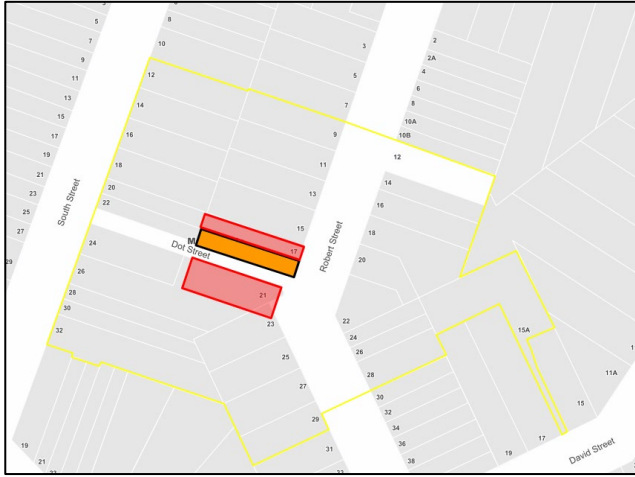




 DEVELOPMENT ASSESSMENT PANEL REPORT				
<b>Application No.</b>	DA/2024/0155			
<b>Address</b>	19 Robert Street MARRICKVILLE			
<b>Proposal</b>	Partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear.			
<b>Date of Lodgement</b>	6 March 2024			
<b>Applicant</b>	Mr Samuel Crawford			
<b>Owner</b>	Mr Samuel Crawford			
<b>Number of Submissions</b>	Two (2) submissions of objection			
<b>Cost of works</b>	\$185,000.00			
<b>Reason for determination at Planning Panel</b>	<ul style="list-style-type: none"> <li>Section 4.4 – Floor Space Ratio (FSR) variation exceeds 10%</li> <li>Chapter 3 Diverse Housing, Part 1 Secondary Dwellings, Division 2 Secondary Dwellings Permitted with Consent of <i>SEPP (Housing) 2021</i> - Clause 53(2)(a) variation (Lot Size)</li> <li>Chapter 3 Diverse Housing, Part 1 Secondary Dwellings, Division 2 Secondary Dwellings Permitted with Consent of <i>SEPP (Housing) 2021</i> - Clause 53(2)(b) variation (Parking)</li> </ul>			
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>Section 4.4 – Floor Space Ratio variation</li> <li><i>SEPP (Housing) 2021</i> variations (parking and minimum Lot size)</li> </ul>			
<b>Recommendation</b>	Approved with Conditions			
<b>Attachment A</b>	Recommended Conditions of Consent			
<b>Attachment B</b>	Plans of Proposed Development			
<b>Attachment C</b>	Section 4.6 Exception to Development Standards (FSR)			
<b>Attachment D</b>	Section 4.6 Exception to Development Standards (Lot Size)			
<b>Attachment E</b>	Section 4.6 Exception to Development Standards (Parking)			
				
<b>LOCALITY MAP</b>				
Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear at 19 Robert Street Marrickville.

The application was notified to surrounding properties and two (2) submissions of objection were received in response to the initial notification.

The main issues that have arisen from the application include:

- Section 4.4 – Floor Space Ratio of the *IWLEP 2022* variation
- Chapter 3 Diverse Housing, Part 1 Secondary Dwellings, Division 2 Secondary Dwellings Permitted with Consent of the *SEPP (Housing) 2021* - Clause 53(2)(a) variation (minimum Lot size)
- Chapter 3 Diverse Housing, Part 1 Secondary Dwellings, Division 2 Secondary Dwellings Permitted with Consent of the *SEPP (Housing) 2021* - Clause 53(2)(b) variation (parking)

Despite the issues noted above, it is considered that the proposed development is capable of generally complying with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and Marrickville Development Control Plan 2011, subject to the imposition of conditions included in the recommendation.

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

Considering the above, subject to the imposition of appropriate terms and conditions, the application is considered suitable for approval.

## 2. Proposal

The proposal seeks consent for the partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear. The proposal includes the following works:

- Demolition of the existing garage;
- Construction of a two-storey outbuilding to the rear of the property consisting of a single garage and secondary dwelling, with the kitchen and dining area on ground floor and the bedroom, bathroom and living area on first floor;
- Alterations and additions to the existing building including the following:
  - Repaint the existing rendered walls to all elevations;

- Addition of first-floor balconies to the southern elevation and rear elevation of the building;
- Alterations to existing openings and construction of additional openings to the southern elevation and rear elevation of the existing building;
- Relocation of the existing staircase leading to the first floor of the existing building;
- Construction of a roof top terrace with an associated stair well and planting;
- Off-street parking space under the first-floor rear-facing balcony; and
- Landscaping works to the rear yard.

### 3. Site Description

The subject site is located on the western side of Robert Street, between Dot Street and Marrickville Road. The site consists of one (1) allotment which is generally rectangular in shape with a total area of 227.6sqm and is legally described as Lot A in DP 375920.

The site has a primary frontage to Robert Street of approximately 6.17m and a secondary frontage along the southern elevation of the property to Dot Street (corner site) of approximately 38.405m. The subject site is not affected by any easements.

A two-storey building with an associated single storey garage is currently located on the site. Surrounding land uses are a mix of single and two-storey dwelling houses.

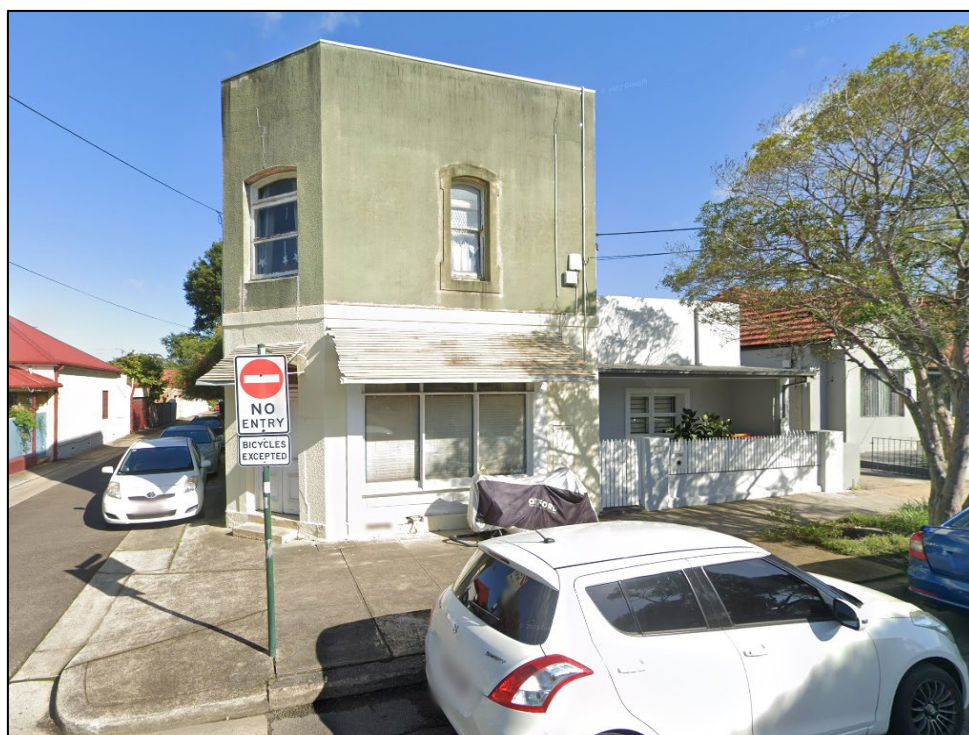
A site inspection of the premises reveals that it is currently used as a single residence.

The following trees are located on the site and within the vicinity of the development in question:

- Tree 1 – *Syzigium paniculatum* (Magenta Lily Pily) – located in the rear yard of the subject site; and
- Tree 2 – *Syzigium paniculatum* (Magenta Lily Pily) – located in the rear yard of the subject site.



*Figure 1 – Site Photo (Dot Street Frontage)*



*Figure 2 – Site Photo (Robert Street Frontage)*





Figure 3 – Zoning Map

## 4. Background

### Site history

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

### **Subject Site**

<b>Application</b>	<b>Proposal</b>	<b>Decision &amp; Date</b>
BA 231/60	Additions to dwelling, including a sunroom and bathroom on first floor.	Approved, 02/06/1960
BA 17/64	Conversion of shop and dwelling to shop and two flats.	Approved, 13/02/1964
BA 237/77	Alteration of the existing shop area to a domestic garage, porch, and hall area.	Approved, 21/06/1977
PDA/2023/0187	Alterations and additions to the existing building, including demolition of existing garage and construction of new double garage with loft attic, and new balcony and rooftop terrace to dwelling.	Advice Issued, 20/09/2024

### **Surrounding properties**

No. 22 South Street, Marrickville:

Application	Proposal	Decision & Date
DA201200030	To demolish part of the premises and carry out basement, ground and first floor alterations and additions to a dwelling house and erect a garage with loft storage at the rear of the site.	Approved, 27/02/2012

Application history

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

Date	Discussion / Letter / Additional Information
6/03/2024	Application lodged.
27/03/2024 to 19/04/2024	Notification period.
3/05/2024	Request for Further Information letter was sent to the applicant requiring amended plans to address matters concerning the proposed use of the site, visual bulk and scale, tree impacts, overshadowing and parking.
3/06/2024	Amended plans and supporting documentation were received. Renotification was not required in accordance with Council's Community Engagement Strategy.
31/07/2024	<p>A meeting was held with the applicant where Council addressed the following concerns:</p> <ul style="list-style-type: none"> <li>The ground floor level of the outbuilding was encroaching into the Tree Protection Zone (TPZ) of Tree 1; and</li> <li>The proposed commercial use and separate residence on ground floor was unable to rely on Existing Use Rights as the documentation provided did not adequately demonstrate that the previously approved 1964 shop and flat use had not been abandoned.</li> </ul> <p>Amended plans and an amended proposal was requested by Council in order to address concerns regarding Tree Impacts and Existing Use Rights.</p>
1/10/2024	Amended plans and supporting documentation were received. Renotification was not required in accordance with Council's Community Engagement Strategy.
3/10/2024	The amended plans provided were not supported on Urban Forest grounds due to the continued encroachment into the TPZ of Tree 1. Revised plans and supporting documentation were requested by Council to address these concerns.

24/10/2024	Amended plans and supporting documentation were received. Renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.
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## 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 (EPA Act 1979)*.

### A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

#### State Environmental Planning Policies (SEPPs)

##### SEPP (Resilience and Hazards) 2021

###### *Chapter 4 Remediation of land*

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

##### SEPP (Housing) 2021

###### *Chapter 3 Diverse housing, Part 1 Secondary dwellings*

The application seeks consent for a secondary dwelling under the *Housing SEPP* which provides controls relating to various matters including zone, subdivision, Floor Space Ratio (FSR), Lot size and parking requirements. The main design parameters are addressed below:

Section	Proposal	Compliance
50 - This part applies to development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.	The site is zoned R2 – Low Density Residential under the <i>IWLEP 2022</i> , dwelling houses are permitted with consent.	Yes
51 - Development consent must not be granted for the subdivision of a lot.	The proposal does not include subdivision of the existing site.	Yes
52 (2)(a) - No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land.	The proposal seeks consent for a new detached secondary dwelling at the rear of the subject site which will have access and a frontage to Dot Street. No further dwellings beyond the principal and secondary dwelling are proposed.	Yes
52 (2)(b) - The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	A maximum FSR of 0.9:1 or 204.84sqm applies to the land. The proposal results in an FSR of 1.01:1 or 230.5sqm and thus, varies Section 4.4 – Floor Space Ratio of the <i>IWLEP 2022</i> by 12.53% or 25.66sqm.	No – See Section 4.6 Assessment below
52 (2)(c) the total floor area of the secondary dwelling is— (i) no more than 60sqm, or (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.	The total floor area of the proposed secondary dwelling is 44.1sqm.	Yes
53 (2)(a) for a detached secondary dwelling a minimum site area of 450sqm	The total site area is 227.6sqm.	No – See Section 4.6 Assessment below
53 (2)(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	Two (2) off-street parking spaces are proposed on the subject site. The existing site consists of one (1) off-street parking space.	No – See Section 4.6 Assessment below

Overall, the proposal is considered satisfactory and complies with the objectives and controls prescribed under the SEPP which relate to Secondary Dwellings. Refer to *Section 4.6 – Exceptions to Development Standards* of this report for a detailed assessment of the abovementioned non-compliances.

*SEPP (Sustainable Buildings) 2022*

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP & A Regulation 2021*.

*SEPP (Transport and Infrastructure) 2021*

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid provided comments in regard to overhead powerlines in the vicinity of the development which have been included in the Recommended Conditions of Consent.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives contained within Section 2.48 of *SEPP (Transport and Infrastructure) 2021*.

**Inner West Local Environmental Plan 2022**

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

**Part 1 – Preliminary**

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies this Section as follows:</p> <ul style="list-style-type: none"> <li>• The proposal conserves and maintains the natural, built and cultural heritage of the Inner West;</li> <li>• The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents;</li> <li>• The proposal prevents adverse social, economic, and environmental impacts on the local character of the Inner West; and</li> <li>• The proposal prevents adverse social, economic, and environmental impacts, including cumulative impacts.</li> </ul>	Yes

**Part 2 – Permitted or prohibited development**

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table  <i>R2 – Low Density Residential</i>	<ul style="list-style-type: none"> <li>• The application proposes partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the <b>dwelling house</b> and addition of a <b>secondary dwelling</b> and parking at the rear which is permissible with consent in the R2 – Low Density Residential zone. A <b>dwelling house</b> and <b>secondary dwelling</b> are permissible with consent in the R2 zone; and</li> </ul>	Yes



Section	Proposed	Compliance
	<ul style="list-style-type: none"> <li>The proposal is consistent with the relevant objectives of the zone, as the proposal seeks to provide additional housing to accommodate the housing needs of the local community.</li> </ul>	
Section 2.7 Demolition requires development consent	<p>The proposal satisfies this Section as follows:</p> <ul style="list-style-type: none"> <li>Demolition works are proposed, which are permissible with consent; and</li> <li>Standard conditions are recommended to manage impacts which may arise during demolition.</li> </ul>	Yes, as conditioned

#### Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	9.5m	Yes
	Proposed	9.4m	
Section 4.4 Floor space ratio	Maximum	0.9:1 or 204.84sqm	No – See Section 4.6 Assessment below
	Proposed	1.01:1 or 230.5sqm	
	Variation	12.53% or 25.66sqm	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4 – Floor Space Ratio of the <i>IWLEP 2022</i> , Clause 53 (2)(a) and Clause 53 (2)(b) of Chapter 3 Diverse Housing, Part 1 Secondary Dwellings, Division 2 Secondary Dwellings Permitted with Consent of <i>SEPP (Housing) 2021</i> .		See below under the relevant heading for further details

#### Section 4.6 – Exceptions to Development Standards

##### Section 4.4 – Floor Space Ratio Development Standard

The applicant seeks a variation to the above-mentioned development standard under Section 4.6 of the *IWLEP 2022* by 25.66sqm or 12.53%. Section 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 Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the Development Standard which is summarised as follows:

- The additional floor space the subject of this request is the first-floor bedroom space to the proposed secondary dwelling. That addition is part of a low 5.47m high laneway structure. The building height control is 9.5m. The additional floor space has*

*reasonable environment effects (e.g. housing provided and surveillance of the Dot Street). The additional floor space sought has planning merit;*

- *The proposal is in the public interest as it allows for the existing building to be renovated and the residential accommodation on the site improved. These changes address the core purpose of the site's R2 zone and provide for a suitable land use on the site, replacing a non-conforming use with one that is permissible and consistent with the site's current zoning;*
- *the proposal provides for low-density residential use, in keeping with the 2-storey scale of adjoining dwellings; and*
- *The proposal provides for development that maintains the character of the surrounding area.*

***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio Development Standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4 – Floor Space Ratio** is “*to establish a maximum floor space ratio to enable appropriate development density*”.

The written request states that “*the proposal provides for a main dwelling and a secondary dwelling. These are all permissible uses envisaged in the R2 zone. Limited new work is proposed, and all new work is under the building height control. The proposal provides for a decrease in density on the site as the 1964 Consent provide for 2 dwellings and a shop (3 entities), the proposal now provides for a main dwelling with a secondary dwelling (2 entities on title). Through the process of this DA an appropriate density of development is provided. Notably the amended DA regularises the form of development on the site in accordance with the land use requirements of its R2 zoning.*” The proposal seeks to retain and revitalise the existing period building on-site, rather than demolish it to allow for a compliant development. The retention of the existing period building allows for the streetscape character to remain intact and the additions (i.e. the outbuilding) are located sufficiently away from the period building (12.8m) to ensure that the proposed variation / additions do not detract from the character of the period building, pattern of development of the street and / or the desired future character of the precinct. The proposed secondary dwelling on-site is a compliant use within the zone and is a maximum two (2) storey structure similar to other outbuildings within the vicinity of the site, such as No. 22 South Street (refer to Figure 4 for details). Therefore, it is considered that the proposed development is of an appropriate density that is in keeping with the established pattern of development. Accordingly, the breach is consistent with the first objective.



Figure 4 - No. 22 South Street's two-storey outbuilding as visible from Dot Street and adjoining the subject site

The **second objective of Section 4.4 – Floor Space Ratio** is “to ensure development density reflects its locality”.

The written request states that “the proposed additions are compliant with the maximum building height control for the site of 9.5m and DCP setback and wall height provisions. There is an appropriate correlation between the floor space sought and the building height control and form of the addition to Dot Street. The amended proposal also provides for a low-density use on the site (a dwelling and a secondary dwelling) that regularises the land use of the site in accordance with its R2 Low Density zone objectives.” As discussed throughout this report, the proposal complies with the Height of Building Development Standard and the proposed form of the outbuilding is consistent with other approved development, including No. 22 South Street’s rear outbuilding which directly adjoins the proposed outbuilding. The proposed principal dwelling and secondary dwelling is of a density that is consistent with the permissible uses within the R2 – Low Density Residential zone and the development is of a height, bulk and scale that is consistent with the established pattern of development. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4 – Floor Space Ratio** is “to provide an appropriate transition between development of different densities”.

The written request states that “the additions and floor space that creates the non-compliance is 25.66 m<sup>2</sup> or approximately the first-floor bedroom above the garage to Dot Street. This addition is a low 5.47m high, adjoins similar lane structures and is for a desirable housing purpose. The new work creates no transition impacts and is appropriate to its context. The additions create a development that is compatible with the bulk and scale of adjoining 2 storey

*houses and fully compliant with the building height control. The proposal is consistent with the desired future character of the locality.*” The proposed variation to the Floor Space Ratio Development Standard (i.e., the outbuilding) will have minimal impacts on adjoining properties in terms of visual and acoustic privacy, solar access and overshadowing and visual bulk and scale impacts when viewed from both public (Dot Street) and private (neighbouring private open space areas and main living room glazing) domains. The proposed outbuilding structure will be of a similar height to the rear adjoining outbuilding, and therefore, will provide for an appropriate transition between neighbouring single storey and two storey development. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4 – Floor Space Ratio** is *“to minimise adverse impacts on local amenity”*.

