





 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2023/0994			
Address	4/151-153 Edgeware Road ENMORE			
Proposal	Alterations to existing terrace including attic conversation and carport roof alteration.			
Date of Lodgement	21 November 2023			
Applicant	Sago Design			
Owner	Mr Panu MN Nevalainen Catherine Lee Mrs Pei L Lee			
Number of Submissions	Nil			
Value of works	\$300,000.00			
Reason for determination at Planning Panel	FSR Variation exceeds 10%			
Main Issues	<ul style="list-style-type: none"> Section 4.4 – FSR Variation Section 5.10 – Heritage Conservation Part 2.7 – Solar Access and Overshadowing 			
Recommendation	Approved with Conditions			
Attachment A	Recommended Conditions of Consent			
Attachment B	Plans of Proposed Development			
Attachment C	Section 4.6 Exception to Development Standards			
				
LOCALITY MAP				
Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations to existing terrace including attic conversion and carport roof alteration at No. 4/151-153 Edgeware Road ENMORE.

The application was notified to surrounding properties and no submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Section 4.4 – FSR Variation
- Section 5.10 – Heritage Conservation
- Part 2.7 – Solar Access and Overshadowing

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 the 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 alterations and additions to an existing two-storey attached dwelling, including the following works:

- Alterations to the front fence and gate;
- Modify existing carport roof to accommodate additional storage;
- Internal alterations to the existing ground floor fit out to accommodate additional storage;
- Reconfiguration of the existing fit-out and layout of the first floor, including:
 - Stairs leading to the attic;
 - Reconfiguration of the existing bathroom space to accommodate a new study / office space;
 - Reconfigure the two front bedrooms to accommodate a rumpus and a more functional space to bedrooms 1 and 3;
 - Addition of two new skylights to the bathrooms; and
- Convert the attic into an additional bedroom, with a proposed dormer extending from the rear roof plane

3. Site Description

The subject site is located on the western side of Edgeware Road, between Llewellyn Street and Lynch Avenue. The site consists of one (1) allotment and is rectangular shaped with a total area of area 178.3sqm.

The site has a frontage to Edgeware Road of 4.875m and a secondary frontage of 4.875m to Lynch Lane. The dwelling is one of ten (10) dwellings within an attached dwelling development that was completed under DA201100193. The site is affected by the following easements:

- A 0.05m easement for support on the south-eastern side of the terrace affecting the Lot;
- A 0.15m easement for support on the north-western side of the terrace affecting the Lot; and
- A 0.15m easement for support on the south-eastern and north-western sides of the terrace that is appurtenant to the Lot.

The site is currently and proposed continue to be used as a residential premises which contains a shed and a carport to the rear of the subject site. The adjoining properties are also residential uses and consist of similar structures to the rear of the properties.

The subject site is not listed as a heritage item; however, the property is located within the Enmore House Estate Heritage Conservation Area (HCA). The subject site is adjacent to the Llewellyn Estate HCA at the rear of the site.

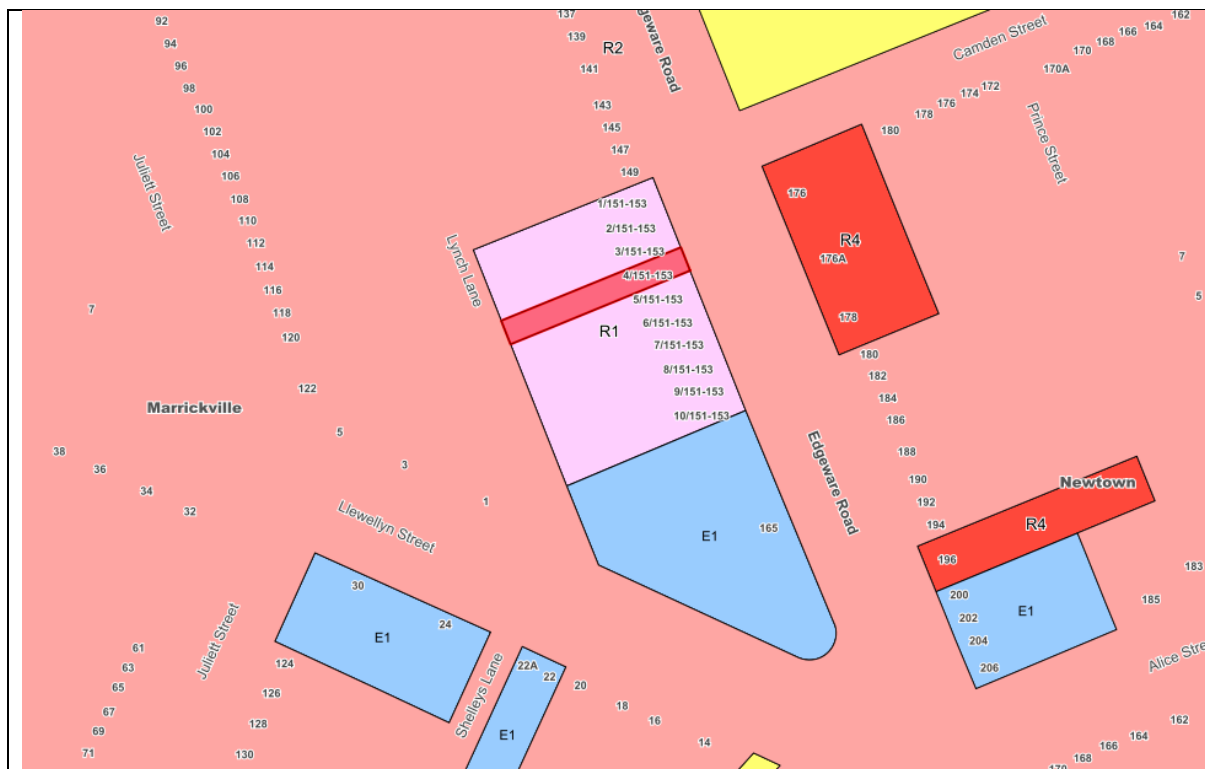


Figure 1 – Land Zoning Extract

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201100193	To demolish the existing improvements, subdivide the land into ten allotments and erect a two-storey dwelling house with carport at the rear on each allotment.	Approved, 03/08/2011
PDA/2023/0154	Partial demolition, alterations to the internal layout and addition of a second storey to the existing dwelling house and addition of a first-floor storage room above the existing garage.	Advice Issued, 04/08/2023

4(b) Application history

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

Date	Discussion / Letter / Additional Information
21/11/2023	Application lodged.
20/12/2023 to 25/01/2024	Application notified.

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)*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 4 Remediation of land**

Section 4.16 (1) of the 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 has been evidence of contamination on the site.

The applicant of the prior Development Application of the subject site (DA201100193) provided a Targeted Environmental Site Assessment and Remediation Action Plan which indicated that the contaminant on the site is due to the previous use of the site which was a petrol station with an associated convenience store and mechanical workshop. As part of DA201100193, a condition was imposed to remediate the site to ensure that the site is suitable for residential re-development. The terms of that approval which included the remediation of the land have been met.

Considering the site has been remediated prior to the residential re-development and no earthworks are proposed as part of this subject application, it is considered that the proposed development will have no environmental impact on the subject site and / or properties within the immediate vicinity of the subject site. As such, the development satisfies the relevant provisions contained under Chapter 4 – Remediation of Land under *SEPP (Resilience and Hazards) 2021*.

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

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

5(a)(iii) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3 – Height of buildings
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise

Section 1.2 – Aims of Plan

The design of the proposal, as conditioned, is considered to be of a high standard and has a satisfactory impact on the private and public domain and thus satisfies the applicable aims of the plan contained under Section 1.2 of the *IWLEP 2022*.

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 – General Residential under the *IWLEP 2022*. The *IWLEP 2022* defines the development as:

Attached dwelling means a building containing 3 or more dwellings, where—

- a) Each dwelling is attached to another dwelling by a common wall, and
- b) Each of the dwellings is on its own lot of land, and
- c) None of the dwellings is located above any part of another dwelling.

The development is permitted with consent within the land use table. The development is consistent with the relevant objectives of the R1 – General Residential zone as follows:

- The proposal provides for the housing needs of the community; and
- Subject to conditions, the proposal provides residential development that maintains the character of built and natural features in the surrounding area.

Section 2.7 – Demolition requires Development Consent

The proposal satisfies the provisions contained under Section 2.7 of the *IWLEP 2022* as follows:

- Demolition works are proposed, which are permissible with consent; and
- Standard conditions are recommended to manage impacts which may arise during demolition.

Section 4 – Principal Development Standards

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

Development Standard	Proposed	Variation	Compliance
Height of Building Maximum permissible: 9.5m	8.3m	N/A	Yes
Floor Space Ratio Maximum permissible: 0.7:1 or 124.81sqm	0.97:1 172.75sqm*	or 38.41% 47.94sqm*	or No

*Despite the 1.4m floor-to-ceiling heights to some portions of the attic floor above the existing carport, the space in question is considered to be *non-habitable* given that no openings (windows, doors, skylights, etc.) have been proposed as part of the attic. Since no openings have been proposed and majority of the space has a floor-to-ceiling height of less than 1.4m, it is considered that this space cannot be occupied for an extended period of time and as such is *non-habitable* according to the definition of a *habitable room* in the National Construction Code. Considering the above reasoning, the calculable space on the attic floor above the existing carport has not been included as part of the abovementioned Floor Space Ratio calculations.

Section 4.6 – Exceptions to Development Standards

Floor Space Ratio (FSR) Development Standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022* by 38.41% or 47.94sqm, the proposed breach above what is currently approved and constructed on the site is 9.6sqm or 7.6% beyond the standard. 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 variation sought is primarily as a result of the small allotment size and preceding history of development. The existing dwelling has a floor area of 161.15sqm, representing an FSR of 0.90:1. Further, the proposed development only seeks a modest 9.5sqm increase to the existing floor area of the site as a result of an existing attic conversion. The additional gross floor area sought will improve amenity of the dwelling for current and future residents.*
- *It is considered unreasonable to strictly enforce the floor space ratio for such small existing allotments under circumstances where no significant adverse implications to adjoining properties or the public domain will occur. It is also important to note that at the time the townhouse development was approved by Council, no FSR standard applied to the site. Council records also indicates that the approved GFA equated to an FSR of 0.99:1, though it is appreciated the inclusions in calculating GFA may have differed at the time of approval.*
- *The proposed site density as a result of the alterations and additions sought is considered reasonable given the context of the site and character of the streetscape. The additional gross floor area sought is situated behind the roof ridge of the dwelling and will not be visible from Edgeware Road or Lynch Lane.*
- *The proposed alterations and additions will be contained within the existing footprint of the dwelling, with the proposed rear and front alignment of the dwelling to remain unchanged and continue to respond to the alignment of the adjoining attached dwellings that form part of the overall townhouse development. Furthermore, no change to the existing site coverage or landscaped area will occur as a result of the proposed variation to FSR.*
- *The proposed alterations and additions respond to the style and form of the existing dwelling, ensuring a seamless transition between the existing and proposed works sought. The proposed materials and finishes sought will match the existing dwelling and subsequently remain cohesive with the character of the streetscape.*
- *It is considered that the proposed development satisfies the desired future character of the locality.*
- *.... a sliding scale FSR standard applies to the sites located on the opposite side of Edgeware Road and Lynch Lane and the majority of residential development within Edgeware Road. If the sliding scale FSR standard, which applies to surrounding sites, was adopted for the subject site, the maximum FSR standard afforded to the site would be 1:1 based on the lot area of 178.3sqm. Thus, the proposed FSR of 0.97:1 is considered appropriate for the context of the site.*

- *The proposed addition is located at the rear of the dwelling and will have limited visibility to the rear laneway. No adverse amenity impacts will be generated by the proposed variation to FSR.*
- *In view of the above, the proposal has addressed the site constraints, streetscape character, and architectural and aesthetic characteristics, and is consistent with the objectives of the development standard.*

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

It is considered the development, as conditioned, is consistent with the objectives of the R1 – General Residential Zone in accordance with Section 2.3 of the *IWLEP 2022* for the following reasons:

- *To provide for the housing needs of the community*

Comment: The proposed alterations and additions seek to accommodate additional storage space and a bedroom to cater towards the growing needs of the community (growing families, etc.).

