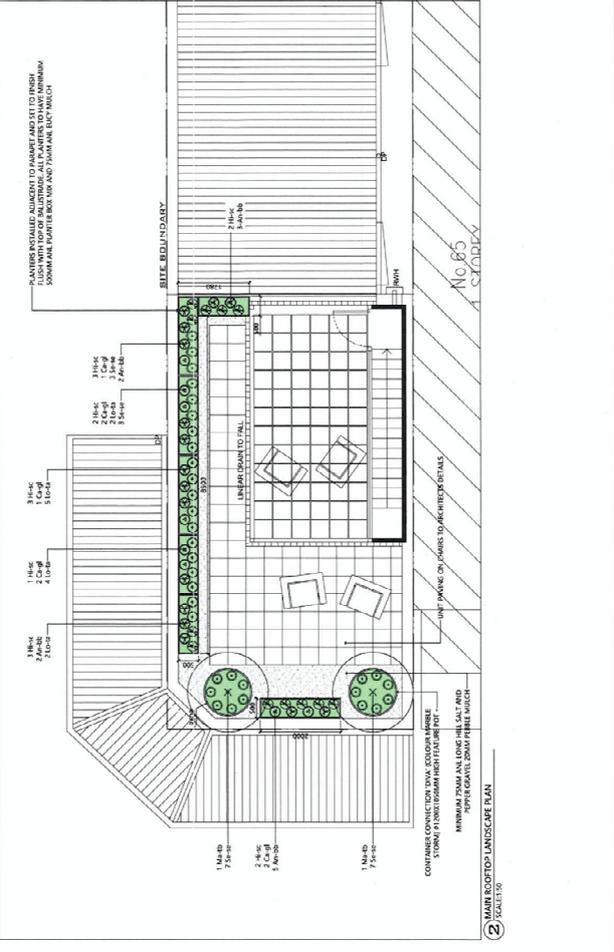
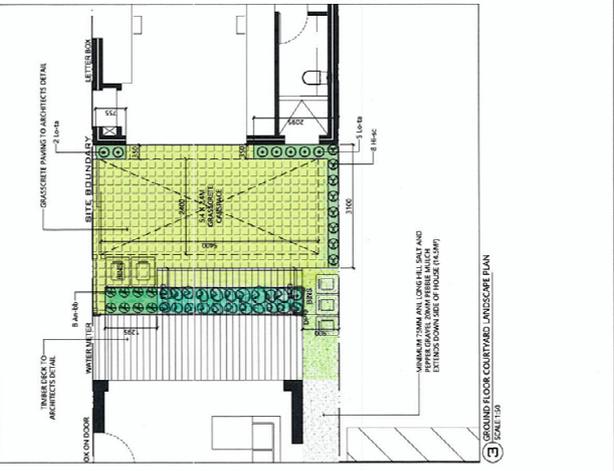
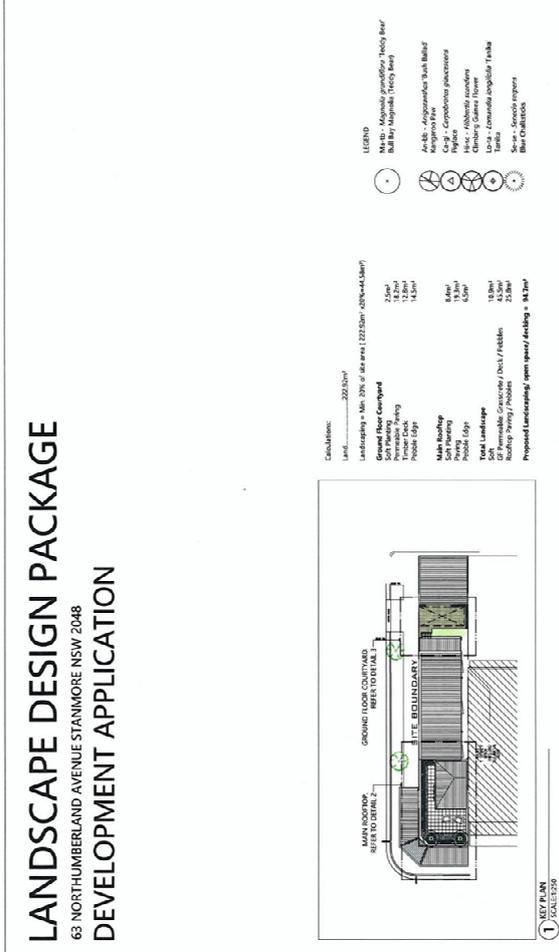
PROJECT TYPE: LANDSCAPE CONCEPT PLAN