The written request states *“the works and new structure to Dot Street are low and modest additions in appropriate locations. New shadows fall over existing roofs and to the street and side fencing. The site and neighbouring sites have good environmental amenity, due to their inner-city locale. The additional floor space, the subject of this variation, does not adversely affect the amenity of the locality.”* As discussed throughout this report, the proposal would have minimal amenity impacts as the shadows cast associated with the additions will mostly fall to the street and will be contained in areas that are already in shadow. The proposal is for a low-density use, and therefore, it is considered that the additional floor space will not result in adverse acoustic and / or visual privacy impacts. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4 – Floor Space Ratio** is *“to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”*.

The written request states that *“the amended DA provides for retention of the 2 existing Syzygium trees within the landscape plan as requested by IWC. Appropriate tree protection and new plantings are proposed.”* The proposed outbuilding as amended has been appropriately offset from the existing prescribed trees on-site, therefore, allowing for their retention as part of the proposed development which is a satisfactory outcome. Given that two (2) trees are already located on the site, and the proposal does not seek to change this situation, the proposal complies with the minimum required tree plantings on-site in accordance with Part 2.20 – Tree Management of the MDCP 2011, which is a satisfactory outcome. The retention of the existing canopy cover results in environmental benefit for the enjoyment of the subject site and assists in working towards increased canopy cover for the LGA. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the Floor Space Ratio Development Standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances three (3) environmental planning grounds to justify contravening the Floor Space Ratio Development Standard. Each will be dealt with in turn:

***Environmental Planning Ground 1 – “The site constraints making it difficult to comply with FSR, such as retaining the existing period building.”***

The retention of the existing period building on-site is encouraged given that it contributes to the historical character of the street and the Inner West. Demolishing part of or the entirety of the existing period building on-site to accommodate a compliant development will not have a satisfactory outcome on the site, adjoining properties and / or the streetscape. This environmental planning ground is accepted because accommodating additional residential accommodation on-site whilst retaining the existing historical structure is a constraint in terms of developing the subject site, making compliance difficult.

***Environmental Planning Ground 2 – “The additional floor space sought approximates the first floor to the secondary dwelling to Dot Street which is of low impact and provides for housing”.***

The proposed outbuilding is of a similar height, bulk, and scale as the directly adjoining outbuilding at No. 22 South Street. Given the orientation of the site, the shadows cast will mostly fall along Dot Street and in areas that are already in shadow from existing structures along the street; therefore, resulting in minimal impacts to neighbouring properties in terms of solar amenity. In addition to the above, the proposed outbuilding will be no higher than two (2) storeys which is consistent with the relevant provisions contained under Part 4.1.7.5 – Loft Structures over Garages of the MDCP 2011. Further, the additional floor space will allow for additional housing on-site which is a use that is in accordance with the permissible uses of the R2 – Low Density Residential zone. This environmental planning ground is accepted because the proposed additions will have minimal amenity implications on adjoining properties and the public domain and will provide for additional residential accommodation on the site that is in accordance with the R2 – Low Density Residential zone.

***Environmental Planning Ground 3 – “The existing building is built to its street boundaries and has no front yard to Robert Street. These attributes make for efficient siting of structures on the site”.***

Given that the existing building on-site consists of a nil setback to Robert Street, a sufficient building separation can be provided between the principal dwelling and the secondary dwelling. The proposed 12.8m building separation will allow for reduced impacts on adjoining properties and the subject site, including improved solar access and overshadowing, visual bulk and scale outcomes when viewed from Nos. 17 and 21 Robert Street, retention of the existing prescribed trees on-site and useable private open space areas is able to be provided to both the principal dwelling and the secondary dwelling. This environmental planning ground is accepted because the existing period building location on-site allows for the development



of an outbuilding to the rear of the site that will allow for adequate building separation, as well as acceptable amenity implications on the subject site and adjoining properties.

Cumulatively, the grounds are considered sufficient to justify contravening the Development Standard.

***Whether the proposed development meets the objectives of the development standard, and of the zone***

The objectives of the R2 – Low Density Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant's submissions in the written request that the relevant objectives of the R2 – Low Density Residential zone are met. The variation will not result in adverse environmental implications by way of amenity impacts. As indicated above, Council is also satisfied that the development meets the objectives of the Floor Space Ratio Development Standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

Clause 53 (2)(a) – Non-Discretionary Development Standard of *SEPP (Housing) 2021*

The applicant seeks a variation to the above mentioned under Section 4.6 of the *IWLEP 2022* by 222.4sqm or 49%. Section 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 Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the Development Standard which is summarised as follows:

- *The amended DA provides for a main and secondary dwelling. These are appropriate land use to the site's R2 zoning and the site. The site is an existing small lot and already developed with a nil setback style, old shop building to the corner of Dot and Roberts Streets;*

- *The land uses and form of development is appropriate to its zoning and context, the irregularity here is imposing an arbitrary State-wide site area control on an historic small lot subdivision that is demonstrably capable of secondary dwelling development;*
- *The land uses proposed are permissible R2 low-density building forms and reflect the purpose of the R2 zoning; and*
- *The site is a standard site area for its inner-city locale and has a secondary street suitable for siting of the detached secondary dwelling. The purpose of the control is to protect secondary dwellings from more onerous local controls. In this case the protective standard becomes the 'onerous control' as the proposal complies with the relevant local controls and is contextually appropriate. In this instance, varying the Housing SEPP site area controls achieves its purpose – promoting housing.*

***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Clause 53 (2)(a) – non-discretionary standard are achieved notwithstanding the numeric non-compliance.

The **objective of Clause 53 (2)(a) – non-discretionary standard of SEPP (Housing) 2021** is *"the object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters"*.

The written request states that *"the site area standard is a state-wide control, and it is reasonable to presume its objectives are achieved where locally and contextually appropriate secondary dwellings are proposed. In this case, the site is within a well-located inner-city area where there is an established small lot subdivision. Most of the adjoining lots are under 450 m<sup>2</sup>. The locality is well located to transport and services, this is land that can carry some residential density, more so than a more remote suburban site"*.

The subject site and surrounding allotments consist of a consistent cadastral pattern which are largely under 450sqm but have the proven capacity to accommodate a secondary dwelling that provides adequate private open space areas, floor plan layout and minimal amenity on adjoining properties. Although the proposal does not numerically comply with Clause 53(2)(a) – non-discretionary standard of *SEPP (Housing) 2021*, the objective seeks to ensure that the development in question satisfies other applicable requirements, such as amenity impacts and site capacity related controls. Accordingly, the breach is consistent with the objective.

As the proposal achieves the objectives of the Clause 53 (2)(a) – non-discretionary standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances two (2) environmental planning grounds to justify contravening the Clause 53 (2)(a) – non-discretionary Development Standard. Each will be dealt with in turn:

**Environmental Planning Ground 1** – *“The secondary dwelling is located within a laneway structure to Dot Street and has reasonable impacts and promotes housing diversity on the site. The site is suitable for the form of development proposed”.*

This environmental planning ground is accepted because the proposed secondary dwelling satisfies the provisions under Clause 52 (2)(c) of *SEPP (Housing) 2021* and the objectives contained under the *IWLEP 2022* and the *MDCP 2011*. Further, the proposed secondary dwelling fronts Dot Street which is considered as a service lane given that multiple garages / secondary dwellings / studios front this laneway. As such, it is considered that the proposed secondary dwelling is in keeping with the pattern of development and character of the street.

**Environmental Planning Ground 2** – *“A secondary dwelling above a garage to a lane is a common form of housing in the inner-city Sydney and allows for retention of the period building. It is a gentle and respectful way to build additional housing in an established area”.*

This environmental planning ground is accepted because the proposed detached secondary dwelling will allow for housing diversity, provide for the housing needs of those in the Marrickville LGA and retains the built heritage of the Inner West by retaining the existing period building on-site. Therefore, the proposal satisfies the objectives contained within the R2 – Low Density Residential zone and Section 1.2 – Aims of Plan of the *IWLEP 2022*.

Cumulatively, the grounds are considered sufficient to justify contravening the Development Standard.

***Whether the proposed development meets the objectives of the development standard, and of the zone***

The objectives of the R2 – Low Density Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant’s submissions in the written request that the relevant objectives of the R2 – Low Density Residential zone are met. The variation will not result in adverse environmental implications by way of amenity impacts. As indicated above, Council is also satisfied that the development meets the objectives of the Clause 53 (2)(a) – non-discretionary

standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

Clause 53 (2)(b) – Non-Discretionary Development Standard of SEPP (Housing) 2021

The applicant seeks a variation to the above mentioned under Section 4.6 of the *IWLEP 2022* by one (1) off-street parking space or 100%. The proposal includes the provision of two (2) off street, car parking spaces, where only one (1) is currently provided on site. Section 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 Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the Development Standard which is summarised as follows:

- *The viability and longer-term development of the site is enhanced by the provision of the second car space which is located off a secondary frontage. The additional parking does not come at the cost of existing kerbside parking or other public domain impacts and represents a next improvement in parking provision in the locality;*
- *The new space is also under the first-floor deck to the dwelling and there are no impacts on loss of landscape or deep soil; and*
- *The additional car space has low impact and desirable attributes in terms of serving the proposed development. The Dot Street frontage is suited to providing parking.*

***Whether compliance with the development standard is unreasonable or unnecessary***

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Clause 53 (2)(b) – non-discretionary standard are achieved notwithstanding the numeric non-compliance.

The **objective of Clause 53 (2)(b) – non-discretionary standard of SEPP (Housing) 2021** is *“the object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters”*.

The written request states that *“the second car space is the new space to the rear of the main dwelling. This is a fully Australian Standard compliant space (the existing space is a smaller space). The new space is capable of being used for loading and, when a car is removed, as open space”*.

The proposed off-street parking space services the principal dwelling and is located within the private open space area, and as such, will be used as a dual use zone which is acceptable in accordance with the objectives contained under Part 2.18 – Landscaping and Open Spaces of the MDCP 2011 (refer to *Part 2.18 – Landscaping and Open Spaces* of this report for a detailed assessment). Although the proposal does not numerically comply with Clause 53(2)(b) – non-discretionary standard of *SEPP (Housing) 2021*, the objective seeks to ensure that the development in question satisfies other applicable requirements, such as car parking, private open space, and amenity impacts. Accordingly, the breach is consistent with the objective.

As the proposal achieves the objectives of the Clause 53 (2)(b) – non-discretionary standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant advances two (2) environmental planning grounds to justify contravening the Clause 53 (2)(b) – non-discretionary standard. Each will be dealt with in turn:

**Environmental Planning Ground 1 – *“The parking proposed reflects appropriate provision under the DCP”.***

This environmental planning ground is accepted because the proposal does comply with the minimum parking provisions on-site as required under Part 2.10 – Parking of the MDCP 2011. The proposal does not seek to convert an existing off-street parking space to create a secondary dwelling on-site, rather the proposal seeks to retain and increase the existing off-street parking on-site whilst accommodating a secondary dwelling which is a satisfactory outcome in terms of improving the amenity of occupants for both the principal dwelling and the secondary dwelling on-site.

**Environmental Planning Ground 2 – *“The parking proposed is suitable for the form of development proposed as it is off Dot Street and necessary to service the land uses proposed”.***

This environmental planning ground is accepted because the additional off-street parking space is located to the rear of the site and access is obtained from the rear laneway which is in accordance with Part 4.1.7 – Car Parking of the MDCP 2011. Considering that additional vehicular crossings to laneways is expected under Part 4.1.7 of the MDCP 2011, the proposed off-street parking space will not have any adverse implications to traffic and / or parking along Dot Street. Therefore, the off-street parking space is considered as a suitable addition to the form of development proposed.

Cumulatively, the grounds are considered sufficient to justify contravening the Development Standard.



**Whether the proposed development meets the objectives of the development standard, and of the zone**

The objectives of the R2 – Low Density Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant’s submissions in the written request that the relevant objectives of the R2 – Low Density Residential zone are met. The variation will not result in adverse environmental implications by way of amenity impacts and will seek to improve the existing off-street parking situation on-site. As indicated above, Council is also satisfied that the development meets the objectives of the Clause 53 (2)(b) – non-discretionary standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

For the reasons outlined above, it is recommended the Section 4.6 exception be granted.

**Part 5 – Miscellaneous provisions**

Section	Compliance	Compliance
Section 5.4 Controls relating to miscellaneous permissible uses	<ul style="list-style-type: none"> <li>• Section 5.4(9) states that secondary dwellings are limited to a maximum gross floor area of 60sqm, or 35% of the gross floor area of the principal dwelling, whichever is greater (35% being 65.24sqm). The proposed secondary dwelling is 44.1sqm in area and is therefore acceptable regarding this Section.</li> </ul>	Yes

**Part 6 – Additional local provisions**

Section	Proposed	Compliance
Section 6.2 Earthworks	<ul style="list-style-type: none"> <li>• The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.</li> </ul>	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> <li>• The proposal will remain satisfactory with respect to the provisions of this Section of <i>IWLEP 2022</i> and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.</li> </ul>	Yes, as conditioned
Section 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> <li>• The site is located within the ANEF 20-25 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this section as conditions have been included in the development consent to ensure that</li> </ul>	Yes, as conditioned

Section	Proposed	Compliance
	the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.8 of the <i>IWLEP 2022</i> .	

## B. Development Control Plans

### Summary

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

MDCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes, as conditioned – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes, as conditioned – see discussion
Part 2.18 – Landscaping and Open Space	Acceptable, on merit – see discussion
Part 2.20 – Tree Management	Yes, as conditioned – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes, as conditioned
Part 2.25 – Stormwater Management	Yes, as conditioned
Part 4.1 – Low Density Residential Development	Acceptable, on merit – see discussion
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

### Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.6 Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds as follows:</p> <ul style="list-style-type: none"> <li>• A condition has been included in the recommendation to ensure that the proposed alterations and additions are compliant with the relevant provisions of AS 2021:2015 in order to mitigate aircraft noise;</li> <li>• The development proposes a low impact residential use and as such is unlikely to result in adverse acoustic impacts;</li> </ul>	Yes, as conditioned

Control	Assessment	Compliance
	<ul style="list-style-type: none"> <li>• The principal living area and area of Private Open Space (POS) to both the principal dwelling and secondary dwelling is designed and located to offer adequate amenity to occupants as a boundary fence is proposed to separate the principal dwelling and the secondary dwelling. Further, the POS is located to the rear, in a similar location to adjoining properties, and therefore, the acoustic and visual privacy impacts generated from utilising the POS will be contained to the rear of the site, similar to existing and neighbouring properties;</li> <li>• The existing front and side-facing windows to the dwelling will have substantially the same visual privacy impacts on adjoining properties;</li> <li>• The proposal seeks to increase the length of the ground floor windows to the rear of the southern elevation of the dwelling (W3 and W4). The windows in question have a 1.6m sill height above finished floor level, and therefore, there will be minimal opportunities for overlooking into neighbouring side-facing glazing. As such, it is considered that the proposal is consistent with O1 and C3(v)(b) of this Part of the MDCP 2011;</li> <li>• In addition to the above, the proposal seeks to remove the existing two (2) first floor windows to the southern elevation of the existing building and replace with a glazed bifold door (D2) and associated balcony. The proposed glazed bifold door and associated balcony will overlook Dot Street and No. 21 Robert Street's roof form and is adequately setback and screened by the existing western wall in order to mitigate any direct view corridors into neighbouring POS areas. Further, the proposed first floor side-facing balcony is of a dimension (1.5m deep) and area (6.6sqm) that complies with C3(ii) of this Part of the MDCP 2011 and consists of a 980mm deep planter which will assist in mitigating any adverse overlooking opportunities into neighbouring properties. Additionally, the balcony and glazing in question is located sufficiently away from No. 21 Robert Street's side-facing window. Considering the above, it is considered that the proposed side-facing glazed bifold door and associated balcony will have acceptable visual privacy impacts on adjoining properties;</li> <li>• In addition to the above, the proposed side-facing balcony is expected to have minimal acoustic impacts given that this space is of an inadequate area and depth to be utilised as an active POS area;</li> <li>• The first-floor highlight window on the southern elevation of the outbuilding has an approximate 1.6m sill height above finished floor level and consists of externally fixed privacy screening. As such, it is considered that the window in question will have minimal overlooking impacts into No. 21 Robert Street given the privacy measures proposed;</li> <li>• The proposed ground floor rear-facing glazed doors to the principal dwelling (D1) and the ground floor eastern facing</li> </ul>	

Control	Assessment	Compliance
	<p>glazed doors to the secondary dwelling (D4) will overlook the subject site's POS and direct view corridors into neighbouring properties will be obscured by boundary fencing and sightlines between the principal dwelling and secondary dwelling will be mitigated by the proposed internal fence which is a satisfactory outcome;</p> <ul style="list-style-type: none"> <li>• The proposed first floor window of the secondary dwelling which faces the principal dwelling (W2) is a floor-to-ceiling height window that services the lounge room of the secondary dwelling. View corridors into the principal dwelling's and No. 17 Robert Street's POS and main living room glazing would be obtainable from this window in question, however, a floor-to-ceiling height fixed privacy screen has been added to W2 to obscure any view corridors whilst allowing an appropriate level of light into the secondary dwelling to enhance the amenity of its occupants. In order to protect the visual privacy of the subject site and adjoining properties, a condition is included in the recommendation to ensure that the privacy screening is of a minimum 75% block out density;</li> <li>• The first floor glazed bifold door to the rear elevation of the principal dwelling (D3) will overlook the subject site's POS and will have similar visual privacy impacts to neighbouring properties as existing. The glazing in question is located substantially away from the secondary dwelling's POS and main living room glazing, and therefore, it is considered that the impacts will be reasonable;</li> <li>• Although the Demolition Plan does not indicate that the existing staircase leading from the POS to the first-floor level will be demolished as part of this development and reconstructed (a condition is recommended to be imposed to update the Demolition Plan), it appears that the location of the staircase and the length of the landing are proposed to be altered from existing. The length of the landing will result in a much larger trafficable first floor deck; however, given that the landing is adjacent to the staircase and the door, it is expected that this area will not be occupied when utilising the first-floor deck, and therefore, will not result in any adverse visual and acoustic privacy impacts. Further, the relocation of the staircase will not result in heightened visual privacy impacts to No. 17 Robert Street as this is a non-habitable area and is not considered as the subject site's POS. Therefore, it is considered that the occupants of the site will not be utilising / occupying the staircase for long periods of time. As such, the staircase in question will have minimal overlooking impacts into No. 17 Robert Street's rear-facing glazing and POS;</li> <li>• The proposed first floor rear-facing deck is of a depth (2.8m) that varies C3(ii) of this Part of the MDCP 2011. However, given that the area of the deck is less than 10sqm, faces the rear of the site and consists of 1.6m high privacy screening</li> </ul>	