- *To provide for the variety of housing types and densities*

Comment: The proposal seeks to maintain the **attached dwelling house** use of the subject site which is permissible with consent in the R1 – General Residential zone.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

Comment: Not applicable.

- *To provide residential development that maintains the character of the built and natural features in the surrounding area.*

Comment: Subject to the imposition of design change conditions that seek to maintain the character of Lynch Lane and the uniformity of the group of consistent dwellings along 151-153 Edgeware Road, the proposal seeks to maintain the character of the built features of the surrounding area and the Enmore House Estate HCA.

In accordance with the requirements of *Wehbe v Pittwater Council* [2007] NSWLEC 827 and 4.6(3)(a) of the *IWLEP 2022*, it is considered the applicant has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case because the development is consistent with the objectives of the Floor Space Ratio Development Standard for the following reasons:

- *To establish a maximum floor space ratio to enable appropriate development density*

Comment: A sliding scale FSR is applicable for the Lots on the eastern side of Edgeware Road, as well as the north-western Lots of the group of uniform dwellings along Lynch Lane. The maximum FSR applicable to the subject site is due to the R1 zoning which is not shared with the surrounding allotments with the sliding scale. If the sliding scale FSR was applicable to the R1 zone; hence, the subject site, the development, as proposed, would be compliant and consistent with the development density of the immediate locality. Therefore, it is considered, that the FSR proposed is of an appropriate density that is consistent with the streetscape.

- *To ensure development density reflects its locality*

Comment: As discussed above, it is considered that the development, as proposed, is of an appropriate density that reflects its locality. The additional floor area is within an attic space and the original dwelling and would not result in any additional bulk that would be perceived by the community and would remain consistent with the density of the locality.

- *To provide an appropriate transition between development of different densities*

Comment: The development allows for an appropriate transition between development of different densities as the density proposed is relatively consistent with surrounding dwellings in the immediate vicinity of the subject site. Further, the extent of additions is minor and will have minimal visual bulk and associated amenity implications on adjoining properties.

- *To minimise adverse impacts on local amenity*

Comment: As discussed throughout this report, the proposed additions to the attic floor will not result in adverse impacts on the local amenity in terms of visual bulk and scale, solar access and overshadowing and / or visual privacy implications which is a satisfactory outcome. However, the changes to the carport roof will cast shadows to No. 5/151-153 Edgeware Road's private open space; hence, impacting the local amenity of the neighbouring property. Considering that this area is not included as part of the FSR variation (as it is not calculable space), the proposal continues to align with the abovementioned objective of this Section of the *IWLEP 2022* which is a satisfactory outcome.

- *To increase the tree canopy and to protect the use and enjoyment of private properties and the public domain*

Comment: The proposal does not seek to alter the existing rear setbacks. As such, the existing private open space and the associated pervious landscaping will remain the same as existing. However, subject to the reduction in roof pitch to the carport roof form, No. 5/151-153 Edgeware Road's private open space will have increased access to sunlight during mid-winter which is a satisfactory outcome in protecting the use and enjoyment of private properties.

The proposal thereby accords with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(a) and (b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the FSR Development Standard and it is recommended the section 4.6 exception be granted.

Section 5.10 – Heritage Conservation

The subject property at No. 4/151-153 Edgeware Road, Enmore is located within the Enmore House Estate HCA (C13 in Schedule 5 of the *IWLEP 2022*). The rear of the property is adjacent to the Llewellyn Estate HCA. Unit No. 4 is within a group of modern, attached, terrace-form dwellings. The group of attached terraces appear to still be of a uniform, consistent and from an external perspective, largely unaltered condition.

As discussed further within this report under Part 8 of the MDCP 2011, the proposal mostly responds to the significance of the HCA and complies with the heritage conservation provisions within this Part. Notwithstanding, concerns were raised regarding the design of the additions in terms of ensuring compatibility along the secondary streetscape (Lynch Lane) and amongst the group of attached, terrace-form dwellings.

Council's Heritage Specialist assessed the proposal and provided the following comments:

- Considering that the subject site is part of a group of uniform attached dwellings, the changes to the front fence will impact the uniformity and consistency of the group and thus, impact the harmony of the streetscape and the HCA. As such, a condition is recommended to be imposed which seeks to delete the works to the front fence and gate.
- As demonstrated in Figures 2 and 3, the proposed carport roof form is distinct to the prevailing roof form fronting Lynch Lane. As such, in order to maintain the pattern of development and established character of the laneway, a condition is recommended to amend the carport roof form to be a symmetrical pitched roof with storage space; and



Figure 2 - Image of the carports of the attached terraces fronting Lynch Lane.



Figure 31 - Image of carports and garages fronting Lynch Lane other than the group of attached terraces.

- The dormer and carport roof will not impact the primary streetscape of the row, but will affect the uniformity of the group, the collegiate, consistent design the buildings display, and their presentation to the adjacent HCA. As such, subject to approval from the Inner West Local Planning Panel, the design of the attic and carport roof form, as conditioned, is to be adopted by the group of attached terraces if they were to ever pursue a similar Development Application.

Section 6.1 – Acid Sulphate Soils

The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any adverse impacts to the watertable.

Section 6.3 – Stormwater Management

The proposal will remain satisfactory with respect to the provisions of this Section of the *IWLEP 2022* and subject to standard conditions would not result in any significant run off to adjoining properties.

Section 6.8 – Development in Areas subject to Aircraft Noise

The site is located within the ANEF 20-25 contour. As such an acoustic report was submitted as part of this application. The proposal is capable of satisfying this section as follows:

- A condition has been included in the development consent to ensure that 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 *IWLEP 2022*.

5(b) Development Control Plans

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

MDCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	No – see discussion
Part 2.11 – Fencing	Yes, as conditioned – see discussion
Part 2.18 – Landscaping and Open Space	Acceptable, on merit – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes – See <i>Section 5(a)(i)</i> of this report for details.
Part 2.25 – Stormwater Management	Yes
Part 4.1 – Low Density Residential Development	Yes – see discussion
Part 8 – Heritage	Yes, as conditioned – see discussion
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

Part 2.7 – Solar Access and Overshadowing

The submitted shadow diagrams indicate that the adjoining property – No. 5/151-153 Edgeware Road, currently receives less than 50% solar access to their private open space from 9am to 3pm on June 21 and is further reduced as a result of this proposal. The shadow diagrams submitted with the application demonstrate that No. 5/151-153 Edgeware Road's private open space is vulnerable to additional overshadowing at 1pm during the winter solstice.

Further, the addition of the dormer to the existing attic level will result in additional overshadowing to a portion of No. 5/151-153 Edgeware Road's skylight and solar panels. The skylight and solar panels in question will still maintain a minimum of 4 hours solar access to 50% of the surface area which is compliant with both Control 2 and Control 7 of Part 2.7 of the MDCP 2011.

Where a development proposal results in a decrease in sunlight available on 21 June resulting in less than two hours of solar access for the subject site and adjoining property, the proposal may be considered on its merit with regard to the criteria of points a to d in Control 2 contained in Part 2.7 of MDCP 2011. The planning principle regarding access to sunlight as developed in the case law *Benevolent Society v Waverley Council* [2010] NSWLEC 1082 is also used as a tool to interpret the following control.

C2(ii) of Part 2.7.3 of MDCP 2011 states:

If the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:

a. The development potential of the site;

The development potential of the site prescribed by the development standards under the *IWLEP 2022* is a maximum 9.5 metre height limit and 0.7:1 FSR. In addition, the subject site is zoned R1 General Residential under *IWLEP 2022*, which permits mainly low-density residential development.

The following is noted with respect to this matter:

- As discussed earlier in this report, the proposal readily complies with the Height of Building Development Standard but varies the FSR Development Standard. The shadows in question are not a result of the FSR variation as the attic above the carport is non-calculable as it is a non-habitable space. Refer to *Section 4.6 – Exceptions to Development Standards* under *Section 5(a)(iii)* of this report for details. Considering that the proposed carport roof form will further impact the local amenity of the adjoining property, as well as impact the character and pattern of development of the HCA, a condition is included in the recommendation requiring that the floor-to-ceiling height of the attic is no higher than 1.4m to ensure that the extent of shadows cast is reduced and to ensure the carport is consistent with the pattern of development along Lynch Lane and the HCA.
- The proposal retains the dwelling use, which is a form of low density, residential development permissible within the site's R1 General Residential zone under *IWLEP 2022*;
- The proposal does not seek to alter the existing ground floor and first floor rear building lines. Therefore, the proposed additions are appropriate and have been kept to a minimum in order to reduce overshadowing implications on No. 5/151-153 Edgeware Road;
- The proposed additions to the carport will not extend further than the adjoining carport structures on neighbouring properties. Thus, the additions will not protrude past the built form / building footprint of both neighbouring properties resulting in minimal visual bulk and scale implications when viewed from adjoining properties private open spaces; and
- Based on the above, it is considered the development is within its development potential and is of an appropriate bulk and scale (subject to compliance with the recommended change).

b. The particular circumstances of the neighbouring site(s), for example, the proximity of any residential accommodation to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;

The following is noted with respect to this matter:

- The site's orientation, topography and existing built form are significant constraints for the neighbouring site's private open space to obtain natural solar access. The site has a northeast-southwest orientation and a street topography that slopes downwards towards Llewellyn Street, resulting in the south-eastern adjoining private open space being vulnerable to a reduction in solar access;
- The adjoining property (No. 5/151-153 Edgeware Road) consists of similar structures and built form as the subject site. Due to the orientation of the group of uniform dwellings, the existing carport self-shadows the private open space area of the dwelling. Therefore, restricting the development potential of the subject site as No.

- 5/151-153 Edgware Road's self-shadows makes compliance with solar access and overshadowing controls challenging; and
- Subject to conditions, the neighbouring property – No. 5/151-153 Edgware Road will still receive solar access as a result of this proposal to portions of their private open space at various times of the day during mid-winter.
- c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and*
- This has been already discussed above
- d. Whether the sunlight available in March to September is significantly reduced, such that it impacts upon the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March/September period must be submitted.*

The following is noted with respect to this matter:

- Equinox shadow diagrams were not required to be submitted for this subject application considering that the extent of shadows cast is negligible, minor in nature and will have minimal amenity implications on the adjoining property. Further, the shadows cast to No. 5/151-153 Edgware Road are from the pitch of the unsupported carport roof form which is recommended to be symmetrically pitched with a reduced RL of 16.02 as part of a design change condition. As such, it is envisaged that the shadows cast to No. 5/151-153 Edgware Road's private open space from the carport roof, as conditioned, will have substantially reduced overshadowing impacts, particularly during the Equinox period, which is a satisfactory outcome.

In assessment of the above and solar access principles, it is considered that the impacts of the proposal, as conditioned, are reasonable, and that the proposal satisfies the objectives of Part 2.7 of MDCP 2011.