DATE: 2020.06.11

SCALE: 1:100

- GENERAL LANDSCAPE NOTES:**
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. NO VARIATION TO THE WORKS TO BE COMPLETED WITHOUT PRIOR APPROVAL FROM THE PROJECT MANAGER.
 2. MATERIALS ARE IN ALL CAPS. OTHERWISE NOTED. USE FIGURED DIMENSIONS. DO NOT SCALE THE DRAWING.
 3. SITE WORKS TO BE COMPLETED BEFORE ANY CONSTRUCTION. THE LATTER MUST BE APPROVED BEFORE MANUFACTURING WITH ALL ENGINEERS AND INQUIRIES TO THE PROJECT MANAGER FOR CLARIFICATION.
 4. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ARCHITECTURAL, STRUCTURAL, CIVIL, MECHANICAL AND SURVEY PLANS.
 5. ALL EXISTING TREES TO REMAIN SHALL BE PROTECTED AS PER ARBORIST REPORT AND COUNCIL REQUIREMENTS.
 6. ALL FINISHES SHALL BE IN ACCORDANCE WITH AS 4753.
 7. THE ARBORIST REPORT MUST BE SUBMITTED WITH ALL GARDEN PLANS.
 8. ALL MATERIALS TO BE THE BEST OF THEIR RESPECTIVE KINDS AND TO COMPLY WITH APPROVED SAMPLE TYPE SUBMITTED OR SPECIFIED.
 9. SUBSTITUTION OF PLANT SPECIES ON ANY TREE MUST BE APPROVED.
 10. ALL GARDEN BEDS TO BE MATCHED AS PER DETAIL.
 11. UNLESS OTHERWISE SPECIFIED OR DETAIL, ALL INSTRUCTIONS ARE TO BE ISSUED BY THE CONSULTING LANDSCAPE ARCHITECT.
 12. ALL STORM WATER OUTLETS AND SPILLAGE POINTS SHALL BE TO HYDRAULIC ENGINEERS DETAIL.
 13. SUB-SOIL DRAINAGE TO ALL GARDEN BEDS AND LAWN AREAS AS DETAIL.
 14. REFER TO SUPPLEMENTAL NOTES FOR EXISTING AND PROPOSED GROUND LINES.
 15. REFER TO ARCHITECTURAL ELEVATIONS AND SECTIONS FOR EXISTING AND PROPOSED GROUND LINES.
 16. ALL PLANTING SHALL BE IN ACCORDANCE WITH ALL RELEVANT AUSTRALIAN STANDARDS AS WELL AS AS-PEC (URBAN AND OTHER) SITES.
 17. MAINTENANCE: ALL LANDSCAPE WORKS ARE TO BE MAINTAINED FOR A PERIOD OF 12 MONTHS AFTER FINAL COMPLETION. REPLACE ALL PLANTING WITHIN 12 MONTHS OF COMPLETION. ALL PLANTING SHALL BE MAINTAINED TO A STANDARD THAT IS AT LEAST EQUAL TO THE ORIGINAL PLANTING. ALL GARDEN AREAS ARE TO BE MAINTAINED FREE FROM WEEDS.

CODE	PLANT NAME	COMMON NAME	PLANT SIZE (H x W)	PLANT QUANTITY	PROPOSED PLANTING	OPT PLANTING
M1	1.5m x 1.5m x 1.5m					
M2	1.5m x 1.5m x 1.5m					
M3	1.5m x 1.5m x 1.5m					
M4	1.5m x 1.5m x 1.5m					
M5	1.5m x 1.5m x 1.5m					
M6	1.5m x 1.5m x 1.5m					
M7	1.5m x 1.5m x 1.5m					
M8	1.5m x 1.5m x 1.5m					
M9	1.5m x 1.5m x 1.5m					
M10	1.5m x 1.5m x 1.5m					