Control	Assessment	Compliance
	<p>to both side elevations of the deck as required under C3(ii), C3(iii) and C3(v)(a) of this Part of the MDCP 2011, the deck is unlikely to have adverse visual and acoustic impacts on adjoining properties. However, given that the deck is in close proximity to No. 17 Robert Street, a condition is included in the recommendation to increase the height of the northern privacy screen to 1.8m to ensure that any potential sightlines are mitigated;</p> <ul style="list-style-type: none"> <li>• The proposed window which services the stairwell leading to the rooftop terrace (W6) will overlook the rooftop terrace and potentially Robert Street. However, given that the window in question is a highlight window and services the staircase, it is considered that there will be minimal opportunity to overlook into neighbouring properties;</li> <li>• The proposed rooftop terrace consists of a 1.6m high privacy screen to the rear, a 1.2m high wall encloses the north-eastern, eastern, south-eastern, southern, and south-western elevations of the trafficable areas of the roof top terrace. This is supported by a 1.21m deep planter bed which surrounds the front and side elevations of the terrace.</li> <li>• However, the 1.6m privacy screen to the rear elevation of the rooftop terrace is considered to result in unnecessary visual bulk and scale when viewed from Dot Street and neighbouring POS areas. To reduce the visual bulk and scale of the terrace area and to assist in protecting the visual privacy of adjoining properties, a condition is included in the recommendation to delete the 1.6m privacy screen to the rear of the rooftop terrace and replace this with a 1.21m deep planter bed. It is considered that the deep planter depth and the height will restrict the size of the terrace and any overlooking into adjoining properties, whilst reducing the visual bulk and potential acoustic impacts.</li> <li>• With these privacy measures in place, it is considered that there will be minimal opportunity to overlook into neighbouring glazing, including No. 17 Robert Street's first floor front-facing bedroom window and No. 21 Robert Street's side-facing window.</li> <li>• No air-conditioning units are proposed as part of this application. However, air conditioning units may be installed under the exempt development provisions for air conditioning under <i>State Environmental Planning Policy (Exempt and Complying Development) 2008</i>.</li> </ul>	
<p>Part 2.7 Solar Access and Overshadowing</p>	<p>The proposal will have a satisfactory impact in terms of solar access and overshadowing on the surrounds as follows:</p> <p><i>Overshadowing</i></p> <ul style="list-style-type: none"> <li>• The development will not result in adverse amenity impacts as a result of overshadowing;</li> <li>• The proposed alterations and additions will not result in additional overshadowing to No. 17 Robert Street and No. 22</li> </ul>	<p>Yes</p>



Control	Assessment	Compliance
	<p>South Street's POS and / or main living room glazing which is a satisfactory outcome;</p> <ul style="list-style-type: none"> <li>• The solar panels to No. 21 Robert Street's principal dwelling and secondary dwelling roof forms will remain unaffected by the proposed development;</li> <li>• The extent of shadows cast fall largely to Dot Street and within shadows cast by existing structures on-site and surrounding properties. For instance, the extent of shadows cast to No. 21 Robert Street's secondary dwelling's front yard (POS) and glazing will fall within the existing shadows cast by the boundary fence. Notwithstanding, the secondary dwelling at No. 21 Robert Street will maintain a minimum 2 hour solar access to 50% of their Dot Street facing glazing and POS area in the afternoon on June 21; thus, satisfying C2 of this Part of the MDCP 2011; and</li> <li>• The proposal will result in additional overshadowing to No. 21 Robert Street's principal dwelling's side-facing window at 3pm. It is unclear as to whether this window services a principal living area. Nevertheless, the window in question obtains a minimum 2-hour solar access to 50% of its surface from 9:00am to 3:00pm on June 21. Further, No. 21 Robert Street's principal dwelling's POS will not be further overshadowed as a result of this development on June 21.</li> </ul> <p><i>Solar Access</i></p> <ul style="list-style-type: none"> <li>• Both the principal dwelling and secondary dwelling on-site maintain a minimum 2 hour solar access to 50% of their POS and main living room glazing from 9:00am to 3:00pm on June 21.</li> </ul>	
<p>Part 2.10 Parking</p>	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• Two (2) car parking spaces are proposed. The garage seeks to utilise the existing vehicular crossover and a condition has been imposed to construct a light duty vehicle crossing to service the carport along the Dot Street frontage;</li> <li>• The internal dimensions of the garage, particularly the depth, does not comply with the minimum 5.4m required under this Part and the Australian Standards. No objections are raised to this variation given that the existing garage consists of a similar depth dimension due to the limited depth of the allotment, and therefore, the proposed garage will have substantially the same impacts as existing; and</li> <li>• Standard conditions are recommended to ensure that the proposed off-street parking areas comply with the design requirements contained within this Part and the relevant Australian Standards.</li> </ul>	<p>Yes, as conditioned</p>
<p>Part 2.18 Landscaping and Open Spaces</p>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• The front setback does not consist of pervious landscaping; however, this is an acceptable outcome given that this is an</li> </ul>	<p>Acceptable, on merit</p>

Control	Assessment	Compliance
<p><u>Private Open Space (POS)</u> Principal Dwelling Min: 45.52sqm (20% of site area)</p> <p>Secondary Dwelling Min: 4m x 4m</p> <p><u>Pervious Landscaping</u> Principal Dwelling Min: 50% of POS</p> <p>Secondary Dwelling Min: 4m wide</p>	<p>existing situation on-site where the period building consists of a nil setback with the street frontage;</p> <ul style="list-style-type: none"> <li>• The Ground Floor Plan identifies that a minimum of 40sqm, with no dimension being less than 3m is to be retained as POS to the principal dwelling, resulting in a minor variation with the minimum area required (5.52sqm). The POS provided to the principal dwelling also includes the carport area which is considered as a dual-use zone which is not strictly in accordance with the controls; however, is acceptable given that the POS would provide a suitable area of amenity to occupants of the dwelling and other outdoor areas are proposed as part of this development which service the principal dwelling including the first-floor deck and roof top terrace which are in accordance with O1, O3, O7 and O12 of this Part of the MDCP 2011;</li> <li>• The POS provided to the principal dwelling will consist of less than 50% of pervious landscaping. Although a variation is proposed to C12(ii) of this Part of the MDCP 2011, the shortfall is supported given that the proposal seeks to utilise the existing paved areas to the rear courtyard and efforts have been made to increase the extent of landscaping on-site, such as roof top plantings to the terrace and the side-facing balcony;</li> <li>• As discussed elsewhere in this report, the proposed secondary dwelling is built to the rear boundary on a corner allotment, resulting in a nil front setback to Dot Street. Considering that no pervious landscaping is proposed to the front setback of the secondary dwelling as required by C13(i) of this Part of the MDCP 2011, the variation is supported given that it is a corner allotment with minimal widths to provide a habitable dwelling if a front setback was provided. Further, the proposed nil front setback and lack of pervious landscaping is consistent with other previous approvals in the vicinity of the site, including No. 22 South Street;</li> <li>• A minimum 4m wide landscaped area is provided between the secondary dwelling and the principal dwelling which is consistent with C13(ii) of this Part of the MDCP 2011; and</li> <li>• The proposed secondary dwelling consists of a minimum 4m x 4m POS area which is in accordance with C14 of this Part of the MDCP 2011.</li> </ul>	
<p>Part 2.20 Tree Management</p>	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• The amended plans indicate that the outbuilding has been reduced in depth to accommodate a 2.2m setback from Tree 1. The reduced building footprint of the outbuilding will have a significantly reduced impact on both Tree 1 and Tree 2. As such, the proposed built form is supported subject to the imposition of conditions which seek to protect Trees 1 and 2 during the construction of the proposed development; and</li> <li>• The Stormwater Plan indicates a grade / change in level to the rear yard between the existing period building and the</li> </ul>	<p>Yes, as conditioned</p>

Control	Assessment	Compliance
	<p>proposed outbuilding. The changes in level to the rear yard is not supported as it is considered that this will have a detrimental impact on the health and vitality of Trees 1 and 2. As such, a condition is included in the recommendation to amend the Stormwater Plan so that the proposed stormwater works within a 5.4m radius of Trees 1 and 2 are constructed in a manner to minimise impact on the trees' root system.</p>	

**Part 4 – Low Density Residential Development**

Control	Assessment	Compliance
<p>Part 4.1.4 Good Urban Design Practice</p>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>The height, bulk and scale of the development complement existing developments in the street, particularly the rear adjoining property – No. 22 South Street, and the architectural style of the proposal is in keeping with the character of the area.</li> </ul>	<p>Yes</p>
<p>Part 4.1.6 Built form and character</p> <p><u>Front setback</u></p> <ul style="list-style-type: none"> <li>Consistent with adjoining developments</li> </ul> <p><u>Side setbacks</u></p> <ul style="list-style-type: none"> <li>Lot width &lt;8m – On merit</li> </ul> <p><u>Rear setback</u></p> <ul style="list-style-type: none"> <li>On merit</li> </ul> <p><u>Site coverage</u></p> <ul style="list-style-type: none"> <li>On merit (0-300sqm lots)</li> </ul>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>As discussed previously in this report, the proposal complies with the Height of Building Development Standard;</li> <li>A variation is proposed to the Floor Space Ratio Development Standard which is supported for reasons discussed under <i>Section 4.6 – Exceptions to Development Standards</i> of this report;</li> <li>The existing front setback of the existing building is to remain unaltered by the proposal;</li> <li>The proposal does not seek to alter the existing side and rear setbacks on ground and first floor of the existing building, and as such, it can be expected that the existing building will have substantially the same visual bulk and scale impacts as existing;</li> <li>The proposed secondary dwelling and garage is a maximum two (2) storeys in height, located behind the principal dwelling and maintains an approximate 12.8m separation from the principal dwelling; thus, satisfying C11(ii)(a), C11(v)(a) and C11(vi);</li> <li>The proposed secondary dwelling and associated garage is built to the rear boundary in accordance with C11(ii)(c) and C11(iv)(b). As a result of this, a nil setback is proposed to the boundaries shared with No. 22 South Street and No. 17 Robert Street. According to C11(iii)(b) of this Part of the MDCP 2011, a 1.5m side setback is required. The variation to this control is acceptable in this instance given that the structure abuts No. 22 South Street's two storey outbuilding and given the orientation of the site the shadows cast from this structure fall away from No. 17 Robert Street's POS and main living room glazing. Further, the proposed outbuilding is located sufficiently away from the primary living areas of</li> </ul>	<p>Acceptable, on merit</p>

Control	Assessment	Compliance
	<p>adjoining development. Therefore, it is considered that the nil setback proposed will have minimal amenity impacts on adjoining properties. In addition, the proposed side setbacks are consistent with the established setback pattern of the street, and therefore, is acceptable; and</p> <ul style="list-style-type: none"> <li>• The proposal seeks to increase the existing site coverage by a minor amount. The overall site coverage of the development is considered acceptable, as it is consistent with the pattern development of the street and will have an acceptable impact on adjoining properties.</li> </ul>	
<p>Part 4.1.7 Car Parking</p>	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• As discussed under <i>Part 2.10 – Parking</i> of this report, the proposed garage varies the minimum 5.4m depth required for all off-street parking spaces according to the Australian Standards. This variation is supported in this instance given that the depth of the subject site does not allow for a compliant off-street parking dimension and will have substantially the same impacts as the existing garage on-site. Apart from this, standard conditions have been imposed to ensure that the garage and carport complies with the design requirements and minimum dimension for car parking under Part 2.10 of the MDCP 2011;</li> <li>• The garage and the carport are located to the rear / side of the site and is safely and conveniently located for use given that they have a direct connection to the service lane – Dot Street;</li> <li>• The design of the garage and carport are appropriate to the dwelling house and their presentation to the street is consistent in height and form with other approved development in the street;</li> <li>• The location of the driveway which services the garage is in the same location as existing, and therefore, will have substantially the same impacts on the functions of Dot Street; and</li> <li>• The addition of the carport will result in an additional vehicular crossover to be created to Dot Street. Given that Dot Street functions as a service laneway, it is considered that the additional vehicular crossover will not result in a loss of kerbside parking. Further, the proposed off-street parking space and associated vehicular crossing is located at the rear of the dwelling with access from a rear lane as required under C15(i) of this Part of the MDCP 2011. Therefore, the proposed carport is suitable within the laneway and will not impact traffic or parking.</li> </ul>	<p>Yes, as conditioned</p>
<p>Part 4.1.7.5 Loft structures over garages</p>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• As discussed previously in this report, the proposal complies with Height of Building, landscaping, and parking requirements. Although the proposal varies the Floor Space Ratio Development Standard, the extent of the variation is</li> </ul>	<p>Yes</p>

Control	Assessment	Compliance
	<p>supported for reasons discussed previously under <i>Section 4.6 – Exceptions to Development Standards</i> of this report;</p> <ul style="list-style-type: none"> <li>• The loft structure over the garage will result in acceptable outcomes to the subject site and adjoining properties in terms of solar access and overshadowing, visual and acoustic privacy, and visual bulk and scale outcomes when viewed from POS areas and main living room glazing; and</li> <li>• The bulk and scale, including the height associated with the first-floor form above the garage will be in keeping with other previous approvals in the area, including the directly rear adjoining property – No. 22 South Street. Therefore, the proposed development will be in keeping with the character and level of bulk and scale established within the street and immediate vicinity of the subject site.</li> </ul>	
<p>Part 4.1.11 Additional controls for residential period dwellings</p>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• The proposal retains the façade and main external body of the period building visible from the public domain;</li> <li>• The proposal accommodates contemporary additions and alterations while retaining the significant components of the period building;</li> <li>• The proposal seeks to increase the height of the existing wall to the middle portion of the existing building along the southern elevation. This is a sympathetic change to the existing building as it will be of a height that matches the front and rear portions of the period building, and therefore, will have a satisfactory outcome in terms of improving the streetscape perspective of the period building;</li> <li>• The alterations and additions at the rear and the side and above the roof line (roof top terrace), are subordinate to the main body of the period dwelling and will be of minimal visibility from the public domain given that the stairwell leading to the roof top terrace is substantially setback from the street-facing elevations of the building; and</li> <li>• Existing significant period features at the front have been retained and will be reinstated.</li> </ul>	<p>Yes</p>

### C. The Likely Impacts

- These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social, or economic impacts upon the locality.

### D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

### E. Submissions

The application was required to be notified in accordance with Council’s Community Engagement Strategy between 27 March 2024 to 19 April 2024.

A total of two (2) submissions were received in response to the initial notification.

The following matters were raised in the submissions and have been discussed elsewhere in this report:

- Solar Access and Overshadowing
- Visual Privacy
- Floor Space Ratio
- Height of Building
- Car Parking
- Loft Structures over Garages

Further issues raised in the submissions received are discussed below:

Concern	Comment
Construction impacts	Standard conditions regarding construction hours, waste management and noise levels, are recommended in the development consent to mitigate any significant impacts, such as traffic congestion, access, and parking along Dot Street.
Overlooking into Front Garden and Porch Areas	The provisions contained under Part 2.6 – Acoustic and Visual Privacy do not protect the privacy by way of overlooking into non-habitable areas and / or areas that are not utilised for private open space purposes. As such, any overlooking opportunities to front gardens and porches is well within allowable limits according to Part 2.6 of the MDCP 2011 as these spaces within the residential premises are not considered as a habitable room (i.e., kitchen, dining, lounge room, etc.) or the site’s private open space (i.e., back yard, deck, etc.).
Inconsistencies in the Statement of Environmental Effects	It is considered sufficient details and information have been submitted with the application to allow for a complete assessment. As detailed in this report, an independent assessment against the relevant planning controls / policies was carried out on the merits of the proposal. In summary, the proposal is considered to satisfy the relevant provisions.
Reliance on Existing Use Rights and the Intended Use of the Site	As discussed under the <i>Application History</i> section of this report, the proposal sought to “maintain” the previously approved shopfront in addition to the two (2) residential flats within the existing period building. The documentation provided throughout the assessment of this subject application did not demonstrate that the proposal can rely on Existing Use Rights as it was not adequately demonstrated that the previously approved shop and two (2) residential flat use had not been abandoned from the 1964 consent. Further, correspondence was received from neighbours and previous owners of the subject site during the assessment process which indicated that the subject site was not continually used as a corner shop from 1964 to the present. As such, the proposal in its original form and its intended use was not supported

	<p>as the site does not benefit from Existing Use Rights.</p> <p>Given the above, the proposed Floor Space Ratio variation no longer relies on Existing Use Rights, rather a Clause 4.6 – Exception to Development Standards Request was provided and was assessed as part of this subject application. Refer to <i>Section 4.6 - Exceptions to Development Standards</i> of this report for a detailed assessment.</p>
Bulk, Scale and Outlook	<p>Concern was raised of bulk, scale, and loss of outlook to the sky at the neighbouring property of No. 17 Robert Street as a result of the two-storey outbuilding. Impacts of bulk and scale are discussed earlier in this report as part of the MDCP 2011 assessment. Given the small nature of the subject properties, building to the property boundary is considered acceptable and a first floor above a garage of this nature is envisaged by, and allowable under the current planning controls. Notwithstanding, during the assessment process the design of the proposal was amended substantially to significantly reduce the overall bulk and scale of the proposal. While there will be some impact to No. 17 Robert Street, this impact is considered reasonable in the circumstances and is considered to maintain a suitable level of amenity to the neighbouring dwelling. Regarding outlook, the reduced building footprint on ground floor and first floor from what was initially proposed will improve outlook to the sky, however No. 17 Robert Street retains outlook to the north and west which is not impacted by the proposal.</p>
Relocation of Existing Electricity Transmission Pole	<p>The proposal seeks to utilise the existing vehicular crossover, and therefore, the relocation of the existing electricity transmission pole is not required for the proposed works. However, advisory notes are recommended as part of this consent granted when working in close proximity to overhead power cables. Refer to Attachment A – Recommended Conditions of Consent for details.</p>
Potential Encroachment	<p>Concerns were raised that the proposed side-facing privacy screening to the first-floor deck will encroach into No. 17 Robert Street. From the Floor Plans provided it appears that all works are located within the subject site’s property boundary; however, the Elevational Plans provided are not as clear. As such, in order to protect the adjoining property, a condition will be imposed as part of this consent granted to ensure that all building works are to be located within the subject site’s property boundaries.</p>

## F. 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.

This has been achieved in this instance.