Part 2.11 – Fencing

As discussed under *Section 5.10 – Heritage Conservation* under *Section 5(a)(ii)* of this report, the proposed changes to the existing front fence and associated gate will impact the uniformity and consistency of the prevailing pattern of development as the group of attached terraces consist of the same front fence and gate. Hence, the proposal in its current form will impact the harmony of the primary streetscape (Edgware Road) and the HCA. As such, a condition is recommended to delete the changes to the front fence and the associated gate to ensure that the uniform nature of the attached terraces when viewed from the primary streetscape is maintained.

Part 2.18 – Landscaping and Open Space

The following controls apply under Part 2.18 of the MDCP 2011:

- C11 Landscaped area*
The entire front setback must be of a pervious landscape with the exception of driveways and pathways.

C12 Private open space

- i. The greater of 45sqm, or 20% of the total site area with no dimension being less than 3 metres, must be private open space.*
- ii. A minimum 50% of private open space must be pervious.*

With regard to the above, the following is noted:

- The entire front setback consists of pervious landscaping, with the exception of the pathway and the associated porch;
- The Lot size of the subject site is 178.3sqm. As such, private open space of, at least, 45sqm is required. The area of private open space provided is 38.4sqm. The proposal does not seek to alter the existing area of private open space provided, and as such, the variation is supported in this instance; and
- Less than 50% of the subject site's private open space is pervious landscaping and thus varies C12(ii) of this Part of the MDCP 2011. The variation is supported in this instance as this is an existing situation and the proposal does not seek to alter the existing private open space and associated landscaped areas.

Part 4.1 – Low Density Residential Development

Part 4.1.4: Good Urban Design Practice

The proposal is considered to be consistent with Part 4.1.4 of the MDCP 2011 in that:

- The scale of the use is appropriate for the site;
- The entrance to the site is clearly visible from the street and footpath;
- The proposed attic floor addition to the dwelling is of a height and scale that will have minimal visibility from the primary streetscape and will make a positive contribution to the streetscape character of the locality;
- Subject to recommended conditions, the proposed additions to the existing carport will be compatible with the prevailing laneway pattern of development and will have a reasonable impact in terms of solar access and overshadowing; and
- The design of the attic floor additions is appropriate in bulk and scale and in terms of maintaining internal privacy and mitigating the chance of adverse acoustic and visual privacy impacts to neighbouring properties.

Part 4.1.5: Streetscape and Design

The proposal satisfies the relevant objectives and controls contained under Part 4.1.5 of the MDCP 2011 as follows:

- The development, as conditioned, complements the uniformity and visual cohesiveness of the bulk, scale, and height of the existing streetscape. Refer to *Section 5.10 – Heritage Conservation* under *Section 5(a)(iii)* and *Part 2.7 – Solar Access and Overshadowing* under *Section 5(d)* of this report for detailed assessments;
- The proposal is a contemporary design that complements and embellishes the character of the area; and

- The dwelling house addresses the principal street frontage and is orientated to complement the existing pattern of development found in the street.

Part 4.1.6: Built Form and Character

The following is noted with regard to the controls and objectives contained under Part 4.1.6 of the MDCP 2011:

- The proposal complies with the Height of Building Development Standard; however, will further vary the FSR Development Standard. Refer to *Section 4.6 – Exceptions to Development Standards* under *Section 5(a)(ii)* of this report for a detailed assessment;
- The proposal does not seek to alter the front setbacks of the existing dwelling and / or the ground floor and first floor rear and side setbacks which is a satisfactory outcome in terms of maintaining bulk and scale of the existing dwelling and the street;
- The proposal seeks to establish a new second storey rear setback on the attic floor level along the western side of Enmore Road. The proposed location of the attic floor and its associated setbacks (side, rear, and front) will have minimal amenity implications on adjoining properties in terms of solar access and overshadowing, visual and acoustic privacy and visual bulk and scale impacts when viewed from neighbouring private open space. Further, the attic dormer is located 300mm below the original ridge to ensure that the additions will not be visible from the primary streetscape. Considering the above, the proposed attic floor will have an acceptable impact on the streetscape and adjoining properties and will set a satisfactory precedent within the group of identical dwellings and the western side of Edgeware Road; and
- The proposal does not seek to alter the existing site coverage minimising visual bulk and scale implications on the subject site and neighbouring properties.

Part 8 – Heritage

As discussed under *Section 5.10 – Heritage Conservation* under *Section 5(a)(ii)* of this report, Council’s Heritage Specialist has assessed the proposal against the applicable objectives and controls under Part 8 of the MDCP 2011 and found that subject to conditions, the proposed alterations and additions do not detract from the existing dwelling within the HCA. Notwithstanding, a summary of the assessment against Part 8 of the MDCP 2011 is undertaken below.

Control	Assessment	Compliance
Part 8.2.15 – Enmore House Estate HCA (HCA 13)	<ul style="list-style-type: none"> • The development, as conditioned, maintains the existing building and elements on the site which are compatible with the group of uniform dwellings along 151-153 Edgeware Road. 	Yes, as conditioned
Part 8.3.2.3 – Building setbacks	<ul style="list-style-type: none"> • The development maintains existing building front and side setbacks; • The introduction of the attic building location zone is acceptable and will set a precedent for future alterations and additions to the group of uniform dwellings along 151-153 Edgeware Road. Refer to <i>Section 5.10 – Heritage Conservation</i> under <i>Section 5(a)(iii)</i> of this report for details; and • Driveway access is maintained from the rear lane. 	Yes

Part 8.3.2.4 – Building heights	<ul style="list-style-type: none"> The proposed additions to the dwelling are no higher than the existing roof form and height of the original building and do not overwhelm the existing built form. 	Yes
Part 8.3.2.5 – Building form	<ul style="list-style-type: none"> The proposed additions to the dwelling are not visible from the primary street frontage and is consistent with the overall form and massing of the building. 	Yes
Part 8.3.2.6 – Roof form	<ul style="list-style-type: none"> The development maintains the original roof form to the front elevation and for the length of the main roof to the side elevations; The proposed colours, materials and finishes to the first-floor roof form are suitable to the existing dwelling and HCA; and A condition has been recommended as part of this consent granted to modify the carport roof form to be symmetrically pitched. 	Yes, as conditioned
Part 8.3.2.7 – Building facades	<ul style="list-style-type: none"> The façade of the dwelling is unchanged by the development and is retained. 	Yes
Part 8.3.2.8 – Verandahs and porches	<ul style="list-style-type: none"> The porch of the dwelling is unchanged by the development and is retained. 	Yes
Part 8.3.2.9 – Windows and doors	<ul style="list-style-type: none"> The development maintains original front doors and windows in their original position; and The new windows to the rear of the property have limited visibility and are of proportions appropriate the conservation area and dwelling. 	Yes
Part 8.3.2.10 – Façade materials	<ul style="list-style-type: none"> The original materials to the front portion of the dwelling are maintained; and The new additions to the rear exhibit materials that are compatible with the existing dwelling, group of uniform dwellings and the HCA. 	Yes
Part 8.3.2.12 – Fences	<ul style="list-style-type: none"> As discussed under <i>Section 5.10 – Heritage Conservation</i> under <i>Section 5(a)(iii)</i> of this report, the works to the front fence will interfere with the consistency and compatibility of the uniform streetscape design shared with the group of dwellings. As such, a condition is included in the recommendation to delete the works to the front fence. 	Yes, as conditioned

Council is satisfied that the development, as conditioned, is consistent with the following objectives in this Part:

- O3 *To provide guidelines for alterations and additions which complement and do not detract from the heritage significance of individually listed heritage items, HCAs and period buildings*
- O5 *To encourage new development which complements existing heritage items and heritage conservation areas in a modern context*

The proposed alterations and additions, as conditioned, are acceptable with regard to the heritage controls and objectives contained under Part 8 of the MDCP 2011. Accordingly, the application is recommended for approval.

5(c) The Likely Impacts

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

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

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

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

No submissions were received in response to the initial notification.

5(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.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineering ; and
- Heritage

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 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 \$3,000.00 would be required for the development under the Inner West Local Infrastructure Contribution Plan 2023. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

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

The development 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. The applicant has made a written request pursuant to Clause 4.6 of the *Inner West Local Environment Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Floor Space Ratio development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- 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/2023/0994 for alterations to the existing terrace including attic conversion and carport roof alteration at No. 4/151-153 Edgeware Road, ENMORE subject to the conditions listed in Attachment A below.

Attachment A – Recommended Conditions of Consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA04, Rev A	Existing + Demolished Site + Roof Plan	14/11/2023	SAGO Design
DA05, Rev A	Existing + Demolished Ground Floor Plan	14/11/2023	SAGO Design
DA06, Rev A	Existing + Demolished First Floor Plan	14/11/2023	SAGO Design
DA07, Rev A	Existing + Demolished Attic Plan	14/11/2023	SAGO Design
DA08, Rev A	Proposed Ground Floor Plan	14/11/2023	SAGO Design
DA09, Rev A	Proposed First Floor Plan	14/11/2023	SAGO Design
DA10, Rev A	Proposed Attic Floor Plan	14/11/2023	SAGO Design
DA11, Rev A	Proposed Site + Roof Plan	14/11/2023	SAGO Design
DA12, Rev A	Proposed East Elevation	14/11/2023	SAGO Design
DA13, Rev A	Proposed North Elevation	14/11/2023	SAGO Design
DA14, Rev A	Proposed West Elevation	14/11/2023	SAGO Design
DA15, Rev A	Proposed West Elevation (Lane)	14/11/2023	SAGO Design
DA16, Rev A	Proposed Section A	14/11/2023	SAGO Design
DA17, Rev A	Proposed Section B	14/11/2023	SAGO Design
DA19, Rev A	Proposed Material Palette	14/11/2023	SAGO Design
A500747	BASIX Certificate	27/09/2023	SAGO Design

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The works to the front fence and the associated gate are to be deleted from the development and the existing front fence and gate is to be maintained;
- b. The carport roof form is to be amended to be a symmetrical pitched roof with storage space; and
Note: The location of the attic ladder can be relocated in order to accommodate this condition.
- a. The internal floor-to-ceiling height of the carport attic space is to be no higher than 1.4m. As such, the maximum ridge height of the carport is to be RL 16.02.

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$5,992.00
Inspection Fee:	\$374.50

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

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

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

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

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

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

5. Section 7.12 Development Contribution Payments

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$3,000** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

- C_{payment} = is the contribution at time of payment
- C_{consent} = is the contribution at the time of consent, as shown above
- CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated.
- CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, 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.

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.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; 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).

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.

GENERAL CONDITIONS

6. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the existing site drainage system.

Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

7. Waste Management Plan

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

8. Erosion and Sediment Control

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

9. Standard Street Tree Protection

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

10. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

11. Hoardings

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

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

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

12. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

13. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE**14. Dilapidation Report – Pre-Development – Minor**

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

15. Party Walls

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

16. Structural Certificate for retained elements of the building

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

17. Sydney Water – Tap In

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

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

18. Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

DURING DEMOLITION AND CONSTRUCTION**19. Construction Hours – Class 1 and 10**

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.

20. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**21. No Encroachments**

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

22. Aircraft Noise –Alterations and Additions

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

ON-GOING**23. Bin Storage**

All bins are to be stored within the site.