Attachment C- Clause 4.6 Exception to Development Standards



**Request to Vary Floor Space Ratio Under Clause 4.6 of
Marrickville Local Environmental Plan 2011**

**Proposed Alterations Additions to
Existing Shop Top Housing at
63 Northumberland Avenue, Stanmore**

May 2021



Navon Solutions ABN 78 425 016 053
PO Box 517, St Ives NSW 2075
p: (02) 8355 7108
e: office@navonsolutions.com.au w: www.navonsolutions.com.au



Contents

Introduction..... 3
The Proposed Variation 3
Consistent with the Floor Space Ratio Objectives 6
Consistent with the B1 Neighbourhood Centre Zone Objectives..... 7
Consistent with State and Regional Policies..... 7
Results in a Better Planning Outcome..... 8
Justification on Environmental Grounds 8
Is in the Public Interest 10
Unreasonable and Unnecessary Floor Space Ratio Development Standard 10
Conclusion..... 11

Disclaimer

This report has been prepared on the basis of information available at the date of publication. While we have tried to ensure the accuracy of the information in this publication, Navon Solution accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication. Reproduction of this report or any part is not permitted without prior written permission of Navon Solutions.



Introduction

This request made under Clause 4.6 of the Marrickville Local Environmental Plan 2011 accompanies a proposal for alterations and additions at 63 Northumberland Avenue, Stanmore. It should be read in conjunction with the Statement of Environmental Effects prepared by Navon Solutions. The proposal involves a variation to Clause 4.4 Floor space ratio (FSR) under the Marrickville LEP 2011. This request to vary the development standard is considered appropriate for the proposal as will be discussed below. The proposal does not involve any other development standard variations.

The Site and Surrounding Area

The site at 63 Northumberland Avenue, Stanmore is regular in shape with a width of 6.095m and a length of 36.575m, to form a total site area of 222.92sqm. The secondary frontage is Albany Road and to the rear is Northumberland Lane East. Existing on the site is a two storey building comprising a neighbourhood shop and a one bedroom unit on the ground floor, and a four bedroom unit on the first floor. At the rear of the site is a detached garage with vehicular access via Albany Road, and between the building and this garage is an open concrete area with space for another car space and a separate driveway from Albany Road.

Adjoining the site to the south is a single storey detached dwelling and across the laneway to the east, is a detached single storey dwelling. Directly across Albany Road to the north is a row of terraces and to the west along Northumberland Avenue, is a detached single storey dwelling and terraces. The surrounding area is characterised by a mix of single and two storey dwellings and terraces, identified as the Annandale Farm Heritage Conservation Area.

The Proposed Variation

The Marrickville LEP 2011 include provisions for exception to development standards as follows.

4.6 Exceptions to development standards

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

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



- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation to the floor space ratio (FSR). The FSR provisions of the Marrickville LEP 2011 in 4.4 read as follows:

4.4 Floor space ratio

- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

According to Clause 4.5(2) of the Marrickville LEP 2011, *the **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

According to Clause 4.5(3) of the Marrickville LEP 2011, *the **site area** is taken to be, if the proposed development is to be carried out on only one lot, the area of that lot.*



According to the Marrickville LEP 2011, the **gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

The proposal seeks an FSR of 1.14:1 (254.32sqm) and varies from Council's maximum FSR of 0.85:1 (189.482sqm) by 34.2% (64.838sqm). A summary of the site area, applicable FSR, existing and proposed FSR appears below.

Site area- 222.92sqm

Max FSR- 0.85:1 (189.482sqm)

Existing FSR- 1.09:1 (242sqm), representing an existing variation of 53sqm or 28%

Additional GFA- 12.32sqm

Proposed FSR- 1.14:1 (254.32sqm), representing a total variation of 64.838sqm or 34.2%

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed floor space ratio:

- is consistent with the objectives of the floor space ratio development standard
- is consistent with the objectives of the B1 Neighbourhood Centre zone
- is consistent with State and regional policies
- results in a better planning outcome
- is justified on environmental grounds
- is in the public interest



Consistent with the Floor Space Ratio Objectives

Clause 4.4 of the Marrickville LEP 2011 includes objectives for the floor space ratio standard. These objectives are addressed in relation to the proposal as follows:

(a) to establish the maximum floor space ratio,

Comments: The maximum FSR applicable to the site is 0.85:1 and it is recognised the site already comprises a variation of 1.09:1 (242sqm).