## 6. Section 7.11 Contributions

Section 7.11 levies 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 \$19,946.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

## 7. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer; and
- Urban Forest.

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Ausgrid.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

The development as conditioned will not result in any significant impacts on the amenity of the adjoining 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

- A. In relation to the proposal by the development in Development Application No.2024/0155 to contravene the non-discretionary standards in Clause 53(2)(a) and (b) of *State Environmental Planning Policy (Housing) 2021* and the FSR development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* the Panel is satisfied that the Applicant has demonstrated that:
- (a) compliance with the development standards is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standards.
- B. 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/2024/0155 for partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear at No. 19 Robert Street, MARRICKVILLE subject to the conditions listed in Attachment A below.

**Attachment A – Recommended Conditions of Consent**

**GENERAL CONDITIONS**

Condition	
1.	<p style="text-align: center;"><b>Boundary Alignment Levels</b></p> <p>Alignment levels at the vehicular access locations must be submitted to Council for approval via a Section 138 approval. Longitudinal grade of the footpath shall be generally consistent with the existing footpath with minimum changes in grade. Existing and proposed surface levels and grades must be shown on the plans.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
2.	<p style="text-align: center;"><b>Permits</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• A concrete pump across the roadway/footpath;</li> <li>• Mobile crane or any standing plant;</li> <li>• Skip Bins;</li> <li>• Scaffolding/Hoardings (fencing on public land);</li> <li>• Public domain works including vehicle crossing, kerb &amp; guttering, footpath, stormwater, etc.;</li> <li>• Awning or street veranda over the footpath;</li> <li>• Partial or full road closure; and</li> <li>• Installation or replacement of private stormwater drain, utility service or water supply.</li> </ul> <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
3.	<p style="text-align: center;"><b>Insurances</b></p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>

4.	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/Received	Prepared by	
1737061M	BASIX Certificate	30/10/2024	Ecoplus Consultants Pty Ltd	
23012-08, Rev 04	Elevation D-D West Elevation	24/10/2024	Alinea Dzine Pty Ltd	
23012-05, Rev 04	South Elevation North Elevation	24/10/2024	Alinea Dzine Pty Ltd	
23012-02, Rev 04	First Floor	24/10/2024	Alinea Dzine Pty Ltd	
23012-01, Rev 04	Ground Floor	24/10/2024	Alinea Dzine Pty Ltd	
23012-11, Rev 04	Demolition Plan	24/10/2024	Alinea Dzine Pty Ltd	
23012-06, Rev 04	Section A-A	24/10/2024	Alinea Dzine Pty Ltd	
23012-03, Rev 04	Roof Terrace Floor Plan	24/10/2024	Alinea Dzine Pty Ltd	
23012-09, Rev 04	External Finishes - Main Elevations	24/10/2024	Alinea Dzine Pty Ltd	
23012-07, Rev 04	East Elevation Elevation E-E Section B-B	24/10/2024	Alinea Dzine Pty Ltd	
23012-04, Rev 04	Proposed Landscape and External Finishes Plan	24/10/2024	Alinea Dzine Pty Ltd	
Version 1.0	Arboricultural Impact Assessment & Tree Protection Plan	16/10/2024	Vertical Tree Management & Consultancy	
2324-089, Sheet No. 3, Rev 04	Roof Terrace, Upper Roof & Lower Roof Drainage Plan	24/10/2024	H&M Consultancy	
2324-089, Sheet No. 04, Rev 04	Site Drainage Plan	24/10/2024	H&M Consultancy	

	<p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>
<b>5.</b>	<p style="text-align: center;"><b>Works Outside the Property Boundary</b></p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
<b>6.</b>	<p style="text-align: center;"><b>Storage of materials on public property</b></p> <p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>
<b>7.</b>	<p style="text-align: center;"><b>Other works</b></p> <p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
<b>8.</b>	<p style="text-align: center;"><b>National Construction Code (Building Code of Australia)</b></p> <p>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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
<b>9.</b>	<p style="text-align: center;"><b>Notification of commencement of works</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> <li>i. The name and licence number of the principal contractor; and</li> <li>ii. The name of the insurer by which the work is insured under Part 6 of that Act.</li> </ul> </li> <li>b. In the case of work to be done by an owner-builder: <ul style="list-style-type: none"> <li>i. The name of the owner-builder; and</li> <li>ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</li> </ul> </li> </ul> <p>Reason: To ensure compliance with legislative requirements.</p>

10.	<p style="text-align: center;"><b>Dividing Fences Act</b></p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
11.	<p style="text-align: center;"><b>Construction of Vehicular Crossing</b></p> <p>The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for Construction of a Vehicular Crossing &amp; Civil Works form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.</p> <p>Reason: To protect assets, infrastructure and pedestrian safety.</p>
12.	<p style="text-align: center;"><b>Lead-based Paint</b></p> <p>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.</p> <p>Reason: To protect human health.</p>
13.	<p style="text-align: center;"><b>Dial before you dig</b></p> <p>Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
14.	<p style="text-align: center;"><b>Bin Storage - Residential</b></p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
15.	<p style="text-align: center;"><b>Asbestos Removal</b></p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>

<b>16.</b>	<p style="text-align: center;"><b>Ausgrid Overhead Powerlines are in the Vicinity of the Development</b></p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.</p> <p>Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.</p> <p>The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at <a href="http://www.ausgrid.com.au">www.ausgrid.com.au</a>.</p> <p>It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.</p> <p>Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: <a href="http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries">www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries</a></p> <p>For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <a href="https://www.ausgrid.com.au/Connections/Get-connected">https://www.ausgrid.com.au/Connections/Get-connected</a></p> <p>Reason: To protect Ausgrid assets.</p>
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**BUILDING WORK**

**BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

Condition					
<b>17.</b>	<p><b>Security Deposit - Custom</b></p> <p>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.</p> <p>Security Deposit:</p> <table border="1" style="margin-left: 20px;"> <tr> <td>Security Deposit:</td> <td style="text-align: right;">\$2,996.00</td> </tr> <tr> <td>Inspection Fee:</td> <td style="text-align: right;">\$374.50</td> </tr> </table>	Security Deposit:	\$2,996.00	Inspection Fee:	\$374.50
Security Deposit:	\$2,996.00				
Inspection Fee:	\$374.50				

	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>
<p>18.</p>	<p><b>Dilapidation Report – Pre-Development – Minor</b></p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
<p>19.</p>	<p><b>Stormwater Drainage System – Minor Developments (OSD is not required)</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>a. The design must generally be in accordance with the Site Drainage Plan on Drawing No. 2324-089, Sheet No. 04, Rev 04 prepared by H&amp;M CONSULTANCY and dated 24/10/2024.</li> <li>b. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road.</li> <li>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.</li> <li>d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks.</li> </ol>

	<ul style="list-style-type: none"> <li>e. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes.</li> <li>f. A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings.</li> <li>g. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.</li> <li>h. No nuisance or concentration of flows to other properties.</li> <li>i. 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.</li> <li>j. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.</li> <li>k. 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.</li> <li>l. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings.</li> <li>m. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.</li> <li>n. Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system.</li> </ul> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
<p>20.</p>	<p><b>Public Domain Works – Prior to Construction Certificate</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ul style="list-style-type: none"> <li>a. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.</li> <li>b. The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template for a B85 vehicle using dynamic ground clearance software. A long section, along both sides of the vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be provided for review. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing and proposed surface levels including information including chainages.</li> </ul>



	<p>c. Reconstruct the concrete footpath along the Dot Street frontage of the site as necessary to achieve a uniform longitudinal grade.</p> <p>d. Installation of stormwater outlets to the dish drain.</p> <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards.</p>
<p>21.</p>	<p><b>Parking Facilities - Domestic</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <ul style="list-style-type: none"> <li>a. The garage slab or driveway must rise within the property to be a minimum of 170mm (as quickly as possible) above the adjacent road gutter level and/or higher than the street kerb and footpath across the full width of the vehicle crossing.</li> <li>b. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B85 vehicle. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.</li> <li>c. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.</li> <li>d. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces.</li> <li>e. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004 unless otherwise approved.</li> <li>f. Obstructions such as walls, doors and columns must not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.</li> <li>g. The external form and height of the approved structures must not be altered from the approved plans.</li> </ul> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>

22.	<p><b>Stormwater Within the Vicinity of Trees</b></p> <p>Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with amended /detailed stormwater plans reviewed and approved by the project Arborist demonstrating that the proposed stormwater works within the specified radius of the trunks of the following trees are constructed in a way to minimise impact on the trees' root system. The soil surface must not be skimmed or excavated. The new surface and subgrade must be established at grade.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Tree No.</th> <th style="text-align: left;">Botanical/Common Name</th> <th style="text-align: left;">Radius in metres</th> </tr> </thead> <tbody> <tr> <td>1 and 2</td> <td><i>Syzigium paniculatum</i> (Magenta Lily Pily)</td> <td>5.4</td> </tr> </tbody> </table> <p>Reason: To mitigate the impact of the work on trees to be retained.</p>	Tree No.	Botanical/Common Name	Radius in metres	1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	5.4
Tree No.	Botanical/Common Name	Radius in metres					
1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	5.4					
23.	<p><b>Structural Certificate for retained elements of the building</b></p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>						
24.	<p><b>Sydney Water – Tap In</b></p> <p>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.</p> <p>Note: Please refer to the web site <a href="http://www.sydneywater.com.au/tapin/index.htm">http://www.sydneywater.com.au/tapin/index.htm</a> for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>						
25.	<p><b>Acoustic Report – Aircraft Noise</b></p> <p>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.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>						

26.	<p><b>Street Numbering</b></p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to Street <a href="#">Numbering Application</a></p> <p>Reason: To ensure occupancies are appropriately numbered.</p>
27.	<p><b>Party Walls</b></p> <p>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 &amp; plans must be provided to all owners of the party wall/s.</p> <p>Reason: To ensure the structural adequacy of the works AND/OR to ensure works do not rely on the party wall for vertical or lateral support.</p>
28.	<p><b>Privacy</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the batten screen facade in front of Window W2 being amended in the following manner:</p> <ul style="list-style-type: none"> <li>• Suitable externally fixed screening with a minimum block out density of 75% to a level of 1.6 metres above the finished floor level; Note: The louvers are to have no individual opening more than 30mm wide, the screen is to have a maximum total area of opening of 30% of the surface area of the screen and is to be made of durable materials. Louvered screens must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in an upward position.</li> </ul> <p>Reason: To ensure that visual privacy treatment protects the amenity of the neighbourhood.</p>
29.	<p><b>Elevated Planters</b></p> <p>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 planter beds 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.</p> <p>Reason: To ensure landscaping is maintained.</p>
30.	<p><b>Design Change</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <ol style="list-style-type: none"> <li>a. The first-floor privacy screen along the northern elevation of the rear deck is to be increased in height by 200mm to be 1.8m in height;</li> <li>b. The 1.6m privacy screen to the rear (western) elevation of the rooftop terrace is to be deleted and replaced with a minimum 1.2m high x 1.2 metre wide planter bed for the length of the rear between the proposed planter and staircase; and</li> </ol>

	<p>c. The Demolition Plan is to be updated to illustrate that the existing rear staircase leading from the private open space to the first floor of the existing building is to be demolished.</p> <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>														
<p>31.</p>	<p><b>Section 7.11 Contribution</b></p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="435 595 1145 902"> <thead> <tr> <th>Contribution Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Open Space &amp; Recreation</td> <td>\$14,261.00</td> </tr> <tr> <td>Community Facilities</td> <td>\$2,643.00</td> </tr> <tr> <td>Transport</td> <td>\$1,875.00</td> </tr> <tr> <td>Plan Administration</td> <td>\$183.00</td> </tr> <tr> <td>Drainage</td> <td>\$983.00</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>\$19,946.00</b></td> </tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ <p>Where:</p> <p><math>C_{\text{payment}}</math> = is the contribution at time of payment</p> <p><math>C_{\text{consent}}</math> = is the contribution at the time of consent, as shown above</p> <p><math>CPI_{\text{consent}}</math> = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 119.4 for the 30 October 2024.</p> <p><math>CPI_{\text{payment}}</math> = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p>	Contribution Category	Amount	Open Space & Recreation	\$14,261.00	Community Facilities	\$2,643.00	Transport	\$1,875.00	Plan Administration	\$183.00	Drainage	\$983.00	<b>TOTAL</b>	<b>\$19,946.00</b>
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<b>TOTAL</b>	<b>\$19,946.00</b>														

	<p>Council's Plan may be viewed at <a href="http://www.innerwest.nsw.gov.au">www.innerwest.nsw.gov.au</a> or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at <a href="mailto:council@innerwest.nsw.gov.au">council@innerwest.nsw.gov.au</a> or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to <a href="http://www.innerwest.nsw.gov.au/invoice">www.innerwest.nsw.gov.au/invoice</a>; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
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**BEFORE BUILDING WORK COMMENCES**

Condition	
32.	<p><b>Hoardings</b></p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
33.	<p><b>Tree Protection</b></p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p>

	<p>The existing trees detailed below must be retained and protected throughout construction and development in accordance with all relevant conditions of consent.</p> <table border="1"> <thead> <tr> <th>Tree Number</th> <th>Species</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>1 and 2</td> <td><i>Syzigium paniculatum</i> (Magenta Lily Pily)</td> <td>Rear of site</td> </tr> </tbody> </table> <p>Reason: To ensure that trees to be retained are protected.</p>	Tree Number	Species	Location	1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	Rear of site
Tree Number	Species	Location					
1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	Rear of site					
34.	<p><b>Project Arborist</b></p> <p>Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist (a person holding a minimum Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture), must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.</p> <p>Reason: To protect and retain trees.</p>						
35.	<p><b>Tree Protection Zone</b></p> <p>To protect the following trees, no work may commence until their Protection Zone is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area in accordance with Council's Development Fact Sheet—Trees on Development Sites. The fences (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site.</p> <table border="1"> <thead> <tr> <th>Tree No.</th> <th>Botanical/Common Name</th> <th>Radius in metres</th> </tr> </thead> <tbody> <tr> <td>1 and 2</td> <td><i>Syzigium paniculatum</i> (Magenta Lily Pily)</td> <td>5.4m</td> </tr> </tbody> </table> <p>Reason: To protect and retain trees.</p>	Tree No.	Botanical/Common Name	Radius in metres	1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	5.4m
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36.	<p><b>Waste Management Plan</b></p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>						
37.	<p><b>Erosion and Sediment Control</b></p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>						

38.	<p><b>Dilapidation Report</b></p> <p>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 identified properties (No. 17 Robert Street and No. 22 South Street) 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.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
39.	<p><b>Construction Fencing</b></p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>

**DURING BUILDING WORK**

Condition							
40.	<p><b>Tree Protection</b></p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>The existing trees detailed below must be retained and protected throughout construction and development in accordance with all relevant conditions of consent.</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 20%;">Tree Number</th> <th style="width: 60%;">Species</th> <th style="width: 20%;">Location</th> </tr> </thead> <tbody> <tr> <td>1 and 2</td> <td><i>Syzigium paniculatum</i> (Magenta Lily Pily)</td> <td>Rear of site</td> </tr> </tbody> </table> <p>Reason: To ensure that trees to be retained are protected.</p>	Tree Number	Species	Location	1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily)	Rear of site
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41.	<p><b>Inspections by Project Arborist</b></p> <p>The Project Arborist must oversee various stages of work within the Tree Protection Zone (TPZ) of any tree listed for retention including street trees. The Arborist must certify compliance with each key milestone detailed below:</p> <ol style="list-style-type: none"> <li>a. The installation of tree protection measures prior to the commencement of any construction works;</li> <li>b. During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;</li> <li>c. During construction of the stormwater and sewerage;</li> <li>d. During any excavation and trenching within the TPZ;</li> <li>e. During any Landscape works within the TPZ which has been approved by Council.</li> </ol> <p>An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of trees must be submitted to and acknowledged by certifying authority at each hold-point listed below:</p> <ol style="list-style-type: none"> <li>a. Certification that tree protection measures have been installed in accordance with these consent conditions</li> <li>b. Certification of compliance with each key milestone listed above within 48 hours of completion;</li> <li>c. Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council.</li> <li>d. A final compliance report must be submitted to and approved by certifying authority prior to the issue of any Occupation Certificate.</li> </ol> <p>Reason: To protect and retain trees.</p>						
42.	<p><b>Limited Root Pruning</b></p> <p>No tree roots of 25mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s may be severed or injured in the process of any works during the construction period:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Tree No</th> <th style="text-align: left;">Botanical/Common Name</th> <th style="text-align: left;">Radius in metres</th> </tr> </thead> <tbody> <tr> <td>1 and 2</td> <td><i>Syzigium paniculatum</i> (Magenta Lily Pily</td> <td>5.4</td> </tr> </tbody> </table> <p>All excavation within the specified radius of the trunks of the above trees being hand dug using either pneumatic or hydraulic tools only (e.g. Airspade® or hydro excavation)—note—the pressure must be correctly calibrated to limit delamination of bark to a depth of 1m under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 25mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and fit for purpose tool. The pruning must be undertaken by a practicing Arborist.</p>	Tree No	Botanical/Common Name	Radius in metres	1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily	5.4
Tree No	Botanical/Common Name	Radius in metres					
1 and 2	<i>Syzigium paniculatum</i> (Magenta Lily Pily	5.4					



	<p>Note – The installation of services must be undertaken accordingly.</p> <p>Reason: To protect and retain trees.</p>
43.	<p><b>Advising Neighbours Prior to Excavation</b></p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
44.	<p><b>Construction Hours – Class 1 and 10</b></p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
45.	<p><b>Survey Prior to Footings</b></p> <p>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.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

	Condition
46.	<p><b>Public Domain Works</b></p> <p>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:</p> <p>Light duty concrete vehicle crossing(s) at the vehicular access location(s); and</p> <p>Other works subject to the Roads Act 1993 approval.</p> <p>All works must be constructed in accordance with Council’s standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>