ADVISORY NOTES**Permits**

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested

party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;

- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Amenity Impacts General

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

Lead-based Paint

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

Dial before you dig

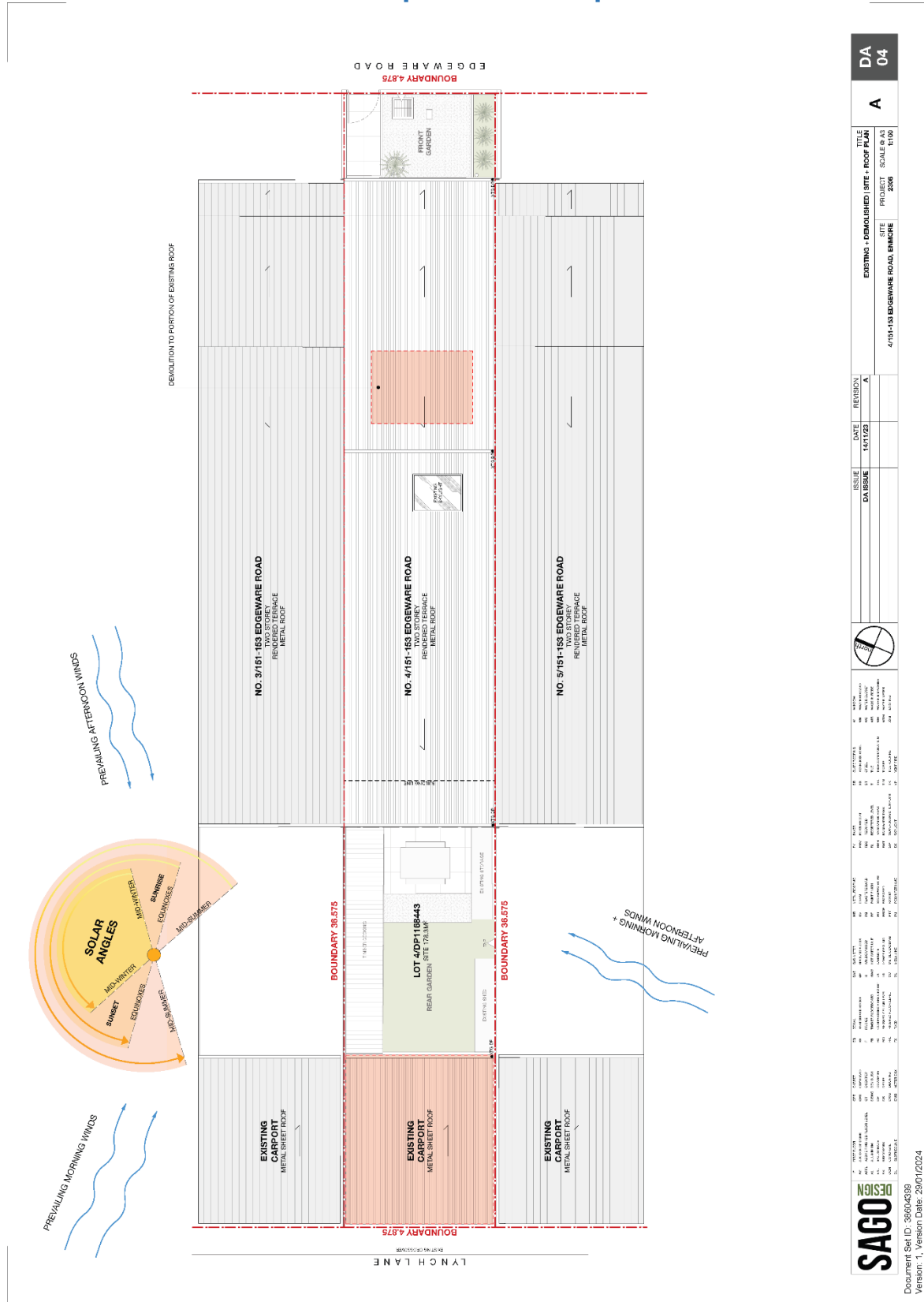
Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro

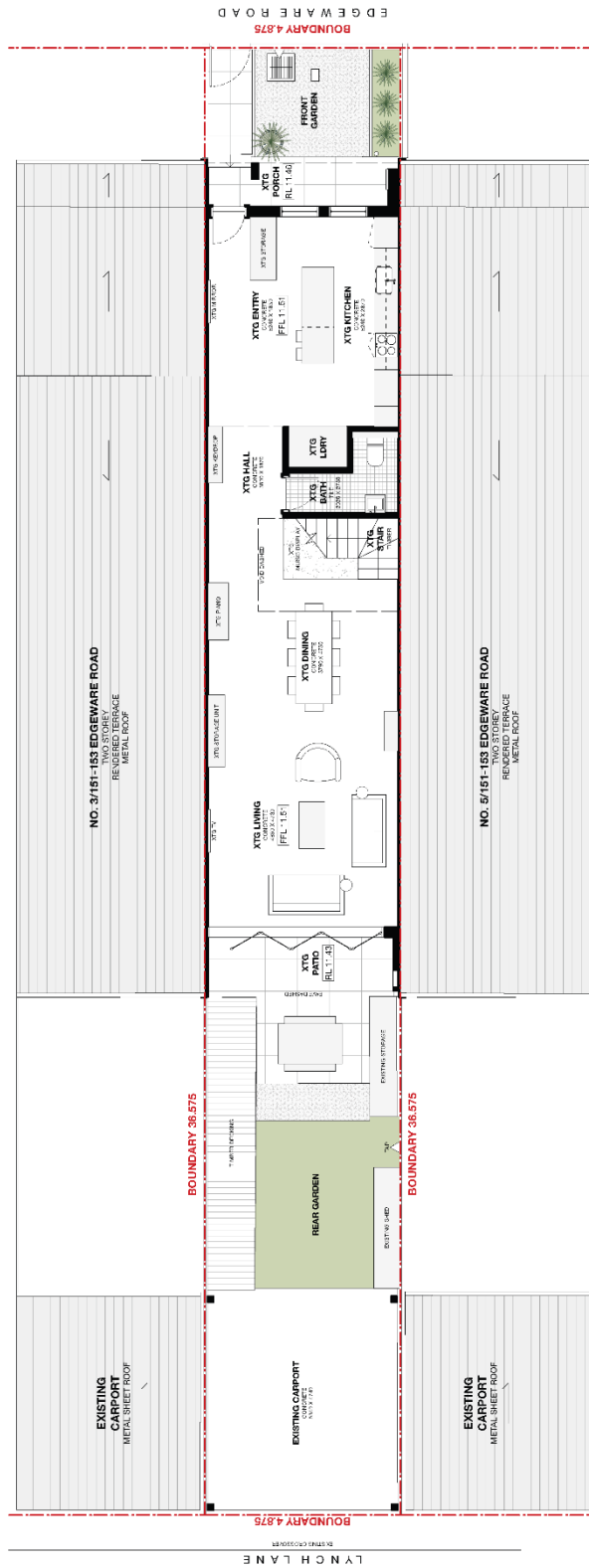
	www.diySAFE.nsw.gov.au
	Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555
Sydney Water	www.environment.nsw.gov.au
	13 20 92
	www.sydneywater.com.au
Waste Service - SITA	1300 651 116
Environmental Solutions	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50
	www.workcover.nsw.gov.au
	Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of Proposed Development



SAGO DESIGN		Document Set ID: 38604689		Version: 1, Version Date: 23/01/2024	
1	2023/03/08	01	01	01	01
2	2023/03/08	01	01	01	01
3	2023/03/08	01	01	01	01
4	2023/03/08	01	01	01	01
5	2023/03/08	01	01	01	01
6	2023/03/08	01	01	01	01
7	2023/03/08	01	01	01	01
8	2023/03/08	01	01	01	01
9	2023/03/08	01	01	01	01
10	2023/03/08	01	01	01	01
11	2023/03/08	01	01	01	01
12	2023/03/08	01	01	01	01
13	2023/03/08	01	01	01	01
14	2023/03/08	01	01	01	01
15	2023/03/08	01	01	01	01
16	2023/03/08	01	01	01	01
17	2023/03/08	01	01	01	01
18	2023/03/08	01	01	01	01
19	2023/03/08	01	01	01	01
20	2023/03/08	01	01	01	01
21	2023/03/08	01	01	01	01
22	2023/03/08	01	01	01	01
23	2023/03/08	01	01	01	01
24	2023/03/08	01	01	01	01
25	2023/03/08	01	01	01	01
26	2023/03/08	01	01	01	01
27	2023/03/08	01	01	01	01
28	2023/03/08	01	01	01	01
29	2023/03/08	01	01	01	01
30	2023/03/08	01	01	01	01
31	2023/03/08	01	01	01	01
32	2023/03/08	01	01	01	01
33	2023/03/08	01	01	01	01
34	2023/03/08	01	01	01	01
35	2023/03/08	01	01	01	01
36	2023/03/08	01	01	01	01
37	2023/03/08	01	01	01	01
38	2023/03/08	01	01	01	01
39	2023/03/08	01	01	01	01
40	2023/03/08	01	01	01	01
41	2023/03/08	01	01	01	01
42	2023/03/08	01	01	01	01
43	2023/03/08	01	01	01	01
44	2023/03/08	01	01	01	01
45	2023/03/08	01	01	01	01
46	2023/03/08	01	01	01	01
47	2023/03/08	01	01	01	01
48	2023/03/08	01	01	01	01
49	2023/03/08	01	01	01	01
50	2023/03/08	01	01	01	01
51	2023/03/08	01	01	01	01
52	2023/03/08	01	01	01	01
53	2023/03/08	01	01	01	01
54	2023/03/08	01	01	01	01
55	2023/03/08	01	01	01	01
56	2023/03/08	01	01	01	01
57	2023/03/08	01	01	01	01
58	2023/03/08	01	01	01	01
59	2023/03/08	01	01	01	01
60	2023/03/08	01	01	01	01
61	2023/03/08	01	01	01	01
62	2023/03/08	01	01	01	01
63	2023/03/08	01	01	01	01
64	2023/03/08	01	01	01	01
65	2023/03/08	01	01	01	01
66	2023/03/08	01	01	01	01
67	2023/03/08	01	01	01	01
68	2023/03/08	01	01	01	01
69	2023/03/08	01	01	01	01
70	2023/03/08	01	01	01	01
71	2023/03/08	01	01	01	01
72	2023/03/08	01	01	01	01
73	2023/03/08	01	01	01	01
74	2023/03/08	01	01	01	01
75	2023/03/08	01	01	01	01
76	2023/03/08	01	01	01	01
77	2023/03/08	01	01	01	01
78	2023/03/08	01	01	01	01
79	2023/03/08	01	01	01	01
80	2023/03/08	01	01	01	01
81	2023/03/08	01	01	01	01
82	2023/03/08	01	01	01	01
83	2023/03/08	01	01	01	01
84	2023/03/08	01	01	01	01
85	2023/03/08	01	01	01	01
86	2023/03/08	01	01	01	01
87	2023/03/08	01	01	01	01
88	2023/03/08	01	01	01	01
89	2023/03/08	01	01	01	01
90	2023/03/08	01	01	01	01
91	2023/03/08	01	01	01	01
92	2023/03/08	01	01	01	01
93	2023/03/08	01	01	01	01
94	2023/03/08	01	01	01	01
95	2023/03/08	01	01	01	01
96	2023/03/08	01	01	01	01
97	2023/03/08	01	01	01	01
98	2023/03/08	01	01	01	01
99	2023/03/08	01	01	01	01
100	2023/03/08	01	01	01	01
101	2023/03/08	01	01	01	01
102	2023/03/08	01	01	01	01
103	2023/03/08	01	01	01	01
104	2023/03/08	01	01	01	01
105	2023/03/08	01	01	01	01
106	2023/03/08	01	01	01	01
107	2023/03/08	01	01	01	01
108	2023/03/08	01	01	01	01
109	2023/03/08	01	01	01	01
110	2023/03/08	01	01	01	01
111	2023/03/08	01	01	01	01
112	2023/03/08	01	01	01	01
113	2023/03/08	01	01	01	01
114	2023/03/08	01	01	01	01
115	2023/03/08	01	01	01	01
116	2023/03/08	01	01	01	01
117	2023/03/08	01	01	01	01
118	2023/03/08	01	01	01	01
119	2023/03/08	01	01	01	01
120	2023/03/08	01	01	01	01
121	2023/03/08	01	01	01	01
122	2023/03/08	01	01	01	01
123	2023/03/08	01	01	01	01
124	2023/03/08	01	01	01	01
125	2023/03/08	01	01	01	01
126	2023/03/08	01	01	01	01
127	2023/03/08	01	01	01	01
128	2023/03/08	01	01	01	01
129	2023/03/08	01	01	01	01
130	2023/03/08	01	01	01	01
131	2023/03/08	01	01	01	01
132	2023/03/08	01	01	01	01
133	2023/03/08	01	01	01	01
134	2023/03/08	01	01	01	01
135	2023/03/08	01	01	01	01
136	2023/03/08	01	01	01	01
137	2023/03/08	01	01	01	01
138	2023/03/08	01	01	01	01
139	2023/03/08	01	01	01	01
140	2023/03/08	01	01	01	01
141	2023/03/08	01	01	01	01
142	2023/03/08	01	01	01	01
143	2023/03/08	01	01	01	01
144	2023/03/08	01	01	01	01
145	2023/03/08	01	01	01	01
146	2023/03/08	01	01	01	01
147	2023/03/08	01	01	01	01
148	2023/03/08	01	01	01	01
149	2023/03/08	01	01	01	01
150	2023/03/08	01	01	01	01
151	2023/03/08	01	01	01	01
152	2023/03/08	01	01	01	01
153	2023/03/08	01	01	01	01
154	2023/03/08	01	01	01	01
155	2023/03/08	01	01	01	01
156	2023/03/08	01	01	01	01
157	2023/03/08	01	01	01	01
158	2023/03/08	01	01	01	01
159	2023/03/08	01	01	01	01
160	2023/03/08	01	01	01	01
161	2023/03/08	01	01	01	01
162	2023/03/08	01	01	01	01
163	2023/03/08	01	01	01	01
164	2023/03/08	01	01	01	01
165	2023/03/08	01	01	01	01
166	2023/03/08	01	01	01	01
167	2023/03/08	01	01	01	01
168	2023/03/08	01	01	01	01
169	2023/03/08	01	01	01	01
170	2023/03/08	01	01	01	01
171	2023/03/08	01	01	01	01
172	2023/03/08	01	01	01	01
173	2023/03/08	01	01	01	01
174	2023/03/08	01	01	01	01
175	2023/03/08	01	01	01	01
176	2023/03/08	01	01	01	01
177	2023/03/08	01	01	01	01
178	2023/03/08	01	01	01	01
179	2023/03/08	01	01	01	01
180	2023/03/08	01	01	01	01
181	2023/03/08	01	01	01	01
182	2023/03/08	01	01	01	01
183	2023/03/08	01	01	01	01
184	2023/03/08	01	01	01	01
185	2023/03/08	01	01		