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

Comments: Despite the variation to FSR, the proposal complies with the building height, setback and landscaping controls. Subsequently the upgraded building will be compatible with the site and surrounding area. The high quality design will enhance the streetscape while also being a contemporary addition, compatible with others in the local heritage conservation area. The proposed variation does not impact upon the predominant bulk, scale, streetscape or character of the surrounding area.

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

Comments: The skilful design will ensure the additional building elements, comprising the private open space on the roof and the rear ground floor office, will bear no unreasonable shadowing, privacy and view impacts to the nearby residential properties.



Consistent with the B1 Neighbourhood Centre Zone Objectives

The B1 zoning objectives in relation to the proposal are addressed below.

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

Comment: The proposal retains the neighbourhood shop to service the local residents and workers.

- *To provide for housing attached to permissible non-residential uses in development of a type and scale compatible with the surrounding neighbourhood.*

Comment: This DA seeks to upgrade the existing building, comprising a neighbourhood shop and two units, with an additional unit and an overall re-design that will demonstrate an integrated approach with the surrounding heritage conservation area.

- *To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts.*

Comment: As discussed above, the proposal retains the neighbourhood shop to encourage street activation and the new office will also encourage street activation.

- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*

Comment: As discussed above, the proposal relates to an existing building accommodating two units. The design will result in a high quality design for the future residents.

Consistent with State and Regional Policies

The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area. The proposal is consistent with the objects of the Environmental Planning and Assessment Act 1979 and with relevant state and regional policies.



Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The proposed variation to the FSR improves the amenity for the future residents without compromising the amenity of nearby properties.
- The distribution of floor area across the two levels of the existing building, the cabana on the roof, and the new ground floor office at the rear enables the proposal to provide suitable internal and external amenity for the future and adjoining residents, rather than a two storey building that occupied more land to the rear which would lead to significant overshadowing and bulk impacts.
- The current design allows for an appropriate separation between the two buildings to provide sunlight to the adjoining properties to maintain the rhythm of other laneway structures.
- The proposed density is commensurate with the future character of the surrounding area.
- Utilisation of the existing building and existing FSR variation, rather than a completely new building is consistent with maintaining the heritage characteristics of the building.

Justification on Environmental Grounds

In accordance with Clause 4.6 (3)(b) of the Marrickville LEP 2011, the following environmental planning grounds are sufficient in justifying the proposed variation of the FSR provisions:

- The proposed additional GFA of 12.32sqm does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties. This is demonstrated in the following shadow diagrams showing the existing shadowing in grey and proposed in pink.