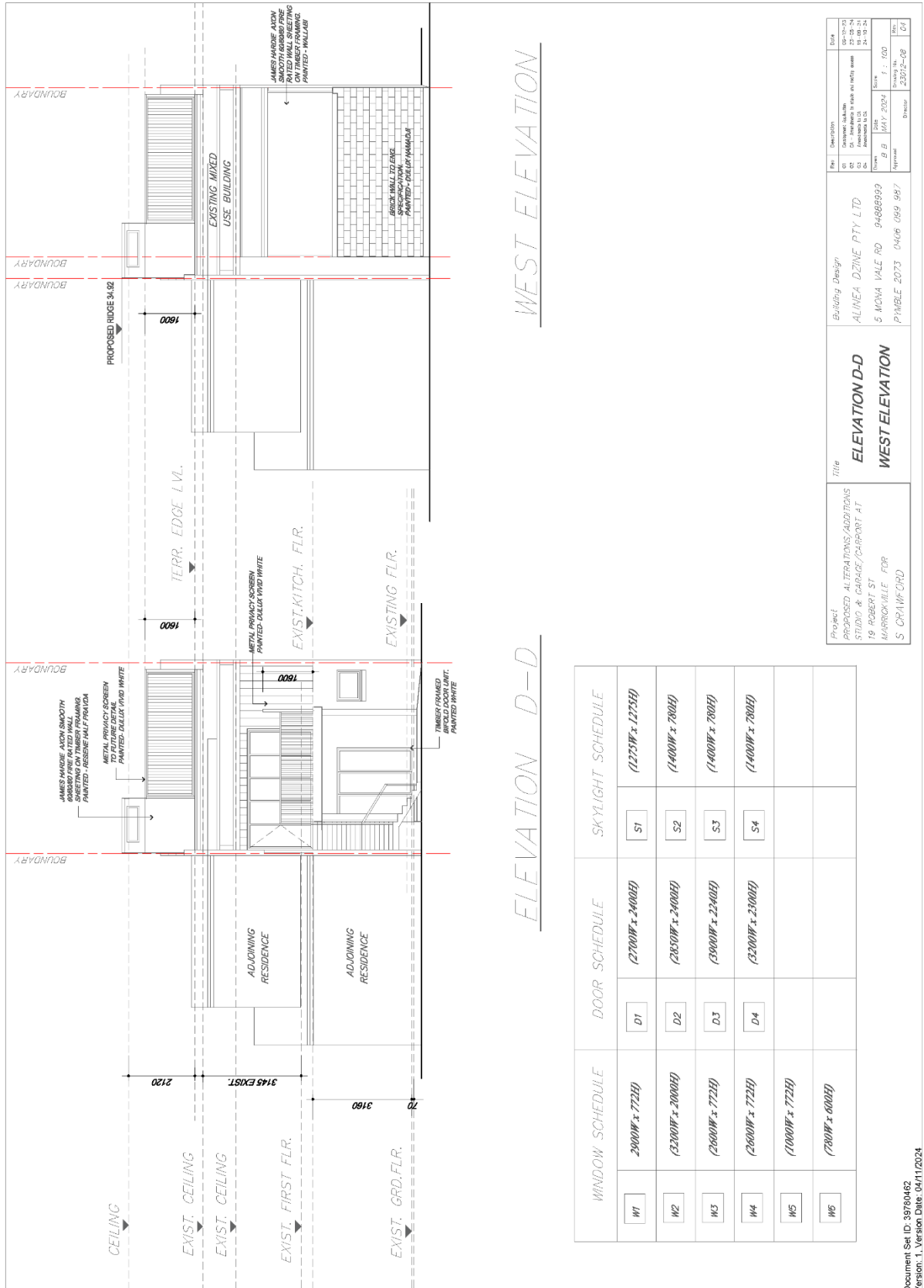
47.	<p><b>No Encroachments</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
48.	<p><b>Protect Sandstone Kerb</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>
49.	<p><b>Light Duty Vehicle Crossing</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
50.	<p><b>Parking Signoff – Minor Developments</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
51.	<p><b>Aircraft Noise –Alterations and Additions</b></p> <p>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.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
52.	<p><b>Dilapidation Report</b></p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (No. 17 Robert Street and No. 22 South Street) 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</p>

	<p>letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To determine potential construction impacts.</p>
<b>53.</b>	<p><b>Verification and Maintenance of Planter Beds</b></p> <p>Prior to the issue of an Occupation Certificate, the principal certifier is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Structures 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.</p> <p>Reason: To ensure landscaping is maintained.</p>
<b>54.</b>	<p><b>No Encroachments into Private Property</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all building works, alterations and additions are located within the subject site's property boundaries and do not encroach into neighbouring property boundaries.</p> <p>Reason: To ensure all building works are located within the subject site's property boundaries.</p>

**OCCUPATION AND ONGOING USE**

	Condition
<b>55.</b>	<p><b>Planter Beds</b></p> <p>The plantings within the approved elevated planter beds on levels 1 and the roof top terrace as part of this consent are to be maintained in a healthy and vigorous condition from the issue of an Occupation Certificate.</p> <p>Reason: To ensure landscaping is maintained.</p>
<b>56.</b>	<p><b>Use of the Approved Structures</b></p> <p>The approved dwelling house within the original building at the front of the site is to be used as a single domicile. No additional kitchen, kitchenette, cooking facilities or the like are to be installed within the ground floor without separate Development consent from Council.</p> <p>Reason: To ensure the use of the structure is commensurate with its approval</p>

Attachment B – Plans of Proposed Development



WEST ELEVATION

ELEVATION D-D

WINDOW SCHEDULE	DOOR SCHEDULE	SKYLIGHT SCHEDULE
W1 (2900W x 772H)	D1 (2700W x 2400H)	S1 (1275W x 1275H)
W2 (3200W x 2000H)	D2 (2850W x 2400H)	S2 (1400W x 780H)
W3 (2600W x 772H)	D3 (3900W x 2240H)	S3 (1400W x 780H)
W4 (2600W x 772H)	D4 (3200W x 2300H)	S4 (1400W x 780H)
W5 (1000W x 772H)		
W6 (780W x 600H)		

**Project:** PROPOSED ALTERATIONS, ADDITIONAL STUDIO & GARAGE/WORKSHOP AT 19 ROBERT ST HARRICKVILLE FOR S. CRANFORD

**Title:** ELEVATION D-D WEST ELEVATION

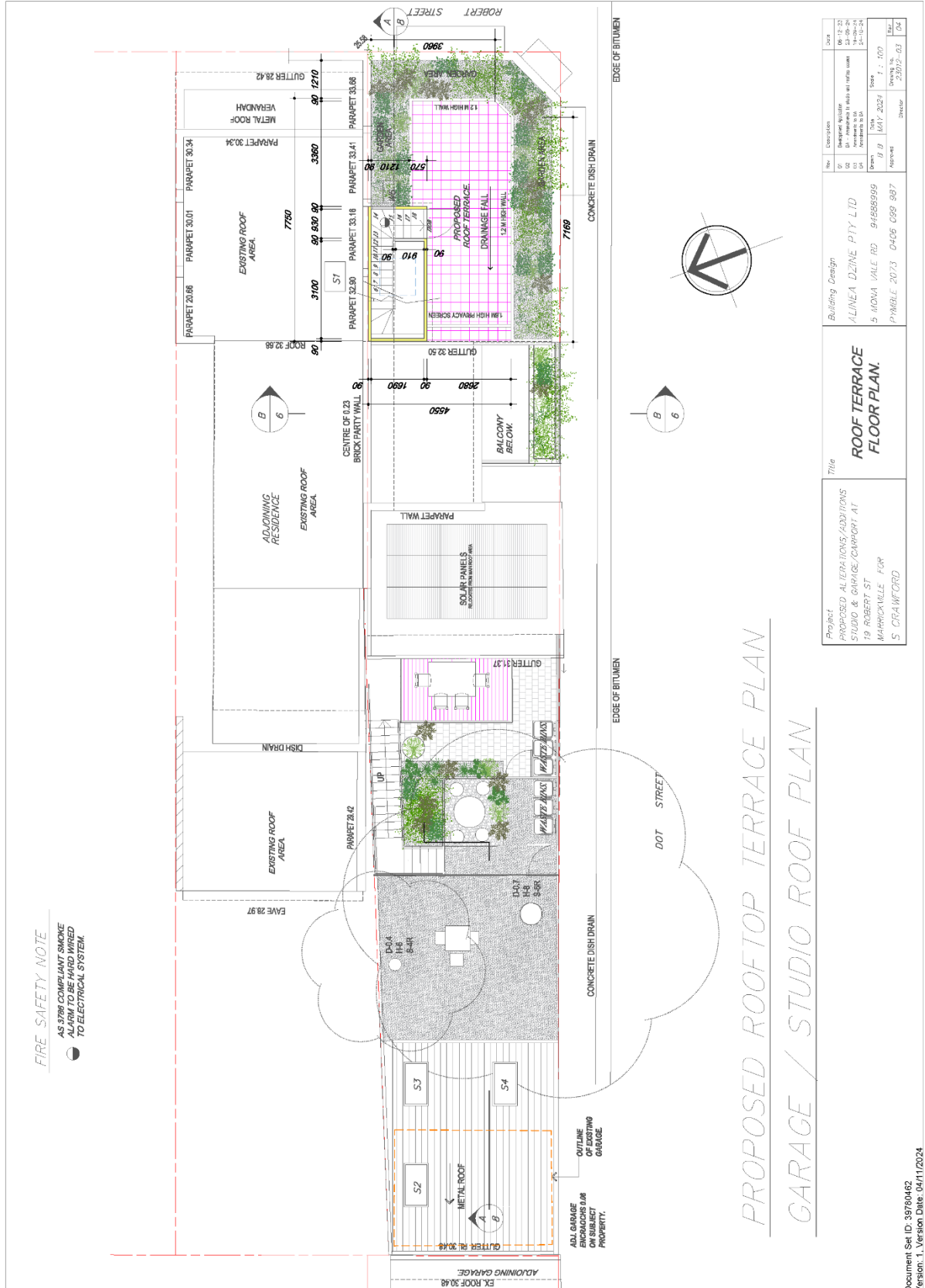
**Building Design:** ALINEA DZINE PTY LTD  
5 MONA VALE RD 9488899  
PIMBLE 2073 0408 059 987

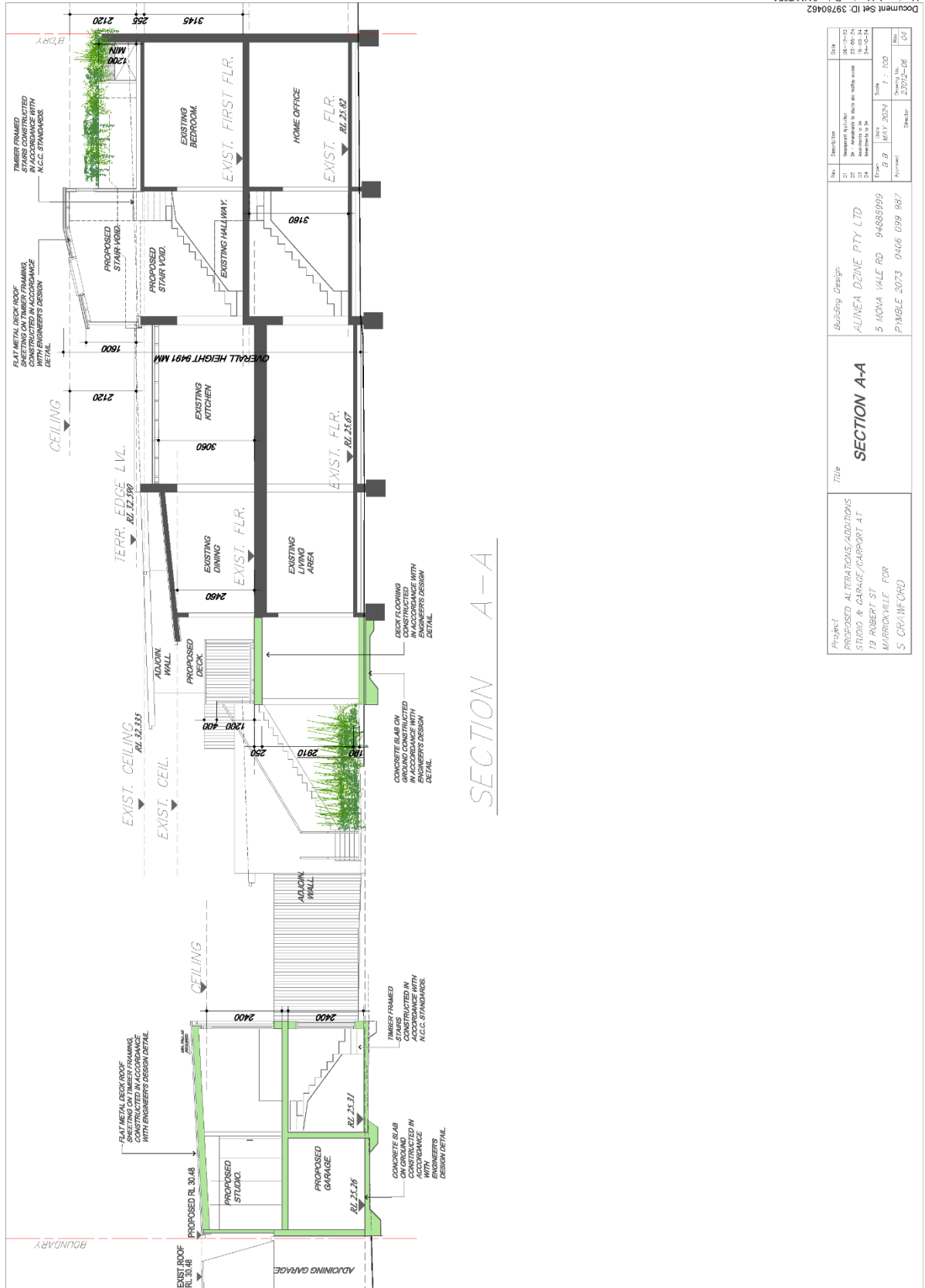
Rev	Description	Date
01	Issue for ICP	23-05-24
02	As per ICP to add on NCC/CA notes	23-05-24
03	As per ICP to add on NCC/CA notes	24-05-24
04	As per ICP to add on NCC/CA notes	24-05-24
05	As per ICP to add on NCC/CA notes	24-05-24
06	As per ICP to add on NCC/CA notes	24-05-24
07	As per ICP to add on NCC/CA notes	24-05-24
08	As per ICP to add on NCC/CA notes	24-05-24
09	As per ICP to add on NCC/CA notes	24-05-24
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31	As per ICP to add on NCC/CA notes	24-05-24
32	As per ICP to add on NCC/CA notes	24-05-24
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Document Set ID: 38750462  
Version: 1.1 Version Date: 04/11/2024