NO WORKS PROPOSED TO GROUND FLOOR



DA 05

A

TITLE: EXISTING + DEMOLISHED GROUND FLOOR PLAN
 PROJECT: 4/151-153 EDGEWARE ROAD, INMOORE
 SCALE: A3 1:100
 PROJECT SCALE: A3 1:100

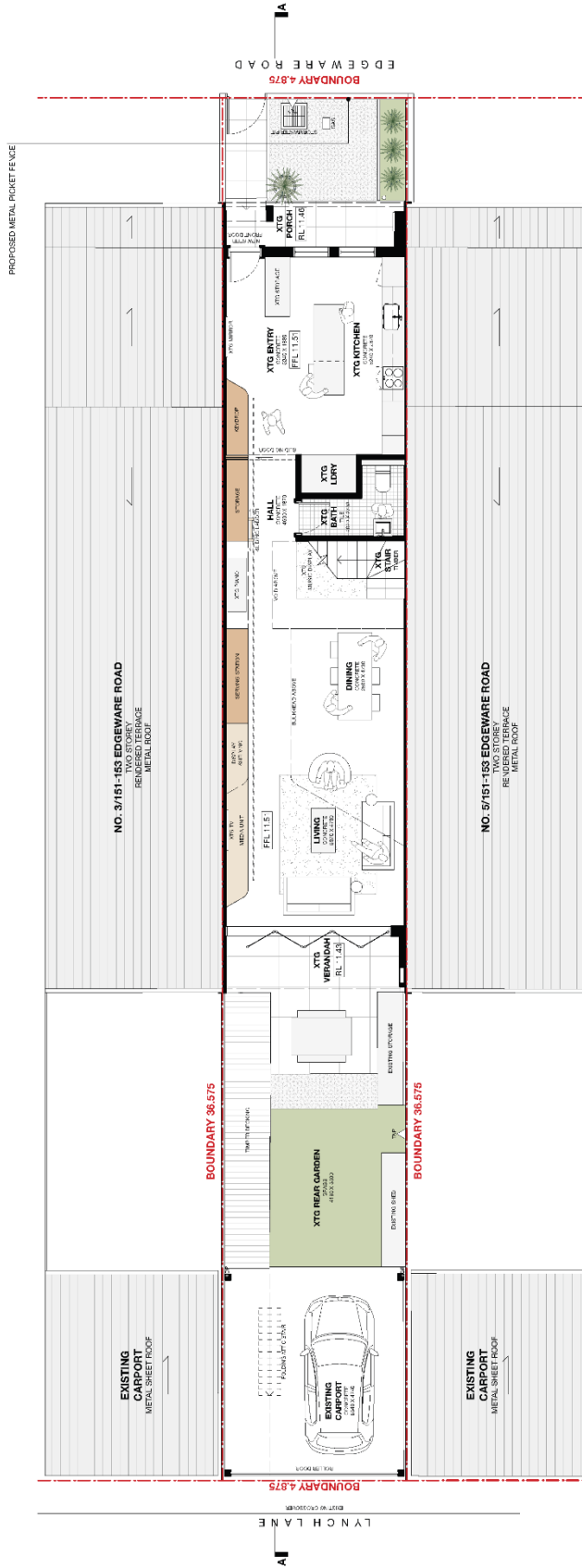
ISSUE	DATE	REVISION
DA ISSUE	16/11/23	A



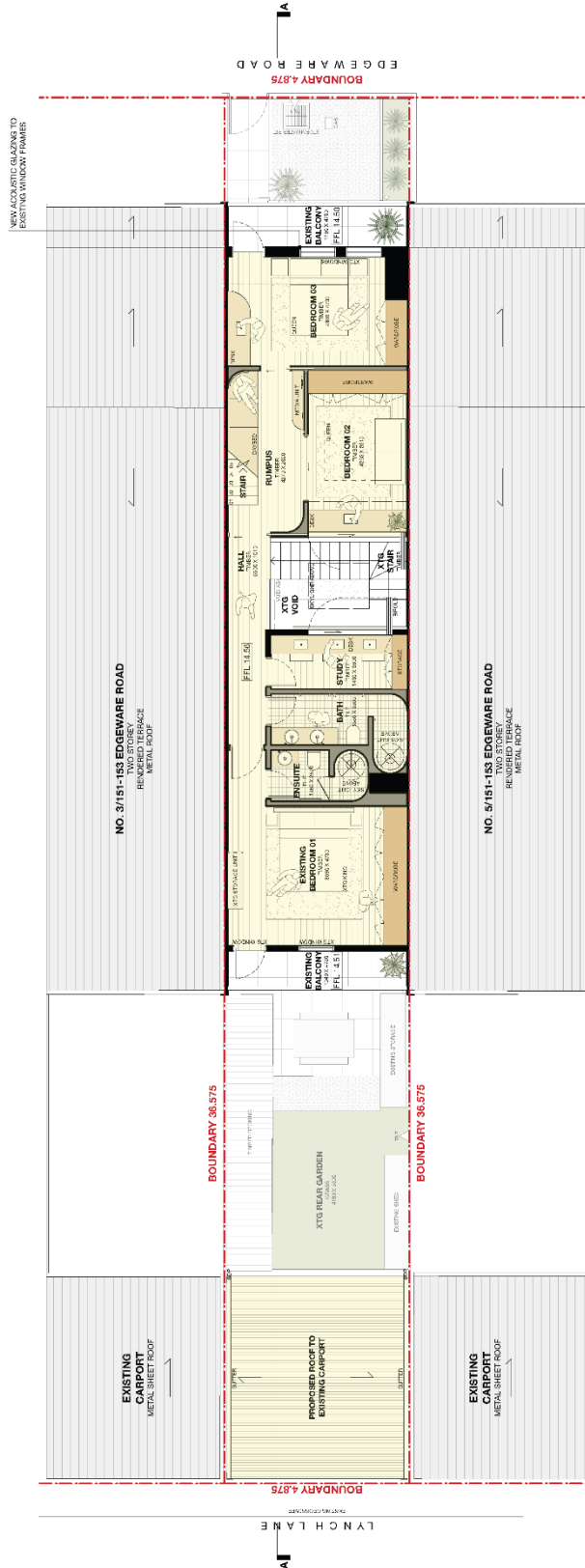
NO.	DESCRIPTION	BY	DATE
01	PROPOSED	DA	16/11/23
02	REVISIONS	DA	16/11/23
03	REVISIONS	DA	16/11/23
04	REVISIONS	DA	16/11/23
05	REVISIONS	DA	16/11/23
06	REVISIONS	DA	16/11/23
07	REVISIONS	DA	16/11/23
08	REVISIONS	DA	16/11/23
09	REVISIONS	DA	16/11/23
10	REVISIONS	DA	16/11/23
11	REVISIONS	DA	16/11/23
12	REVISIONS	DA	16/11/23
13	REVISIONS	DA	16/11/23
14	REVISIONS	DA	16/11/23
15	REVISIONS	DA	16/11/23
16	REVISIONS	DA	16/11/23
17	REVISIONS	DA	16/11/23
18	REVISIONS	DA	16/11/23
19	REVISIONS	DA	16/11/23
20	REVISIONS	DA	16/11/23
21	REVISIONS	DA	16/11/23
22	REVISIONS	DA	16/11/23
23	REVISIONS	DA	16/11/23
24	REVISIONS	DA	16/11/23
25	REVISIONS	DA	16/11/23
26	REVISIONS	DA	16/11/23
27	REVISIONS	DA	16/11/23
28	REVISIONS	DA	16/11/23
29	REVISIONS	DA	16/11/23
30	REVISIONS	DA	16/11/23
31	REVISIONS	DA	16/11/23
32	REVISIONS	DA	16/11/23
33	REVISIONS	DA	16/11/23
34	REVISIONS	DA	16/11/23
35	REVISIONS	DA	16/11/23
36	REVISIONS	DA	16/11/23
37	REVISIONS	DA	16/11/23
38	REVISIONS	DA	16/11/23
39	REVISIONS	DA	16/11/23
40	REVISIONS	DA	16/11/23
41	REVISIONS	DA	16/11/23
42	REVISIONS	DA	16/11/23
43	REVISIONS	DA	16/11/23
44	REVISIONS	DA	16/11/23
45	REVISIONS	DA	16/11/23
46	REVISIONS	DA	16/11/23
47	REVISIONS	DA	16/11/23
48	REVISIONS	DA	16/11/23
49	REVISIONS	DA	16/11/23
50	REVISIONS	DA	16/11/23
51	REVISIONS	DA	16/11/23
52	REVISIONS	DA	16/11/23
53	REVISIONS	DA	16/11/23
54	REVISIONS	DA	16/11/23
55	REVISIONS	DA	16/11/23
56	REVISIONS	DA	16/11/23
57	REVISIONS	DA	16/11/23
58	REVISIONS	DA	16/11/23
59	REVISIONS	DA	16/11/23
60	REVISIONS	DA	16/11/23
61	REVISIONS	DA	16/11/23
62	REVISIONS	DA	16/11/23
63	REVISIONS	DA	16/11/23
64	REVISIONS	DA	16/11/23
65	REVISIONS	DA	16/11/23
66	REVISIONS	DA	16/11/23
67	REVISIONS	DA	16/11/23
68	REVISIONS	DA	16/11/23
69	REVISIONS	DA	16/11/23
70	REVISIONS	DA	16/11/23
71	REVISIONS	DA	16/11/23
72	REVISIONS	DA	16/11/23
73	REVISIONS	DA	16/11/23
74	REVISIONS	DA	16/11/23
75	REVISIONS	DA	16/11/23
76	REVISIONS	DA	16/11/23
77	REVISIONS	DA	16/11/23
78	REVISIONS	DA	16/11/23
79	REVISIONS	DA	16/11/23
80	REVISIONS	DA	16/11/23
81	REVISIONS	DA	16/11/23
82	REVISIONS	DA	16/11/23
83	REVISIONS	DA	16/11/23
84	REVISIONS	DA	16/11/23
85	REVISIONS	DA	16/11/23
86	REVISIONS	DA	16/11/23
87	REVISIONS	DA	16/11/23
88	REVISIONS	DA	16/11/23
89	REVISIONS	DA	16/11/23
90	REVISIONS	DA	16/11/23
91	REVISIONS	DA	16/11/23
92	REVISIONS	DA	16/11/23
93	REVISIONS	DA	16/11/23
94	REVISIONS	DA	16/11/23
95	REVISIONS	DA	16/11/23
96	REVISIONS	DA	16/11/23
97	REVISIONS	DA	16/11/23
98	REVISIONS	DA	16/11/23
99	REVISIONS	DA	16/11/23
100	REVISIONS	DA	16/11/23