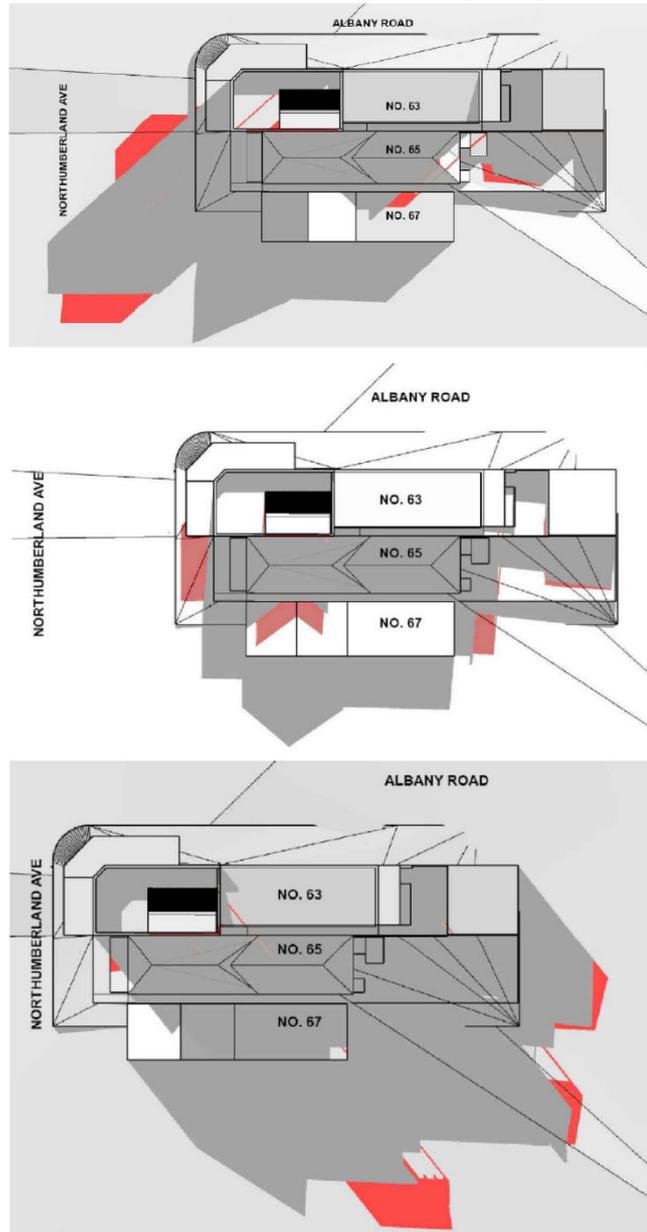


Figure 1: Existing and proposed shadowing on 21 June (9am, 12pm and 3pm)



- The skilful design maintains appropriate privacy between the building and nearby residential dwellings.
- The proposed alterations and the additional FSR is considered appropriate on heritage grounds and is supported by the Heritage Impact Statement which concludes;

"There is scope, particularly in terms of fenestration to achieve a much more compatible outcome than the current building. This is proposed. Its significance is acknowledged with the proposal as interpretive change..."

The proposal responds to the Federation corner shop typology with its articulated 'bricky' character, pattern of openings, and awning wrapping the corner, reinforced by a tonal scheme with colours and materials. This is considered compatible change that will enhance the HCA.

- There is currently no vegetation on the site that would need to be removed by the proposed alterations and additions. The proposal incorporates substantial landscaping throughout the site which will improve the overall appearance of the building.

Is in the Public Interest

The proposal and associated variation to the FSR is in the public interest. The proposal provides improved internal and external amenity for the future residents. The variation is accommodated without generating any unreasonable impacts to the adjoining amenity, public domain or the heritage conservation area.

Unreasonable and Unnecessary Floor Space Ratio Development Standard

Wehbe v Pittwater Council (2007) NSWLEC 827 sets out the methods of establishing why compliance with the development standards are unreasonable or unnecessary. The application of the floor space ratio provision to the proposal is considered unreasonable and unnecessary, consistent with for the following reasons:

- The maximum FSR does not consider the existing FSR variation of 1.09:1 which exceeds the maximum FSR 0.85:1 by 52.518sqm (28%).
- The combined variation including the existing variation of 52.518sqm and additional GFA of 12.32sqm totals 64.838sqm. It is also recognised the office utilises the footprint of the existing garage, demonstrating there is no real additional bulk at the rear.



- The additional variation is as a result of providing additional internal space for the improved amenity of the residents.
- The skilful design and distribution of floor space has optimised the corner location to achieve an overdue upgrade to the building.
- Despite the variation, the proposal comprises a considered design that is compatible with the established character of the site and surrounding properties and does not cause any significant impacts to the amenity of the site or surrounding area.
- The broad application of FSR does not exclude the possibility of a high quality built form without compromising the amenity of surrounding properties. Despite the variation to the FSR, the proposal is able to achieve these outcomes.

Conclusion

Based on the above assessment, the proposal at 63 Northumberland Avenue, Stanmore can achieve full compliance with the objectives and intentions of both Clause 4.4 Floor space ratio and the B1 Neighbourhood Centre zone under the Marrickville LEP 2011. This report also validates the proposal can be justified to provide a better planning outcome and the floor space ratio standard applicable is unreasonable and unnecessary given the existing site conditions and the desired future character of the heritage conservation area.

The proposal will not lead to unreasonable amenity impacts to the surrounding residential properties in terms of bulk, scale, privacy and overshadowing. The proposed alterations and additions have been designed to provide a high standard of amenity for the residents and will enhance the existing streetscape. The proposed FSR variation should therefore be considered favourably by Council.