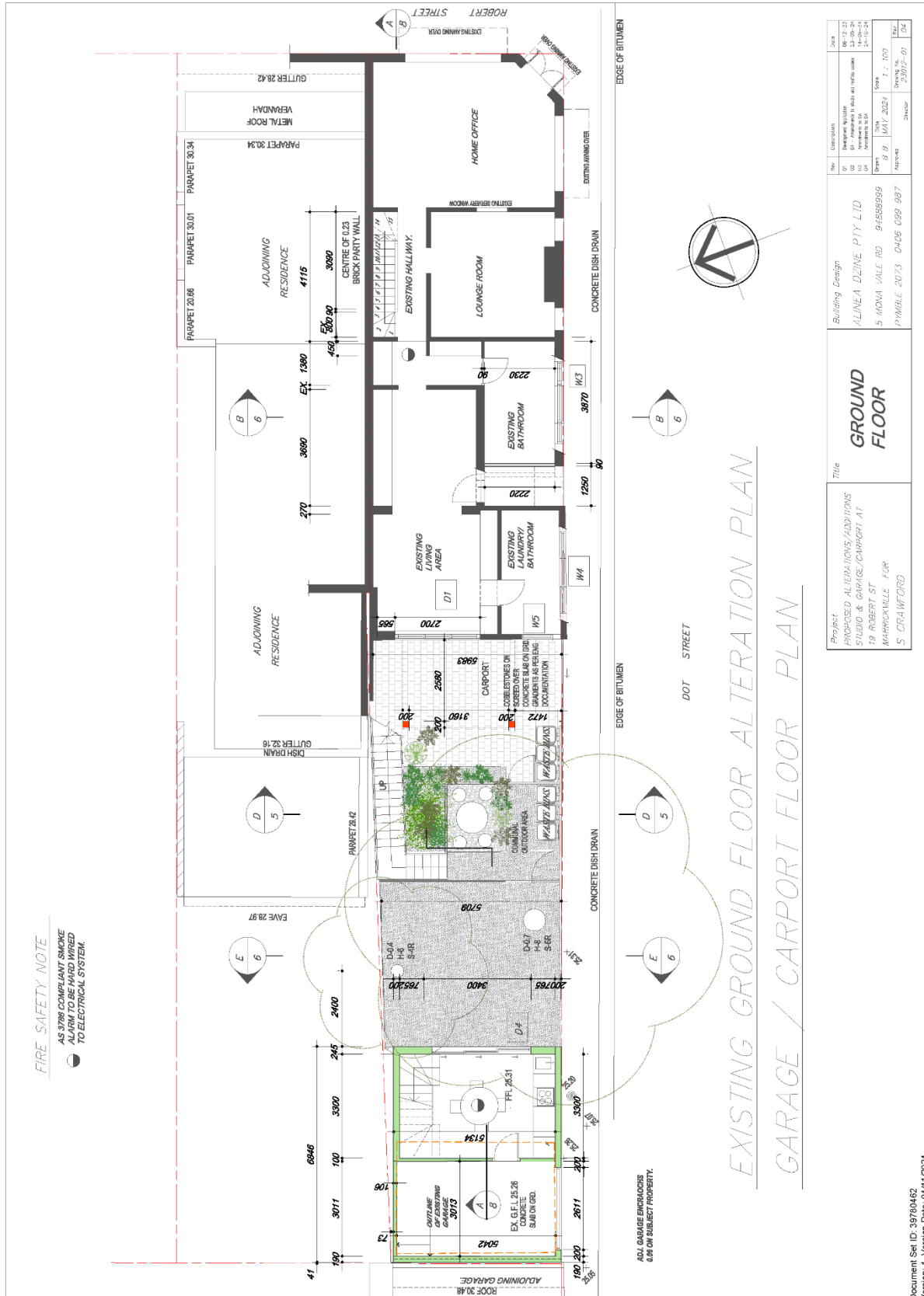


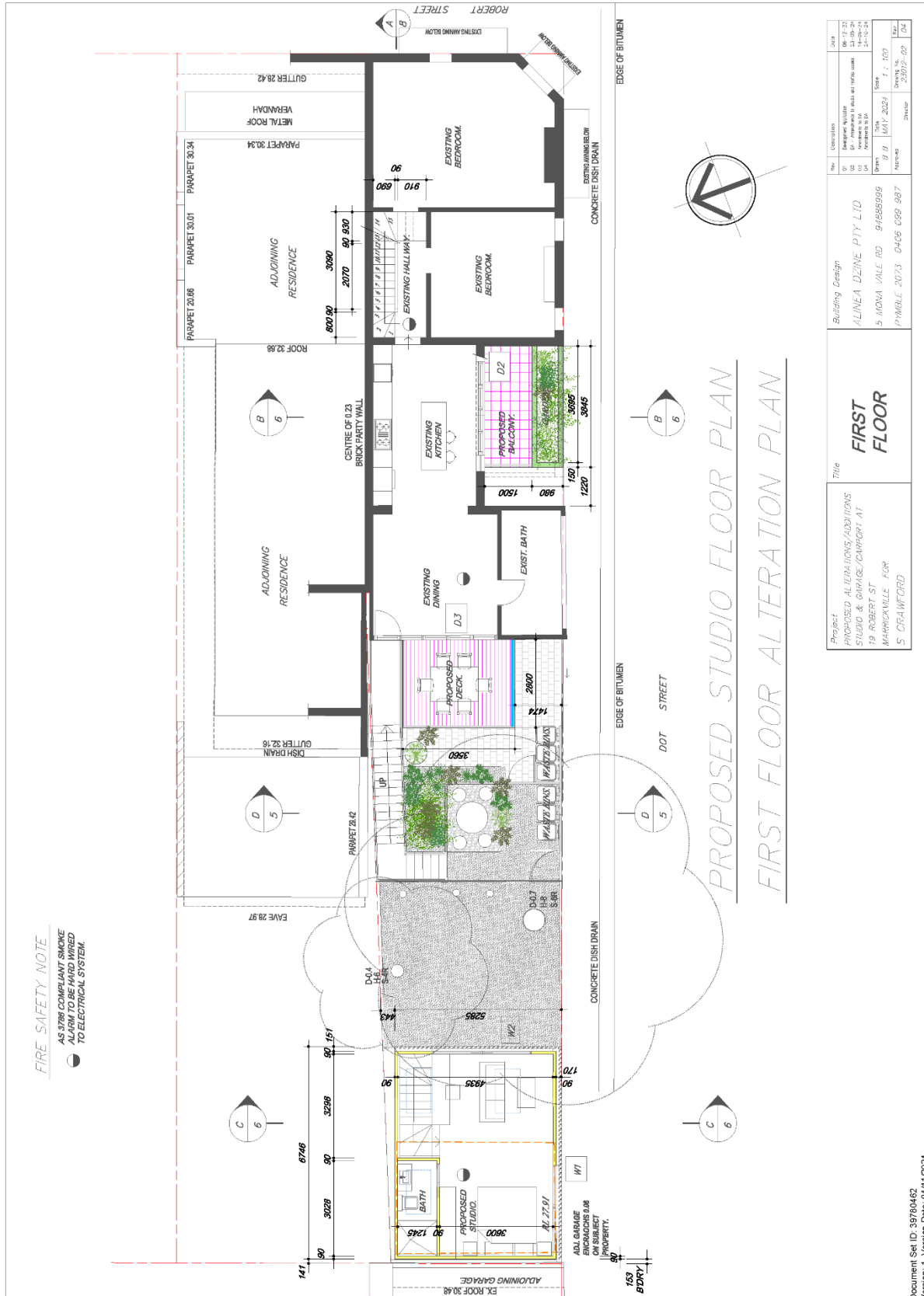
Document Set ID: 39780462  
Version: 1, Version Date: 04/11/2024

Project		Title	
PROPOSED ALTERATIONS/ADDITIONS STUDIO & GARAGE/CARPORT AT 19 ROBERT ST MARRICKVILLE FOR S. CRYWELD		SECTION A-A	
Building Design		Building Design	
ALINEA DZINE PTY LTD 5 MONA VALE RD 94888909 P/MABLE 2073 0466 039 987		ALINEA DZINE PTY LTD 5 MONA VALE RD 94888909 P/MABLE 2073 0466 039 987	
No.	Revised Date	Rev.	Date
01	14 JULY 2024	01	14 JULY 2024
02	24 SEPTEMBER 2024	02	24 SEPTEMBER 2024
03	11 OCTOBER 2024	03	11 OCTOBER 2024
04	11 OCTOBER 2024	04	11 OCTOBER 2024
Author		Scale	
B.B		1 : 100	
Approved		Date	
B.B		12/02/2024	









Document Set ID: 39780462  
Version: 1.1, Version Date: 04/11/2024





Version: 1, Version Date: 04/11/2024  
 Document Set ID: 39780462

No.	Description	Date
01	Prepared by: [Name]	08/12/23
02	Reviewed by: [Name]	14/01/24
03	Approved by: [Name]	24/01/24
04	Final Version	24/01/24

Project	Building Design
PROPOSED ALIENS ADDITIONS STUDIO & GARAGE/CARPORT AT 19 ROBERT ST MARRICHVILLE FOR S CRAWFORD	ALINEA DZINE PTY LTD 5 HOMA VALE RD 94688959 MARRICHVILLE 2073 0406 089 987

Title	Author	Drawn by	Scale
PROPOSED LANDSCAPE AND EXTERNAL FINISHES PLAN	[Name]	[Name]	1:100

# Attachment C – Section 4.6 Exception to Development Standards (FSR)



## Request to vary a development standard

Request to vary site floor space clause 4.4(2C) in the Inner West Local Environmental Plan 2022 (the LEP).<sup>1</sup>

Address: 19 Robert Street Marrickville to amends DA/2024/0155.

Date: 4/11/24

Prepared by Civic Assessments

### 1. The site.

The land to which this DA relates to is known as 19 Robert Street Marrickville and legally described as A/-/DP375920 – See site plan below.

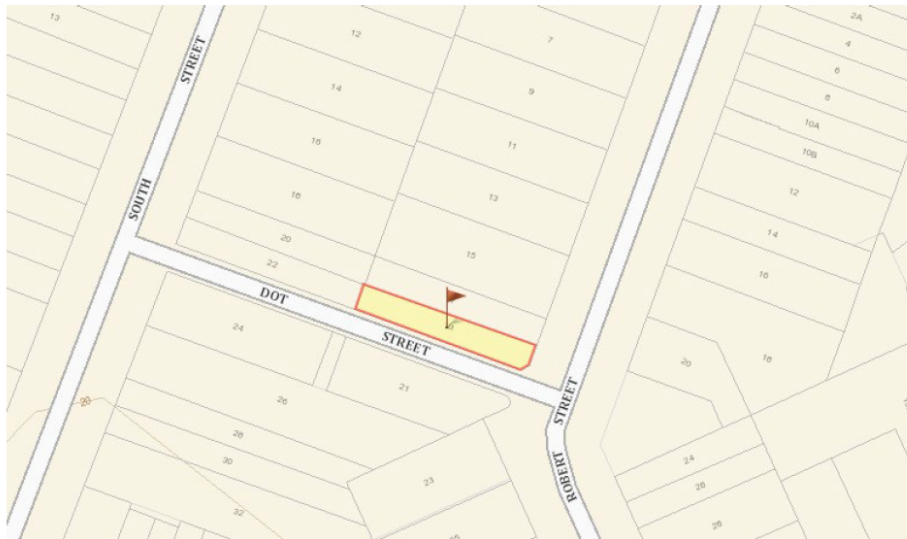


Figure 1: Existing Cadastral Map, 6maps

On the site is a dilapidated building. An old corner shop.

<sup>1</sup> This Request uses the recommended template as per the latest guidelines from the NSW Department of Planning, Housing and Infrastructure, <https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review>





See photo below.



Figure 2: 19 Roberts Street Marrickville, site visit 22/09/2023

This submission amends DA/2024/0155.



**2. The proposed development.**

This Clause 4.6 accompanies an amended DA in respect to DA/2024/0155 lodged on 5/03/2024 that is undetermined.

The amended DA is partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear

The proposal provides for dwelling house and secondary dwelling with a gross floor area (GFA) of 230.50 m<sup>2</sup>.

The amended DA is submitted under the provisions of the LEP.

Changes to the DA as lodged:

- The ground floor commercial premises to the main building has been deleted and this building is now proposed to be a dwelling house.
- The new structure to Dot Street (the laneway structure) has been modified whereby one car space has been removed and the residential component remodelled and characterised as a secondary dwelling. A smaller first floor bedroom area and ground floor living space is provided.
- A hardstand car space and new vehicular crossing is provided behind the ground floor space to the main building.
- Reorganisation of the ground floor courtyard spaces and amenities.

The amended development provides for the below GFA by land use.

Site Area	227.6 m <sup>2</sup>
FSR at 0.9	204.84 m <sup>2</sup>
Dwelling House/Principal	190 m <sup>2</sup>
Secondary Dwelling	40.5 m <sup>2</sup>
Proposed	230.50 m <sup>2</sup>
FSR	1.01 m <sup>2</sup>
Diff	25.66 m <sup>2</sup>
% over	12.53%

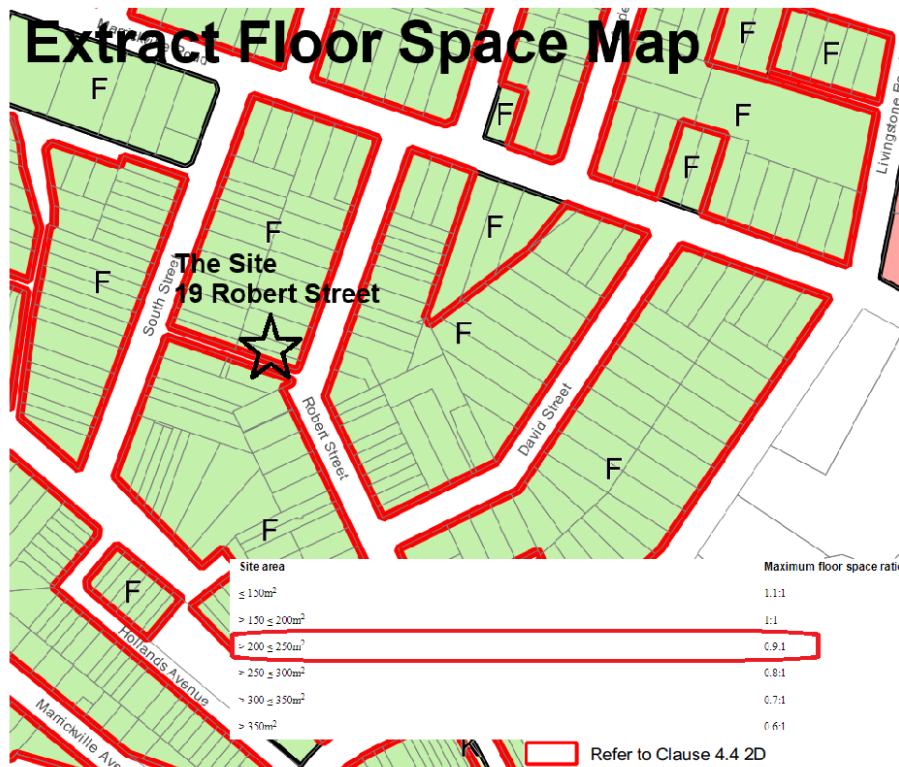




**3. Planning instrument, development standard and proposed variation**

The standard to vary is clause 4.4(2C) of the LEP that stipulates a 0.9:1 FSR control based on site area.

An extract from the floor space control map and relevant local provision is provided below.



**Figure 3: Floor Space Map, The LEP**

*Clause 4.6 Request Floor Space | Page | 4*



The site's current zoning is R2 and an extract from the LEP zone map is provided below.

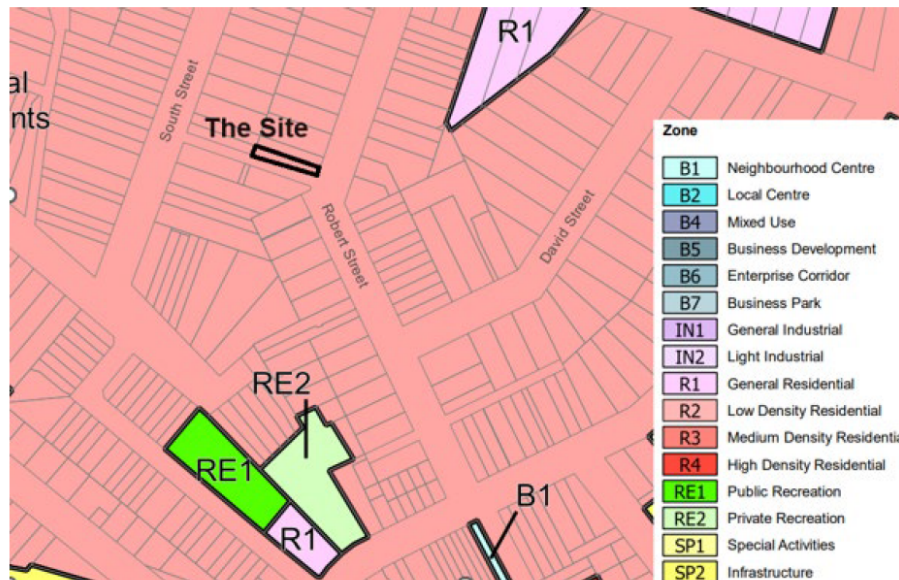


Figure 4: Zoning, The LEP

**4. The development standard to be varied.**

As discussed, pursuant to Clause 4.4(2C) floor space of the LEP the FSR control for the site is 0.9:1, the amended DA provides for a FSR of 0.99:1 or GFA above the control of 25.66 m<sup>2</sup> or a variation of 12.53%.

**5. The type of development standard.**

The Clause 4.4 (2C) floor space standard of the LEP sets a numerical maximum FSR of 0.9:1 for the site and this type of development. See Figure 3: Floor Space Map, The LEP. The numeric value of the development standard in the environmental planning instrument is summarised below.

The Site Area is	227.6 m <sup>2</sup>
FSR Control Cl 4.4(d) 2(2C)	0.9:1
FSR at 0.9:1	204.84 m <sup>2</sup>
Proposed GFA	230.5 m <sup>2</sup> or a FSR of 1.01:1
Variation	25.66 m <sup>2</sup> or 12.53% above the control.



6. Visual representation of the proposed variation (if relevant).  
 The amended DA elevations and floor plans are provided

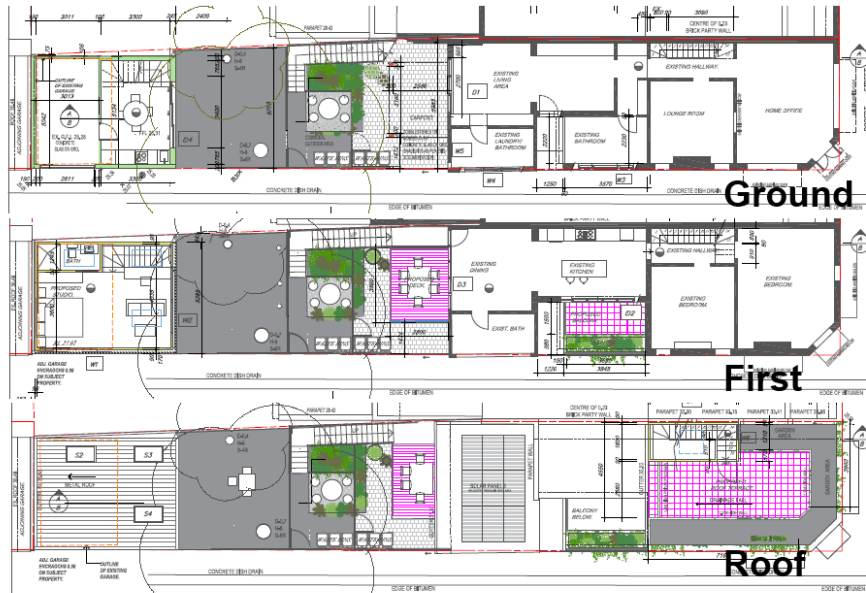


Figure 5: Amended DA floor plans, ALINEA DZINE Pty Ltd dated 24/10/2024



Figure 6: Amended DA elevations, ALINEA DZINE Pty Ltd dated 24/10/2024

Clause 4.6 Request Floor Space | Page | 6



## 7. Justification for the proposed variation

### How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The objectives of the floor space control (Clause 4.4) are:

- (1) The objectives of this clause are as follows—*
- (a) to establish a maximum floor space ratio to enable appropriate development density,*
  - (b) to ensure development density reflects its locality,*
  - (c) to provide an appropriate transition between development of different densities,*
  - (d) to minimise adverse impacts on local amenity,*
  - (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain."*

The proposed development is consistent with each of the relevant objectives.

Regarding objective (a), the proposal provides for a main dwelling and a secondary dwelling. These are all permissible uses envisaged in the R2 zone. Limited new work is proposed, and all new work is under the building height control. The proposal provides for a decrease in density on the site as the 1964 Consent provide for 2 dwellings and a shop (3 entities), the proposal now provides for a main dwelling with a secondary dwelling (2 entities on title). Through the process of this DA an appropriate density of development is provided.

Notably the amended DA regularises the form of development on the site in accordance with the land use requirements of its R2 zoning.

The proposal complies with objective (a).

Regarding objective (b), the proposed additions are compliant with the maximum building height control for the site of 9.5m and DCP setback and wall height provisions. There is an appropriate correlation between the floor space sought and the building height control and form of the addition to Dot Street. The amended proposal also provides for a low-density use on the site (a dwelling and a secondary dwelling) that regularises the land use of the site in accordance with its R2 Low Density zone objectives.

The proposal complies with objective (b).

Regarding objective (c), the additions and floor space that creates the non-compliance is 25.66 m<sup>2</sup> or approximately the first-floor bedroom above the garage to Dot Street. This addition is a low 5.47m high, adjoins similar lane structures and is for a desirable housing purpose. The new work creates no transition impacts and is appropriate to its context.

The additions create a development that is compatible with the bulk and scale of adjoining 2-storey houses and fully compliant with the building height control. The proposal is consistent with the desired future character of the locality and compliant with objective (c).

**Clause 4.6 Request Floor Space | Page | 7**



Regarding objective (d), the works and new structure to Dot Street are low and modest additions in appropriate locations.

New shadows fall over existing roofs and to the street and side fencing.

The site and neighbouring sites have good environmental amenity, due to their inner-city locale. The additional floor space, the subject of this variation, does not adversely affect the amenity of the locality. The proposal complies with objective (d).

Regarding objective (e), the amended DA provides for retention of the 2 existing Syzygium trees within the landscape plan as requested by IWC. Appropriate tree protection and new plantings are proposed. The proposal complies with objective (e).

**Are the underlying objectives or purpose of the development standard not relevant to the development?**

The amended proposal is considered consistent with the objectives of the floor space control.

**Would the underlying objective or purpose be defeated or thwarted if compliance was required?**

Yes, as the amended DA provides for a development on the site that is in accordance with its zoning and upgrades a dilapidated building in need of renewal.