SAGO DESIGN

Document Set ID: 38604999
 Version: 1, Version Date: 23/01/2024



		Document Set ID: 38694399		Version: 1, Version Date: 29/01/2024	
		TITLE PROPOSED GROUND FLOOR PLAN		DA 08	
SCALE @ A3 1:100		PROJECT 2006		SITE 47151-153 EDGEWARE ROAD, ENMORE	
DATE 14/11/23		REVISION A		ISSUE DA ISSUE	

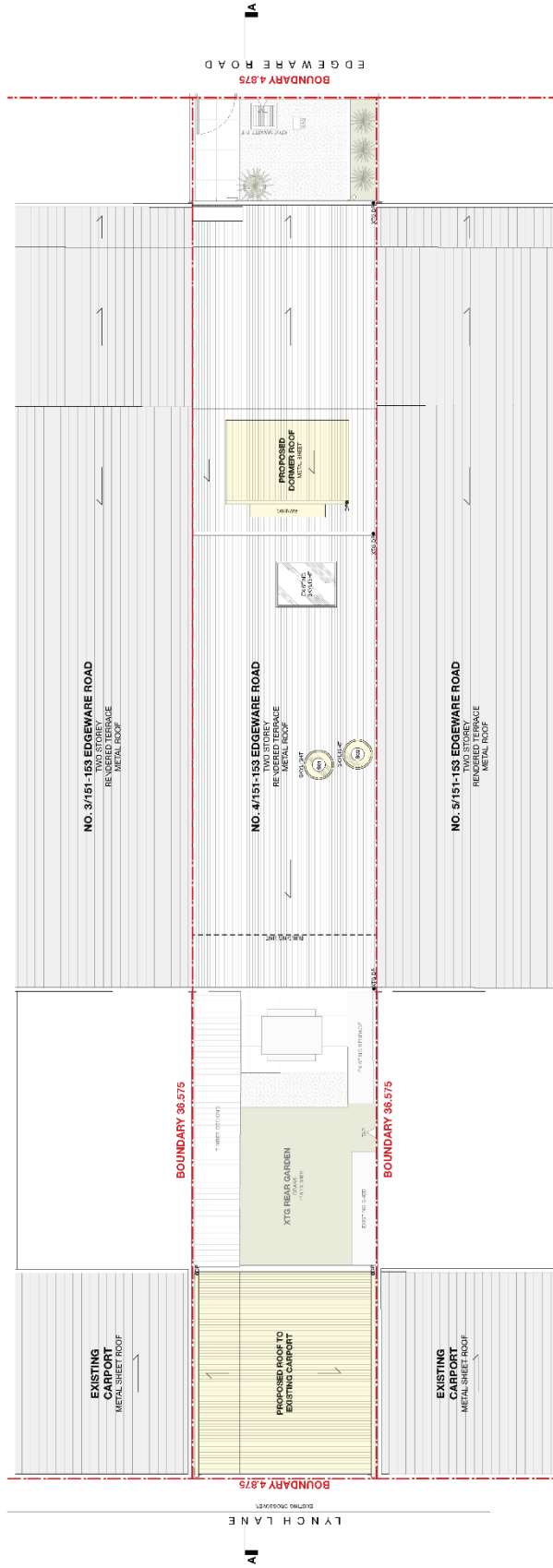


SAGO DESIGN

Document Set ID: 28604399
Version: 1, Version Date: 29/01/2024

NO.	DESCRIPTION	DATE	REVISION
1	ISSUE	14/11/23	A
2	DATE	14/11/23	
3	ISSUE		
4	DATE		
5	ISSUE		
6	DATE		
7	ISSUE		
8	DATE		
9	ISSUE		
10	DATE		
11	ISSUE		
12	DATE		
13	ISSUE		
14	DATE		
15	ISSUE		
16	DATE		
17	ISSUE		
18	DATE		
19	ISSUE		
20	DATE		
21	ISSUE		
22	DATE		
23	ISSUE		
24	DATE		
25	ISSUE		
26	DATE		
27	ISSUE		
28	DATE		
29	ISSUE		
30	DATE		
31	ISSUE		
32	DATE		
33	ISSUE		
34	DATE		
35	ISSUE		
36	DATE		
37	ISSUE		
38	DATE		
39	ISSUE		
40	DATE		
41	ISSUE		
42	DATE		
43	ISSUE		
44	DATE		
45	ISSUE		
46	DATE		
47	ISSUE		
48	DATE		
49	ISSUE		
50	DATE		
51	ISSUE		
52	DATE		
53	ISSUE		
54	DATE		
55	ISSUE		
56	DATE		
57	ISSUE		
58	DATE		
59	ISSUE		
60	DATE		
61	ISSUE		
62	DATE		
63	ISSUE		
64	DATE		
65	ISSUE		
66	DATE		
67	ISSUE		
68	DATE		
69	ISSUE		
70	DATE		
71	ISSUE		
72	DATE		
73	ISSUE		
74	DATE		
75	ISSUE		
76	DATE		
77	ISSUE		
78	DATE		
79	ISSUE		
80	DATE		
81	ISSUE		
82	DATE		
83	ISSUE		
84	DATE		
85	ISSUE		
86	DATE		
87	ISSUE		
88	DATE		
89	ISSUE		
90	DATE		
91	ISSUE		
92	DATE		
93	ISSUE		
94	DATE		
95	ISSUE		
96	DATE		
97	ISSUE		
98	DATE		
99	ISSUE		
100	DATE		