The additional floor space is approximately the first floor of the secondary dwelling (25 m<sup>2</sup>). The impact of this floor space is both minor in terms of external impacts and desirable in terms of providing for housing diversity on the site.

**Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?**

We do not rely on this point.

***Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?***

The amended DA in effect regularises site with a non-conforming land to a form that is consistent with the core purpose of the site's R2 zoning. The variation to the standard sought is in part to better align the site with its zoning.

These uses are all permissible and in low-density building forms that reflect the purpose of the R2 zoning.

**8. Are there sufficient environmental planning grounds to justify contravening the development standard?**

There are sufficient environmental planning grounds to justify contravening the floor space control because the proposal is consistent with and satisfies the objectives of the FSR standard, the objectives of the zone (discussed below) and the circumstances of the site.

Those circumstances are that the existing building is a dilapidated older building that has no current legal use rights as advised by the IWC. The site now needs a development consent for building renovation and on-going use.



The site is well located to rail and general infrastructure and on a south facing corner. The shadows of the new addition fall on Dot Street and have negligible impact. The site has good urban qualities that allows for the type of low scale development proposed.

The variation to the floor space control is 25 m<sup>2</sup> or a variation of 12.53% which allows for the renovation of the existing building and the new laneway building. The additional floor space sought approximates the first floor to the secondary dwelling to Dot Street. This addition is low impact and provides for housing.

The proposal provides for land uses (a dwelling and secondary dwelling) that are permissible in the R2 zone. The new work is low scale (5.47m high at most). The amended development in effect regularises the land use in accordance with the site's R2 Low Density zone.

The existing building is built to its street boundaries and has no front yard to Robert Street. These attributes make for efficient siting of structures on the site.

The variation sought is justified on planning grounds because it is part of an overall rational development of the site and the impacts of that additional floor space are modest or positive.

The streetscape impacts of the proposal are desirable. The existing period building is retained and renovated and an appropriate laneway structure to Dot Street is provided.

The site constraints making it difficult to comply with FSR, such as retaining the existing period building.

As noted in the SEE and additional planning reporting, the proposal is compliant with other controls in the DCP and LEP. For example, the amended DA allows for the environmental up-grade of the site (BASIX), and compliant stormwater and waste storage and ancillary parking.

This report is the document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b) of Clause 4.6 (3) as required by the Regulations.

#### **9. Other relevant information relating to justifying a variation of the development standard?**

It is an underlying principle of Clause 4.6 that the development approved under this provision should be in the public interest.

The proposal is consistent with the objectives of the FSR standards as described under 4.6 3 (a) above.

The objectives of the R2 zone are as follows:

*“ Zone R2 Low Density Residential*

*1 Objectives of zone*

- To provide for the housing needs of the community within a low density residential environment.*





- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.”*

In terms of the first objective, the proposal provides for low-density residential use, in keeping with the 2-storey scale of adjoining dwellings. The works are for a housing purpose, and they remove a non-conforming land use from the site and replace it with uses consistent with the low-density nature of the zoning.

The second objective is not relevant as the business premises to the ground floor of the main building is deleted and this building is to be a dwelling house. The proposal retains a shop space that will be used for home occupation purposes with the main dwelling. The building was built and used for mixed use purposes. The proposal is not inconsistent with or does it prejudice this objective, in as much as it is relevant to the amended DA.

In terms of the third objective, the proposal seeks to renovate the existing dilapidated historic corner shop as a dwelling house and provide a new laneway structure to Dot Street with a secondary dwelling. The new residential development on the site will be upgraded to contemporary standards. The proposal provides for development that maintains the character of the surrounding area.

The proposal is consistent with this objective.

In general, the proposal is in the public interest as it allows for the existing building to be renovated and the residential accommodation on the site improved. These changes address the core purpose of the site's R2 zone and provide for a suitable land use on the site, replacing a non-conforming use with one that is permissible and consistent with the site's current zoning.



## 10. Summary of Clause 4.6 Request

The objectives of clause 4.6 in the LEP are:

*“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.”*

The proposal when reviewed against the objectives of the floor space control and the R2 zoning is an appropriate development and meets the objectives of Clause 4.6. Indeed, in this instance the Clause 4.6 allows for the regularisation of the land uses on this site in accordance with the land use policies for the R2 zone.

The additional floor space the subject of this request is the first-floor bedroom space to the proposed secondary dwelling. That addition is part of a low 5.47m high laneway structure. The building height control is 9.5m. The additional floor space has reasonable environment effects (e.g. housing provided and surveillance of the Dot Street). The additional floor space sought has planning merit.

Having regard to the above, it can be concluded that compliance with the floor space control for this site is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliances.

The proposal is also in the public interest. It is consistent with the objectives of the standard as well as the objectives of the R2 zone.

A good planning outcome is facilitated by approval of this request.





## Attachment D – Section 4.6 Exception to Development Standards (Lot Size)



### Request to vary a development standard

Request to vary clause 53(2) (b) Site Area of State Environmental Planning Policy (Housing) 2021 (the Housing SEPP).<sup>1</sup>

Address: 19 Robert Street Marrickville to amend DA/2024/0155.

Date: 2/11/24

Prepared by Civic Assessments

#### 1. The site.

The land to which this DA relates to is known as 19 Robert Street Marrickville and legally described as Lot A/-/DP375920 – See site plan below.

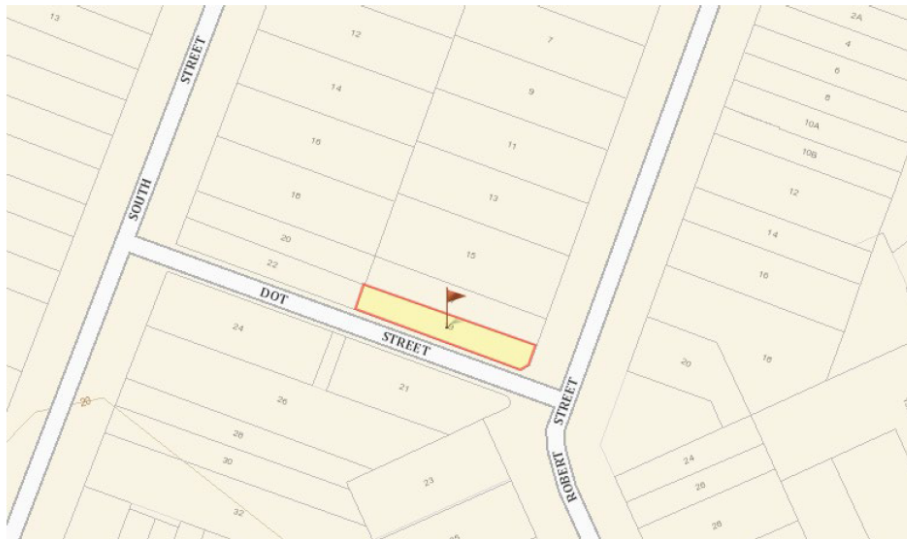


Figure 1: Existing Cadastral Map, 6maps

On the site is a dilapidated building. An old corner shop.

<sup>1</sup> This Request uses the recommended template as per the latest guidelines from the NSW Department of Planning, Housing and Infrastructure, <https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review>



See photo below.



Figure 2: 19 Roberts Street Marrickville, site visit 22/09/2023

This submission amends DA/2024/0155.



**2. The proposed development.**

This Clause 4.6 accompanies an amended DA in respect to DA/2024/0155 lodged on 5/03/2024 that is undetermined.

The amended DA is partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear

The proposal provides for a dwelling house and secondary dwelling with a gross floor area (GFA) of 204.84 m<sup>2</sup>.

The amended DA is submitted under the provisions of the LEP.

Changes to the DA as lodged:

- The ground floor commercial premises to the main building has been deleted and this building is now proposed to be a dwelling house.
- The new structure to Dot Street (the laneway structure) has been modified whereby one car space has been removed and the residential component remodelled and characterised as a secondary dwelling. A smaller first floor bedroom area and ground floor living space is provided.
- A hardstand car space and new vehicular crossing is provided behind the ground floor to the main building.
- Reorganisation of the ground floor courtyard spaces and amenities.

The amended development provides for the following development metrics.

Site Area	227.6 m <sup>2</sup>
FSR at 0.9	204.84 m <sup>2</sup>
Dwelling House/Principal	190 m <sup>2</sup>
Secondary Dwelling	40.5 m <sup>2</sup>
Proposed	230.5 m <sup>2</sup>
Difference 450 m <sup>2</sup>	222.4 m <sup>2</sup> or a variation of 49%



### 3. Planning instrument, development standard and proposed variation

The standard to vary is clause 53(2) (a) of the Housing SEPP that stipulates a minimum site area requirement for secondary dwellings of 450 m<sup>2</sup>. See provision below (our **emphasis**).

53 *Non-discretionary development standards—the Act, s 4.15*

- (1) *The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

*Note—*

*See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.*

- (2) *The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—*

- (a) **for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,**  
(b) *the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

Section 4.15 Evaluation (3) (b) of the Act applies to this proposal, in as much as, this consideration states, “a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard”.



The site's current zoning is R2 and an extract from the LEP zone map is provided below.

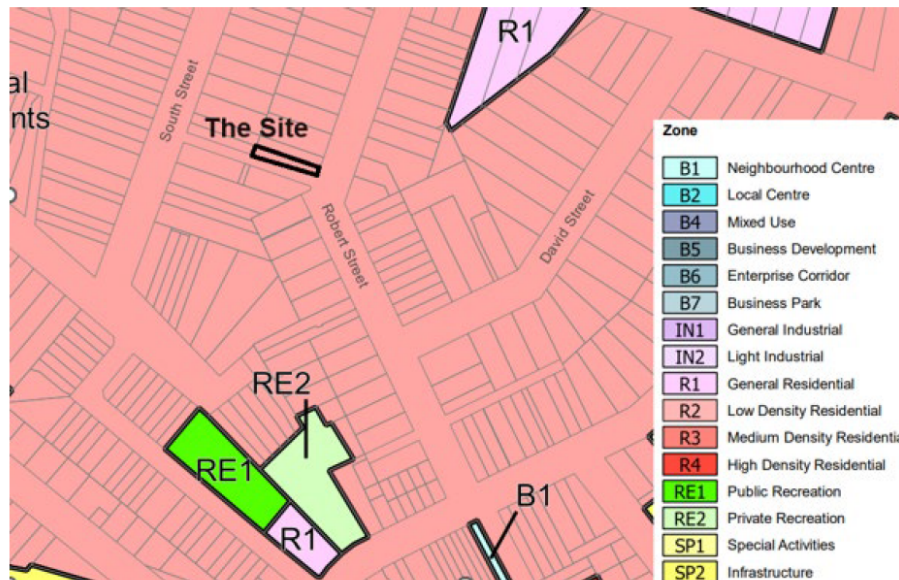


Figure 3: Zoning, The LEP

**4. The development standard to be varied.**

As discussed, pursuant to clause 53(2) (a) of the Housing SEPP that stipulates a minimum site area requirement for secondary dwellings of 450 m<sup>2</sup>, the amended DA seeks a 222.4 m<sup>2</sup> or 49% variation to this requirement, given a site area of 227.6 m<sup>2</sup>.

**5. The type of development standard.**

The Clause 53(2) (a) sets a minimum 450m<sup>2</sup> non-discretionary development standard for a secondary dwelling.

The numeric value of the development standard in the environmental planning instrument is summarised below.

Site Area	227.6 m <sup>2</sup>
Control Cl 53(2) (a) Site Area Min.	450 m <sup>2</sup>
Variation	222.4 m <sup>2</sup>
%	Under by 49%



6. Visual representation of the proposed variation (if relevant)  
 The amended DA elevations and floor plans are provided below and overleaf.

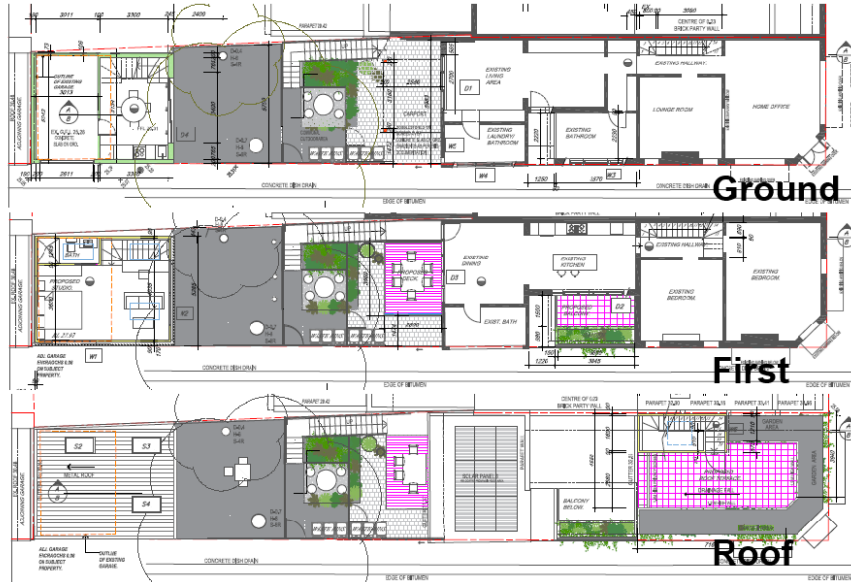


Figure 4: Amended DA floor plans, ALINEA DZINE Pty Ltd dated 24/10/2024.



Figure 5: Amended DA elevations, ALINEA DZINE Pty Ltd dated 24/10/2024.





## 7. Justification for the proposed variation

### How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The object of the site area control is:

*"53 Non-discretionary development standards—the Act, s 4.15*

*(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

This is a non-discretionary standard that is to facilitate development, that is if the development complies with the site area requirement it cannot be refused on this basis. The standard is meant to assist not hinder secondary dwelling development.

Support of the proposed secondary dwelling proposal is consistent with the object of this control.

The objective of the control is to prevent the consent authority, in this case the IWC, from imposing more onerous standards. In this case, the proposal is lodged under the LEP standards for secondary dwellings, where there are no such minimum site area requirements. The site is appropriate for the proposed secondary dwelling under the local planning controls.

The site area standard is a state-wide control, and it is reasonable to presume its objectives are achieved where locally and contextually appropriate secondary dwellings are proposed. In this case, the site is within a well-located inner-city area where there is an established small lot subdivision. Most of the adjoining lots are under 450 m<sup>2</sup>. The locality is well located to transport and services, this is land that can carry some residential density, more so than a more remote suburban site.

The objective of the site area control is to promote and assist secondary dwelling development. It would be an unconstructive interpretation of this requirement to suggest it sought to limit secondary dwellings on well-located smaller sites. Our view is that the objective of the 450 m<sup>2</sup> site area control is to allow approval of secondary dwellings where the local control is more onerous, it is not meant to be a more onerous control than the local provision.

The site area is consistent with the objective of the control as it allows for a locally appropriate secondary dwelling on the site. The purpose of the objective is achieved, that is an 'onerous standard' to a locally appropriate secondary dwelling is varied. This objective seeks to facilitate secondary dwelling development, not hinder it.

### Are the underlying objectives or purpose of the development standard not relevant to the development?

The amended proposal is considered consistent with the object of the control.

### Would the underlying objective or purpose be defeated or thwarted if compliance was required?

*Clause 4.6 Request SEPP Site Area | Page | 7*



Yes, as the amended DA provides for a development on the site that is in accordance with its zoning and upgrades a dilapidated building in need of renewal.

The site is a standard site area for its inner-city locale and has a secondary street suitable for siting of the detached secondary dwelling.

The purpose of the control is to protect secondary dwellings from more onerous local controls. In this case the protective standard becomes the 'onerous control' as the proposal complies with the relevant local controls and is contextually appropriate.

In this instance, varying the Housing SEPP site area controls achieves its purpose – promoting housing.

**Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?**

We do not rely on this point.

**Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?**

The amended DA provides for a main and secondary dwelling. These are appropriate land use to the site's R2 zoning and the site. The site is an existing small lot and already developed with a nil setback style, old shop building to the corner of Dot and Roberts Streets.

The land uses and form of development is appropriate to its zoning and context, the irregularity here is imposing an arbitrary Statewide site area control on an historic small lot subdivision that is demonstrably capable of secondary dwelling development.

The land uses proposed are permissible R2 low-density building forms and reflect the purpose of the R2 zoning.

**8. Are there sufficient environmental planning grounds to justify contravening the development standard?**

There are sufficient environmental planning grounds to justify contravening the site area minimum of 450 m<sup>2</sup> in this case.

The amended DA is lodged under the LEP where there no minimum site area for a secondary dwelling.

The secondary dwelling is located within a laneway structure to Dot Street. The structure has reasonable impacts and promotes housing diversity on the site. The site is suitable for the form of development proposed.

The 450 m<sup>2</sup> minimum site area requirement is a State-wide standard and unreasonable in this inner-city locality where most lots are well under 450 m<sup>2</sup>. There are demonstrated examples of secondary dwellings on such smaller lots being approved in the IWC area.<sup>2</sup> A secondary dwelling above a garage to a lane is a common form of housing in the inner-city

<sup>2</sup> See DA/2022/0442 for example and recent clause 4.6 approved.  
<https://www.innerwest.nsw.gov.au/about/reports-and-registers/planning-decisions>





Sydney and allows for retention of the period building. It is a gentle and respectful way to build additional housing in an established area.

The site is in an accessible location (700m to a future Metro Rail Station) – see mapping to Marrickville railway station below.

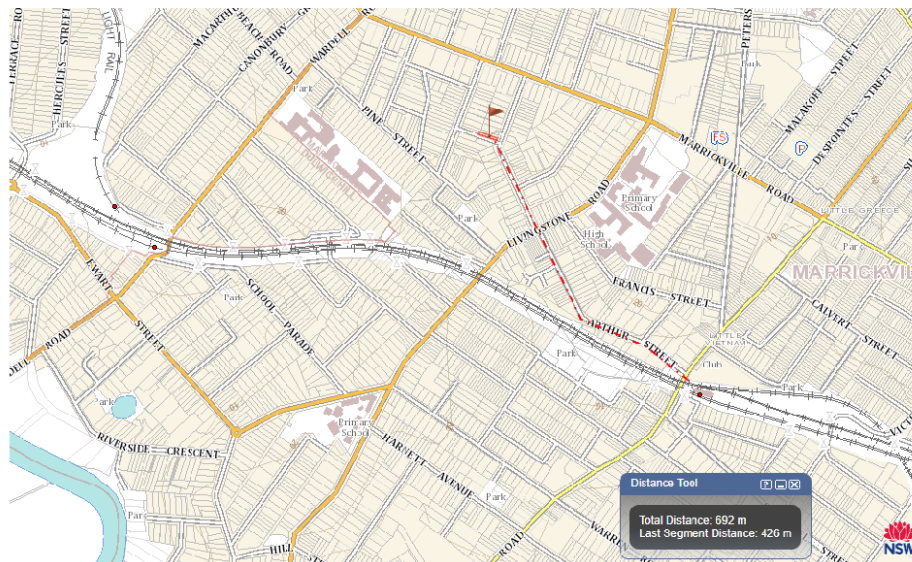


Figure 6: Accessibility Mapping, 6maps

It makes little planning sense to restrict development on such a well-located site via a State based non-discretionary planning control that is focussed on facilitation of development on more suburban sites. This control has no local equivalent and is not consider appropriate to this location or the form of the amended DA lodged.

The standard is a non-discretionary standard within the Housing SEPP. The amended DA does not rely on this provision for approval as the amended DA is made under the LEP secondary dwelling provisions.

**9. Other relevant information relating to justifying a variation of the development standard?**

It is an underlying principle of Clause 4.6 that the development approved under this provision should be in the public interest.

The proposal is consistent with the object of the site area requirement as described previously.

The objectives of the R2 zone are as follows:

- “Zone R2 Low Density Residential
- 1 Objectives of zone



- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.”*

In terms of the first objective, the proposal provides for low-density residential use, in keeping with the 2-storey scale of adjoining dwellings. The works are for a housing purpose consistent with the low-density nature of the zoning.

In terms of the second objective, a business premises has been deleted from the ground floor of the main building and the development is residential and this objective is not relevant. The old shop space may be used for a home occupation purpose and the historic shop space is maintained. The proposal is not inconsistent with this objective.

In terms of the third objective, the proposal seeks to renovate the existing dilapidated corner shop and provide a new laneway structure to Dot Street. The new residential development on the site will be upgraded to contemporary standards. The proposal maintains the character of the surrounding area and provides renewal of the housing on the site.

The proposal is consistent with this objective.

In general, the proposal is in the public interest as it allows for the existing building to be renovated and the residential accommodation on the site improved. These changes address the core purpose of the site's R2 zone.



## 10. Summary of Clause 4.6 Request

The objectives of clause 4.6 in the LEP are:

*“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.”*

The proposal when reviewed against the objective of the site area control and the R2 zoning is an appropriate development and meets the objectives of Clause 4.6. Indeed, in this instance the Clause 4.6 allows for the regularisation of the land uses on this site in accordance with the land use policies for the R2 zone.

The site is also in an inner-city locality close to rail and other infrastructure and site capacity is not so defined by size but proximity and historic land use in this case.

Having regard to the above, it can be concluded that compliance with the site area minimum control of 450 m<sup>2</sup> in the Housing SEPP is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance.

The application of the 450 m<sup>2</sup> site area control in this instance, would be inconsistent with the objective of the provision. This is a non-discretionary standard meant to protect secondary dwellings from more onerous local controls and if applied to this context it becomes the more onerous control, as there is no local site area requirement.

A good planning outcome is facilitated by approval of this request.



## Attachment E – Section 4.6 Exception to Development Standards (Parking)



### Request to vary a development standard

Request to vary clause 53(2) (b) Car Parking of State Environmental Planning Policy (Housing) 2021 (the Housing SEPP).<sup>1</sup>

Address: 19 Robert Street Marrickville to amends DA/2024/0155.

Date: 2/11/24

Prepared by Civic Assessments

#### 1. The site.

The land to which this DA relates to is known as 19 Robert Street Marrickville and legally described as A/-/DP375920 – See site plan below.

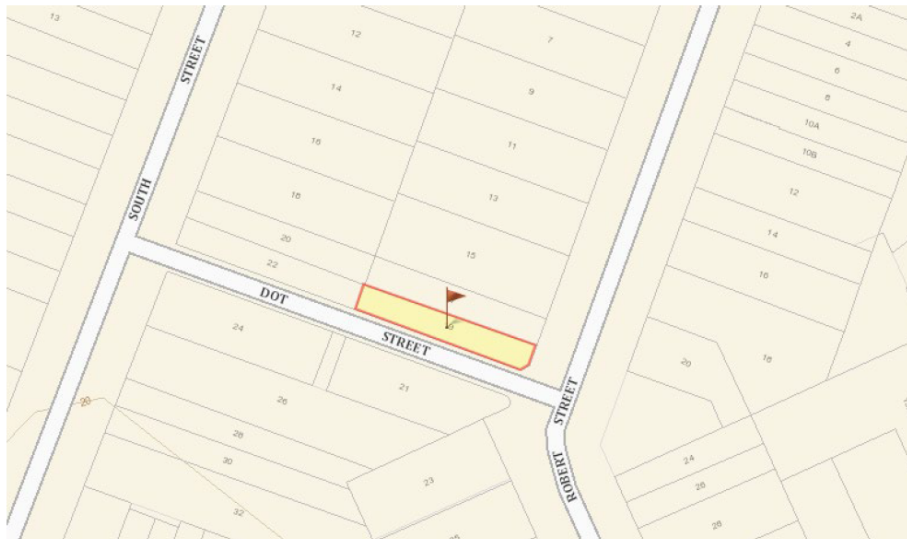


Figure 1: Existing Cadastral Map, 6maps

On the site is a dilapidated building. An old corner shop.

<sup>1</sup> This Request uses the recommended template as per the latest guidelines from the NSW Department of Planning, Housing and Infrastructure, <https://www.planning.nsw.gov.au/policy-and-legislation/under-review-and-new-policy-and-legislation/variations-review>



See photo below.



Figure 2: 19 Roberts Street Marrickville, site visit 22/09/2023

This submission amends DA/2024/0155.



**2. The proposed development.**

This Clause 4.6 accompanies an amended DA in respect to DA/2024/0155 lodged on 5/03/2024 that is undetermined.

The amended DA is partial demolition of existing structures, alterations and additions to the existing building including a new rooftop terrace above the principal dwelling and addition of a secondary dwelling and parking at the rear

The proposal provides for a dwelling house and secondary dwelling with a gross floor area (GFA) of 204.84 m<sup>2</sup>.

The amended DA is submitted under the provisions of the LEP.

Changes to the DA as lodged:

- The ground floor commercial premises to the main building has been deleted and this building is now proposed to be a dwelling house.
- The new structure to Dot Street (the laneway structure) has been modified whereby one car space has been removed and the residential component remodelled and characterised as a secondary dwelling. A smaller first floor bedroom area and ground floor living space is provided.
- A hardstand car space and new vehicular crossing is provided behind the ground floor space to the main building.
- Reorganisation of the ground floor courtyard spaces and amenities.
- Two (2) on-site car spaces provided.

The amended development provides for the below development metrics.

Site Area	227.6 m <sup>2</sup>
FSR at 0.9	204.84 m <sup>2</sup>
Dwelling House/Principal	190 m <sup>2</sup>
Secondary Dwelling	40.5 m <sup>2</sup>
Proposed	230.5 m <sup>2</sup>
FSR	1.01 m <sup>2</sup>
Car Parking (existing 1 space)	2 spaces





### 3. Planning instrument, development standard and proposed variation

The standard to be varied is clause 53(2) (b) of the Housing SEPP that stipulates a no increase in site parking requirement for secondary dwellings. See provision below (our emphasis).

53 *Non-discretionary development standards—the Act, s 4.15*

- (1) *The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

*Note—*

*See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.*

- (2) *The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—*
- (a) *for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,*
  - (b) ***the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.***

Section 4.15 Evaluation (3) (b) of the Act applies to this proposal, in as much as, this consideration states, “a provision of an environmental planning instrument that allows flexibility in the application of a development standard **may** be applied to the non-discretionary development standard”.



The site's current zoning is R2 and an extract from the LEP zone map is provided below.

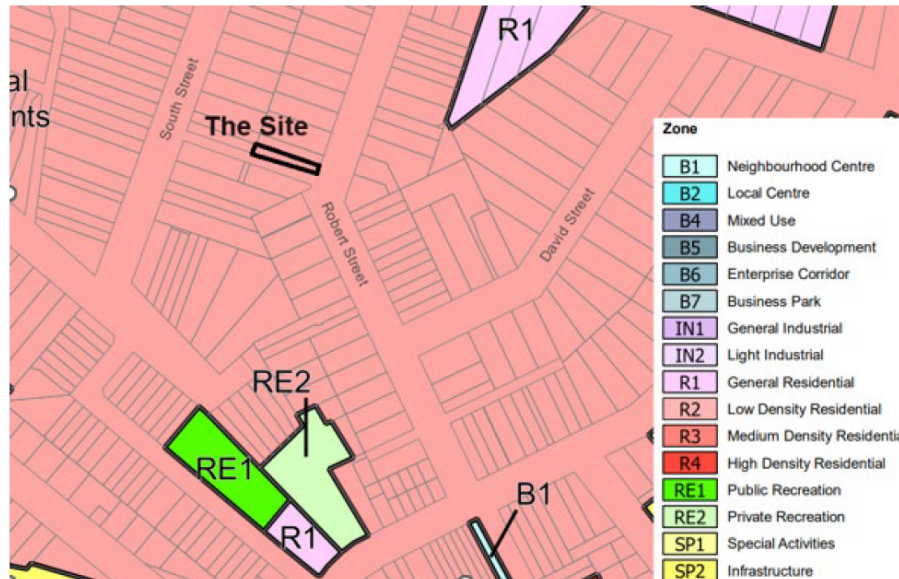


Figure 3: Zoning, The LEP

**4. The development standard to be varied.**

Pursuant to clause 53(2) (b) of the Housing SEPP, there is one (1) on-site parking space existing on the site and two (2) are proposed.

The existing retained space off Dot Street is allocated to the dwelling house and secondary dwelling.

The 2nd space is a 5.9m long and 2.5m wide. This space is allocated to the dwelling house.

Both car spaces are functional on parking and traffic grounds (see Amended driveway details provided with the amended DA materials).

**5. The type of development standard.**

The Clause 53(2) (b) requires no increase in on-site parking when a secondary dwelling is proposed. This is a non-discretionary development standard for a secondary dwelling.





The numeric value of the development standard in the environmental planning instrument is summarised below.

Existing Standard	1 space
Control Cl 53(2) (b) Site Area Min.	No increase
Variation	1 space
%	100%



**6. Visual representation of the proposed variation (if relevant)**

The amended DA elevations and floor plans are provided

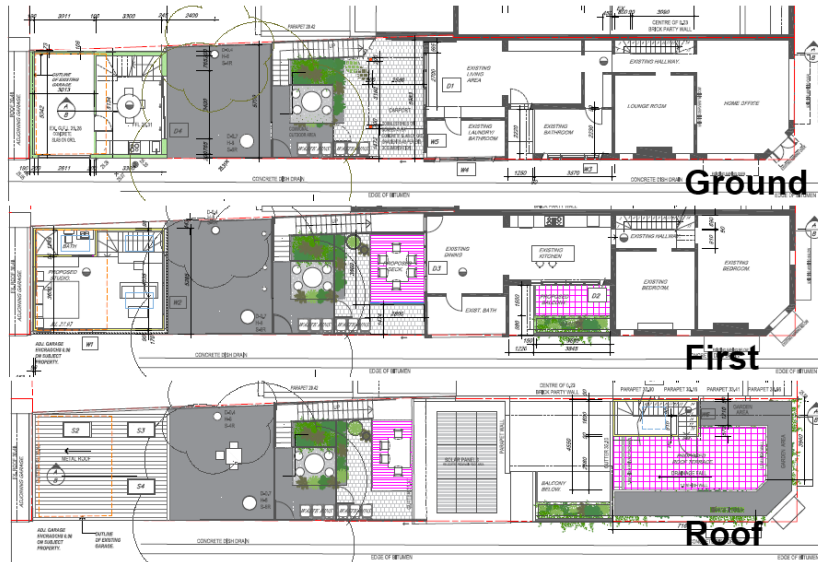


Figure 4: Amended DA floor plans, ALINEA DZINE Pty Ltd dated 24/10/2024.



Figure 5: Amended DA elevations, ALINEA DZINE Pty Ltd dated 24/10/2024.



## 7. Justification for the proposed variation

### How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The object of the parking control is:

*"53 Non-discretionary development standards—the Act, s 4.15*

*(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

This is a non-discretionary standard meant to facilitate development, that is if the development complies with the parking requirement it cannot be refused on this basis. The standard is meant to assist not hinder secondary dwelling development.

Support of the proposed secondary dwelling proposal is consistent with the object of this control.

The objective of the control is to prevent the consent authority, in this case the IWC, from imposing more onerous standards. In this case, the proposal is lodged under the LEP standards for secondary dwellings, where there are no such parking requirements, and the proposed secondary dwelling would be considered appropriate.

The car parking standard is a state-wide control, and it is reasonable to presume its objectives are achieved where locally and contextually appropriate secondary dwellings are proposed. In this case, the site has a secondary frontage to Dot Street that is well suited to the provision of off-street parking.

The second car space is the new space to the rear of the main dwelling. This is a fully Australian Standard compliant space (the existing space is a smaller space). The new space is capable of being used for loading and, when a car is removed, as open space.

The parking proposed is consistent with the object of the control as it allows for a locally appropriate secondary dwelling on the site.

### Are the underlying objectives or purpose of the development standard not relevant to the development?

The amended proposal is considered consistent with the object of the control.

### Would the underlying objective or purpose be defeated or thwarted if compliance was required?

Yes, as the amended DA provides for a development on the site that is in accordance with its zoning and upgrades a dilapidated building in need of renewal.

The site is suited to providing off-street parking, as it has a secondary frontage to Dot Street which functions as a service lane. The location of the parking proposed does not impact kerbside parking supply or the look of the building, as car space off Robert Street would.

The additional car space is to be allocated to the dwelling house and of a compliant size. It can have a dual parking and loading and open space function. This is desirable in terms of



promoting a viable and flexible reuse of the old shop and consistent with IWC land use and parking policies.

The new space is also under the first-floor deck to the dwelling and there are no impacts on loss of landscape or deep soil.

Each dwelling has DCP compliant and ample private open space.

The additional car space has low impact and desirable attributes in terms of serving the proposed development.

The Dot Street frontage is suited to providing parking.

Compliance with this control would provide for less suitable ancillary services to a new residential development, where there is no other planning non-compliance or merit issue suggesting a second parking space is not suitable. In this case the car parking limit is arbitrary and does not serve a useful planning purpose

**Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?**

We do not rely on this point.

**Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?**

The R2 zoning allows for a dwelling and secondary dwelling.

These uses are all permissible and provided in low-density building forms that reflect the purpose of the R2 zoning. Current local controls also require parking for such land uses.

The parking proposed is appropriate for the development proposed, in as much as each dwelling is allocated a parking space.

The approval of this request will allow for a non-conforming land use to be removed from the site and replaced with a permissible form of development consistent with the zoning.

**8. Are there sufficient environmental planning grounds to justify contravening the development standard?**

There are sufficient environmental planning grounds to justify contravening the parking restriction in this case.

Under the local parking provisions in Marrickville Development Control Plan 2011 (the DCP), the site is in Parking Area 3 and would require the following parking provision.

***The Dwelling House and Secondary Dwelling***

1 per dwelling house or

1 per principal dwelling and secondary dwelling combined – in this case 1 space required.

**Up to 1 space required.**

The parking proposed reflects appropriate provision under the DCP. The DCP requirements are provision based and do not limit on-site car parking. 2 spaces in this instance is compliant parking provision.



Both car spaces are manoeuvrable and suitable in terms of traffic planning (see Amended driveway details provided).

The secondary dwelling is located within a laneway structure to Dot Street. The structure has reasonable impacts and promotes housing diversity on the site.

The parking proposed is suitable for the form of development proposed as it is off Dot Street and necessary to service the land uses proposed.

The standard is a non-discretionary standard within the Housing SEPP. The amended DA does not rely on this provision for approval as the DA is made under the LEP secondary dwelling provisions.

### **9. Other relevant information relating to justifying a variation of the development standard?**

It is an underlying principle of Clause 4.6 that the development approved under this provision should be in the public interest.

The proposal is consistent with the objective of the parking standards as described above.

The objectives of the R2 zone are as follows:

*“ Zone R2 Low Density Residential*

*1 Objectives of zone*

- To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To provide residential development that maintains the character of built and natural features in the surrounding area.”*

In terms of the first objective, the proposal provides for low-density residential use, in keeping with the 2-storey scale of adjoining dwellings. The works are in part for a housing purpose consistent with the low-density nature of the zoning.

The second objective is not relevant as the business premises to the ground floor of the main building is deleted and this building is to be a dwelling house. The old shop space will be used for home occupation purposes. The proposal provides for a ground level space that could have an expanded local commercial use. The provision of the second car space is suitable for use by the proposed dwelling or within a home occupation type uses which would benefit the old shop. The additional car parking provides for future uses of the ground floor. The proposal is not inconsistent with this objective or does it prejudice this objective, in as much as it is relevant to the amended DA.

In terms of the third objective, the proposal seeks to renovate the existing dilapidated corner shop and provide a new laneway structure to Dot Street. The new residential development on the site will be upgraded to contemporary standards. The proposal provides for development that maintains the character of the surrounding area with appropriate facilities.

The proposal is consistent with this objective.

*Clause 4.6 Request SEPP Car Parking | Page | 10*



In general, the proposal is in the public interest as it allows for the existing building to be renovated and the residential accommodation on the site improved. The viability and longer-term development of the site is enhanced by the provision of the second car space which is located off a secondary frontage. The additional parking does not come at the cost of existing kerbside parking or other public domain impacts and represents a next improvement in parking provision in the locality.

These changes address the core purpose of the site's R2 zone.

### 10. Summary of Clause 4.6 Request

The objectives of clause 4.6 in the LEP are:

*"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."*

The proposal when reviewed against the object of the Housing SEPP parking control and the R2 zoning is an appropriate development and meets the objectives of Clause 4.6. Indeed, in this instance the Clause 4.6 allows for the regularisation of the land uses on this site in accordance with the land use policies for the R2 zone.

There is a net increase in 1 space to 2 on-site parking spaces.

The smaller existing space is allocated to the secondary dwelling and the larger fully compliant space to the dwelling house. This is compliant with current DCP provision requirements.

The car spaces are located off Dot Street that is in effect a laneway. There is no impact on kerbside parking because of the crossings proposed, there is a net improvement in local parking supply by 1 space. The development should have no real impact on local kerbside parking, and this is a positive impact because of the non-compliance with the Housing SEPP parking control.

Having regard to the above, it can be concluded that compliance with the car parking control for this site is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance.

The proposal is also in the public interest. It is consistent with the objectives of the standard as well as the objectives of the R2 zone.

A good planning outcome is facilitated by approval of this request.