PROPOSED FIRST FLOOR PLAN
SCALE: 6:1
PROJECT: 2309
SITE: 47/19-159 EDGWARE ROAD ENMORE
DA 09
A

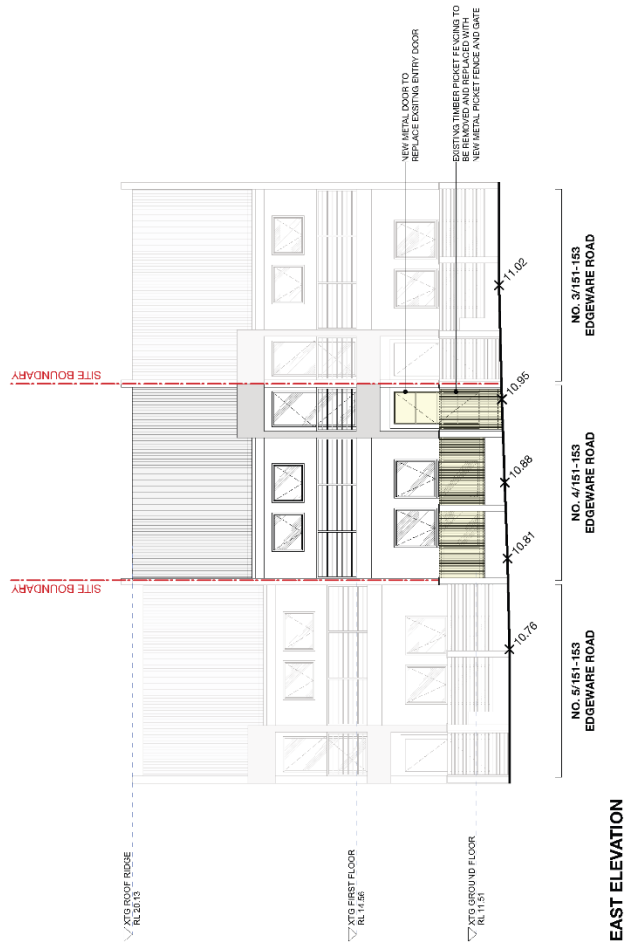


SAGO DESIGN

Document Set ID: 38694399
Version: 1, Version Date: 29/01/2024

NO.	DESCRIPTION	DATE	ISSUE	REVISION
1	ISSUE FOR PERMIT	14/11/23	DA ISSUE	A

PROPOSED SITE - ROOF PLAN
TITLE: DA 11
PROJECT: 4/151-153 EDGEWARE ROAD, BUNMERE
SCALE: @ A3 1:100
SITE: 2308



DEMOLISHED
PROPOSED

SAGO DESIGN
 Document Set ID: 38604399
 Version: 1, Version Date: 29/01/2024

DA 12

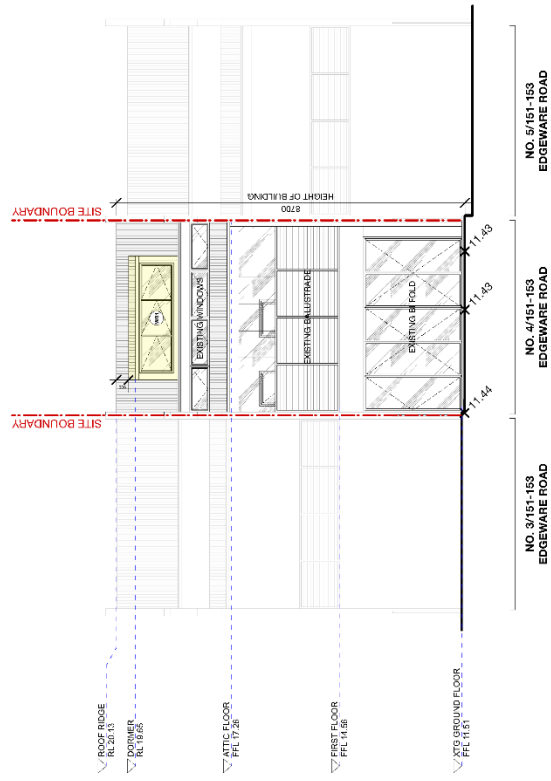
A

TITLE
PROPOSED EAST ELEVATION
PROJECT SCALE @ A3
2002 1:100

SITE
4/151-153 EDGEWARE ROAD, BIRMORE

ISSUE	DATE	REVISION
DA ISSUE	14/11/23	A

NO.	DESCRIPTION	BY	DATE
1	ISSUE FOR PERMIT	DA	14/11/23
2	ISSUE FOR PERMIT	DA	14/11/23
3	ISSUE FOR PERMIT	DA	14/11/23
4	ISSUE FOR PERMIT	DA	14/11/23
5	ISSUE FOR PERMIT	DA	14/11/23
6	ISSUE FOR PERMIT	DA	14/11/23
7	ISSUE FOR PERMIT	DA	14/11/23
8	ISSUE FOR PERMIT	DA	14/11/23
9	ISSUE FOR PERMIT	DA	14/11/23
10	ISSUE FOR PERMIT	DA	14/11/23
11	ISSUE FOR PERMIT	DA	14/11/23
12	ISSUE FOR PERMIT	DA	14/11/23
13	ISSUE FOR PERMIT	DA	14/11/23
14	ISSUE FOR PERMIT	DA	14/11/23
15	ISSUE FOR PERMIT	DA	14/11/23
16	ISSUE FOR PERMIT	DA	14/11/23
17	ISSUE FOR PERMIT	DA	14/11/23
18	ISSUE FOR PERMIT	DA	14/11/23
19	ISSUE FOR PERMIT	DA	14/11/23
20	ISSUE FOR PERMIT	DA	14/11/23
21	ISSUE FOR PERMIT	DA	14/11/23
22	ISSUE FOR PERMIT	DA	14/11/23
23	ISSUE FOR PERMIT	DA	14/11/23
24	ISSUE FOR PERMIT	DA	14/11/23
25	ISSUE FOR PERMIT	DA	14/11/23
26	ISSUE FOR PERMIT	DA	14/11/23
27	ISSUE FOR PERMIT	DA	14/11/23
28	ISSUE FOR PERMIT	DA	14/11/23
29	ISSUE FOR PERMIT	DA	14/11/23
30	ISSUE FOR PERMIT	DA	14/11/23
31	ISSUE FOR PERMIT	DA	14/11/23
32	ISSUE FOR PERMIT	DA	14/11/23
33	ISSUE FOR PERMIT	DA	14/11/23
34	ISSUE FOR PERMIT	DA	14/11/23
35	ISSUE FOR PERMIT	DA	14/11/23
36	ISSUE FOR PERMIT	DA	14/11/23
37	ISSUE FOR PERMIT	DA	14/11/23
38	ISSUE FOR PERMIT	DA	14/11/23
39	ISSUE FOR PERMIT	DA	14/11/23
40	ISSUE FOR PERMIT	DA	14/11/23
41	ISSUE FOR PERMIT	DA	14/11/23
42	ISSUE FOR PERMIT	DA	14/11/23
43	ISSUE FOR PERMIT	DA	14/11/23
44	ISSUE FOR PERMIT	DA	14/11/23
45	ISSUE FOR PERMIT	DA	14/11/23
46	ISSUE FOR PERMIT	DA	14/11/23
47	ISSUE FOR PERMIT	DA	14/11/23
48	ISSUE FOR PERMIT	DA	14/11/23
49	ISSUE FOR PERMIT	DA	14/11/23
50	ISSUE FOR PERMIT	DA	14/11/23



WEST ELEVATION

DEMOLISHED PROPOSED

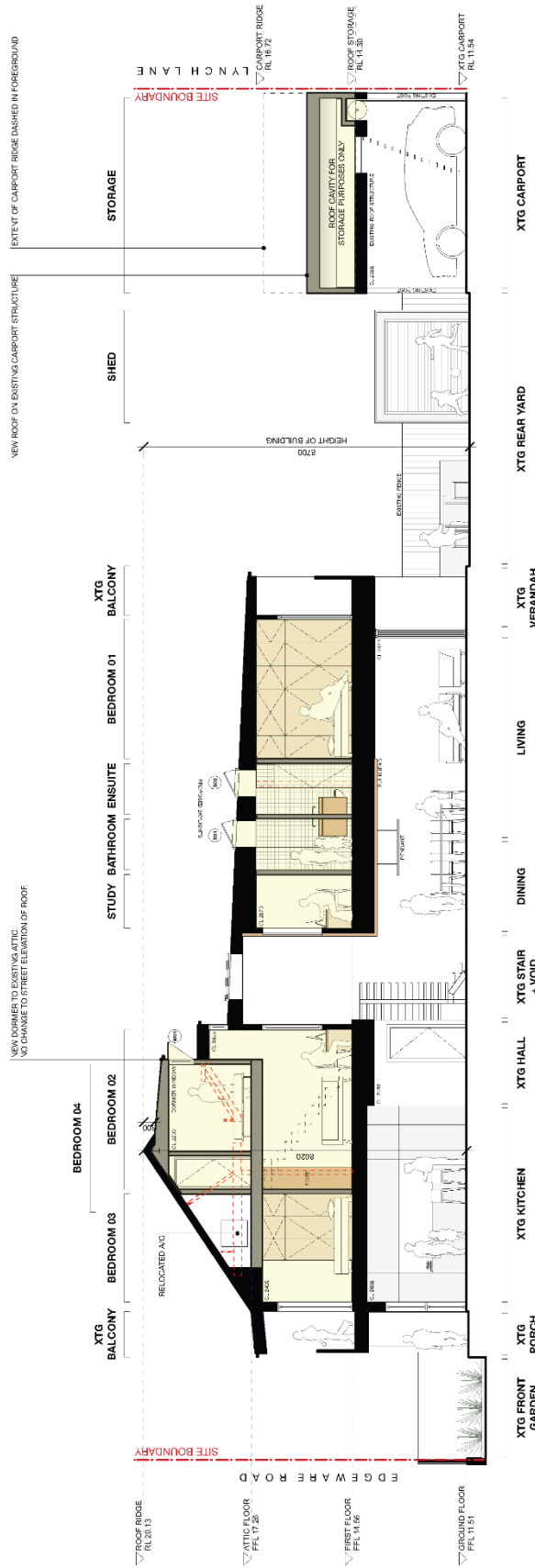


Document Set ID: 38804399
Version: 1, Version Date: 26/01/2024

NO.	1	DATE	14/1/23	REVISION	A
BY	DA	SCALE	1:100	TITLE	PROPOSED WEST ELEVATION
CHECKED		DATE		PROJECT	4/151-153 EDGEWARE ROAD, BANGOR
DATE		SCALE		DATE	2022

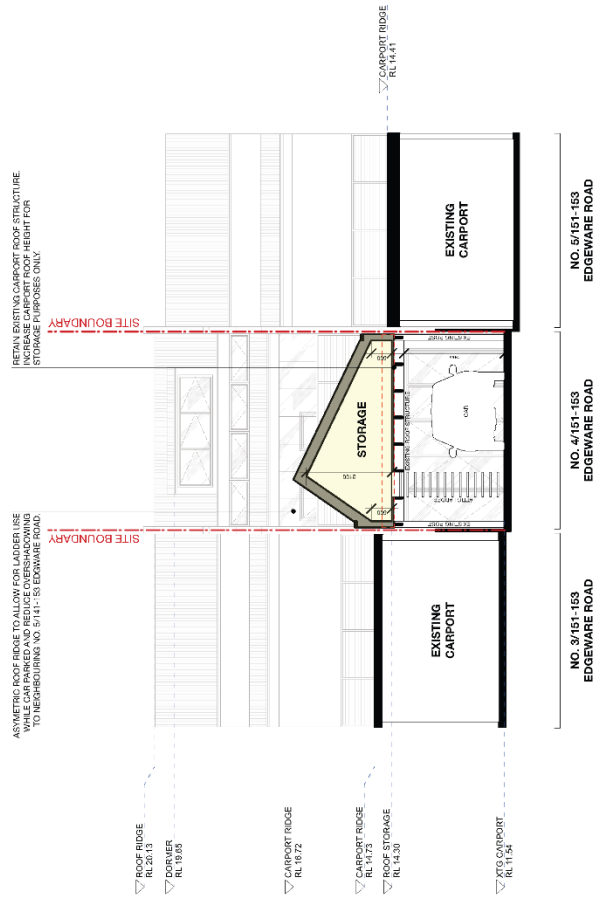
NO.	1	DATE	14/1/23	REVISION	A
BY	DA	SCALE	1:100	TITLE	PROPOSED WEST ELEVATION
CHECKED		DATE		PROJECT	4/151-153 EDGEWARE ROAD, BANGOR
DATE		SCALE		DATE	2022

NO.	1	DATE	14/1/23	REVISION	A
BY	DA	SCALE	1:100	TITLE	PROPOSED WEST ELEVATION
CHECKED		DATE		PROJECT	4/151-153 EDGEWARE ROAD, BANGOR
DATE		SCALE		DATE	2022



SECTION A

SAGO DESIGN		Document Set ID: 38694399		Version: 1, Version Date: 29/01/2024	
ISSUE	DATE	REVISION	TITLE	PROPOSED / SECTION A	DA
DA ISSUE	14/11/23	A	PROJECT	SCALE @ A3	16
			SITE	SCALE @ A3	
			4151-152 BEDDWARE ROAD, ENMORE		



SECTION B

	PROJECT NO. 3860-0399 VERSION 1, Version Date: 29/01/2024		TITLE PROPOSED SECTION B PROJECT SCALE @ A3 200 1100		DA 17
	4/151-153 EDGEWARE ROAD, BIRMGHAM			A	
NO. 8/161-163 EDGEWARE ROAD		NO. 4/161-163 EDGEWARE ROAD		NO. 6/161-163 EDGEWARE ROAD	
ISSUE DA ISSUE	DATE 14/11/23	REVISION A	PROJECT SCALE @ A3 200 1100		



DORMER WINDOW
ALUMINIUM WINDOW TO MATCH EXISTING



ROOFING + AWNING
COLORBOND SHALE GREY



CLADDING (DORMER + GARAGE)
COMPRESSED FIBER CEMENT

	Document Set ID: 38604399 Version: 1, Version Date: 29/01/2024	TITLE: PROPOSED MATERIAL PALETTE SCALE: @ A3 NTS	DA 19
	PROJECT: 2201 SITE: 4751-152 ECKENWARE ROAD, ENMORE	REVISION: A DATE: 14/1/23 ISSUE: DA ISSUE	TITLE: PROPOSED MATERIAL PALETTE SCALE: @ A3 NTS

Attachment C – Section 4.6 Exception to Development Standards



**CLAUSE 4.6 VARIATION
CLAUSE 4.4 – FLOOR SPACE RATIO
INNER WEST LOCAL ENVIRONMENTAL PLAN 2022**

4/151-153 Edgeware Road, Enmore

Alterations and Additions to an Existing Attached Dwelling including a dormer addition, and ancillary work to the existing garage for roof storage.

February 2024 (Rev 1.0) – Updated to Correlate to Council's Calculations

1. Introduction

This submission seeks a variation to Clause 4.4 of the Inner West Local Environmental Plan 2022, which relates to maximum floor space ratio (FSR).

This submission has been prepared in relation to a development application for proposed alterations and additions to an existing attached dwelling including a dormer addition, and ancillary work to the existing garage for roof storage at 4/151-153 Edgeware Road, Enmore.

As detailed in this written request for a variation to the floor space ratio (FSR) being a development standard under the Inner West Local Environmental Plan 2022, the development meets the requirements prescribed under Clause 4.6 of the Inner West Local Environmental Plan (LEP) 2022.

2. Site Background

The subject site is commonly known as 4/151-153 Edgeware Road, Enmore and is legally referred to as Lot 4 in Deposited Plan 1168443. The site is located on the western side of Edgeware Road, bound by Lynch Lane, Lynch Avenue and Llewellyn Street.

The site is regular in shape, being generally rectilinear. The existing two-storey attached terrace-style dwelling house fronts Edgeware Road with a 4.875m frontage, and is built to both side boundaries (partition walls subject to easements). The dwelling is one of ten (10) dwellings within an attached townhouse development that was completed under DA201100193. A concrete and metal single carport currently sits within the rear of the lot, which is otherwise heavily hardstand, though there is a small synthetic grass and gravel backyard. The context of the site is illustrated in Figure 1.

4/151-153 Edgeware Road, Enmore is the fourth townhouse in a modern, attached, terrace-form arrangement of dwellings that are generally consistent in envelope. The row of dwellings can be described as contemporary two-storey forms, composed of rendered masonry, painted timber, and a metal roofs. Each dwelling is afforded a single carport to the rear (west) of the allotment, accessed from Lynch Lane; a front garden and; 'central' outdoor courtyard.

Pursuant to the R1 General Residential and surrounding R2 Low Density Residential zoning of the site, the immediate surrounding area and streetscape of Edgeware Road consists of a multitude of residential dwelling types.



Figure 1 Site Location Map (Source: Six Maps)

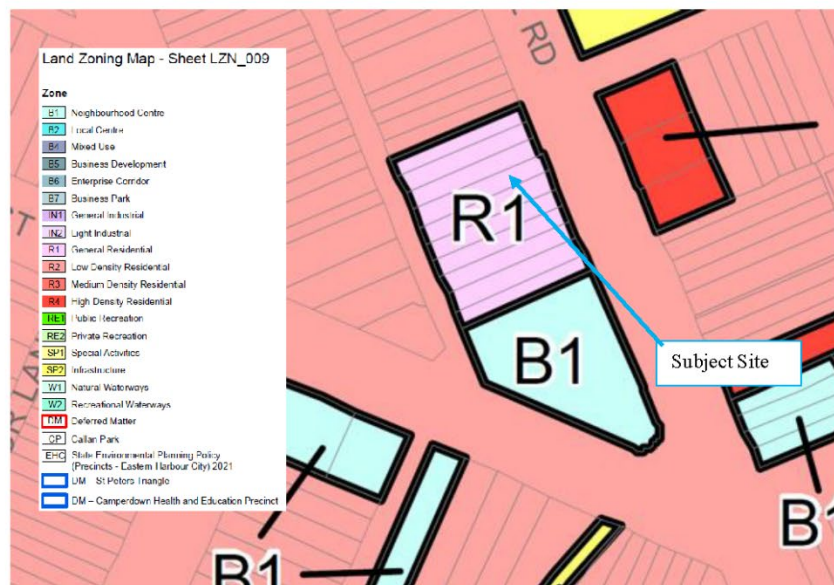


Figure 2 Zoning Map (Source: IWLEP22)

3. Clause 4.6

This submission is made under Clause 4.6 of the Inner West LEP 2022 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**
- (2) Development consent may, subject to this clause, be granted for a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.**
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
 - (b) the concurrence of the Planning Secretary has been obtained.**
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.**
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot*

Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5,*
 - (ca) clause 6.27(4),*
 - (cb) clause 6.28,*
 - (cc) clause 6.29,*
 - (cd) clause 6.31."*

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been fulfilled in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- 4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.*

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

This submission has been prepared having regard to the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (‘Four2Five No 1’)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (‘Four2Five No 2’)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (‘Four2Five No 3’)*
- *Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Environmental Planning Instrument to which this variation relates to is the ***Inner West LEP 2022***.

The development standard to which this variation relates is ***Clause 4.4 – Floor Space Ratio***. The relevant clauses (emphasis added in blue text) stipulate the following:

(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.*

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

(2A) The maximum floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential identified as “Area 1” on the Key Sites Map is 1:1.

(2B) The maximum floor space ratio for development for the purposes of residential accommodation is as follows—

(a) on land shown edged black or pink on the Floor Space Ratio Map—

<i>Site area</i>	<i>Maximum floor space ratio</i>
<i>< 150m²</i>	<i>0.9:1</i>

$\geq 150 < 300m^2$	0.8:1
$\geq 300m^2 < 450m^2$	0.7:1
$\geq 450m^2$	0.6:1

(b) on land shown edged orange or green on the Floor Space Ratio Map—

Site area	Maximum floor space ratio
$< 150m^2$	1.0:1
$\geq 150 < 300m^2$	0.9:1
$\geq 300m^2 < 450m^2$	0.8:1
$\geq 450m^2$	0.7:1

(c) on land shown edged brown on the Floor Space Ratio Map—

Site area	Maximum floor space ratio
$< 150m^2$	0.8:1
$\geq 150 < 300m^2$	0.7:1
$\geq 300m^2 < 450m^2$	0.6:1
$\geq 450m^2$	0.5:1

(d) on land shown edged yellow on the Floor Space Ratio Map—

Site area	Maximum floor space ratio
$< 150m^2$	0.9:1
$\geq 150 < 300m^2$	0.8:1
$\geq 300m^2$	0.7:1

(2C) The maximum floor space ratio for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land identified as "F" on the Floor Space Ratio Map is specified in the Table to this subclause.

Site area	Maximum floor space ratio
$< 150m^2$	1.1:1
$> 150 \leq 200m^2$	1:1
$> 200 \leq 250m^2$	0.9:1
$> 250 \leq 300m^2$	0.8:1
$> 300 \leq 350m^2$	0.7:1
$> 350m^2$	0.6:1

(2D) The maximum floor space ratio for development for the purpose of residential flat buildings on land shown edge red on the Floor Space Ratio Map may be greater than the maximum floor space ratio shown for the land on the Floor Space Ratio Map by up to 0.25:1.

(2E) In calculating the floor space ratio in relation to land dedicated to the Council for the purposes of a proposed road on the Land Reservation Acquisition Map, land marked "Local Road (SP2)" must be included in the site area.

Council's maps identify a maximum floor space ratio of 0.7:1 (Figure 3).

The proposed alterations and additions will result in a gross floor area of 172.75m², representing a Floor Space Ratio (FSR) of 0.97:1.

A written justification is therefore required for the proposed variation to the floor space ratio development standard, in accordance with Clause 4.6 of the Inner West LEP 2022.

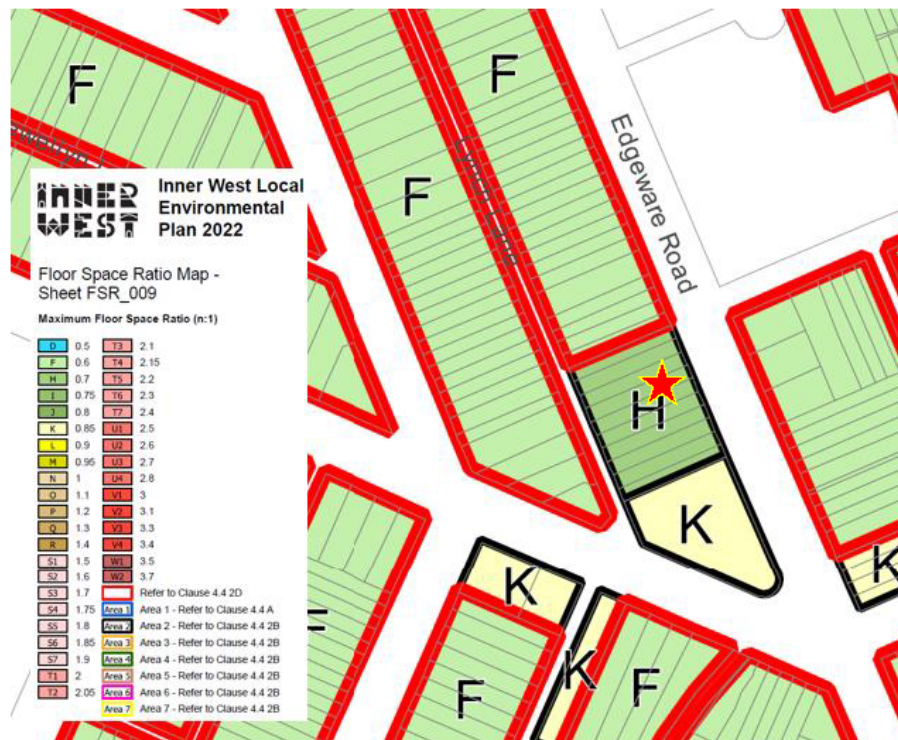


Figure 3: Maximum FSR Map (Source: IWLEP22) – Site marked with a star

4. Extent of Compliance

As noted above, Clause 4.4 of the IWLEP22 states the subject site has a maximum FSR of 0.7:1. Based on the site area of 178.3m², the maximum permissible gross floor area is 124.81m².

The proposed development seeks a gross floor area of 172.75m² (0.97:1), resulting in a variation of 47.94m² or 38.41%.

The variation sought is primarily as a result of the small allotment size and preceding history of development. The existing dwelling has a floor area of 161.15m², representing an FSR of 0.90:1. Further, the proposed development only seeks a modest 9.5m² increase to the existing floor area of the site as a result of an existing attic conversion. The additional gross floor area sought will improve amenity of the dwelling for current and future residents.

It is considered unreasonable to strictly enforce the floor space ratio for such small existing allotments under circumstances where no significant adverse implications to adjoining properties or the public domain will occur. It is also important to note that at the time the townhouse development was approved by Council, no FSR standard applied to the site. Council records also indicates that the approved GFA equated to an FSR of 0.99:1, though it is appreciated the inclusions in calculating GFA may have differed at the time of approval.

A degree of flexibility is considered reasonable in this instance.

5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of Four2Five, the Commissioner stated within the judgement the following, in reference to a variation:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

First	<p><i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i></p> <p><i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning</i></p>
--------------	--

	<i>objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i>
Second	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
Third	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
Fourth	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i>
Fifth	<i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the floor space ratio development standard, the **first method** is discussed to establish that the standard is unreasonable and unnecessary in the circumstance of the case. Given that the row of ten (10) dwellings is also within a pocket of R1 general residential land, surrounded by R2 low density zoned land, the **fifth method** is also raised.

The objectives of the development standard are achieved notwithstanding non-compliance with the standard:

The objectives supporting the maximum floor space ratio identified in Clause 4.4 are discussed below. Consistency with the objectives and the absence of any environmental impacts would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

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

(a) to establish the maximum floor space ratio to enable appropriate development density,

The proposed site density as a result of the alterations and additions sought is considered reasonable given the context of the site and character of the streetscape. The additional gross floor area sought is situated behind the roof ridge of the dwelling and will not be visible from Edgeware Road or Lynch Lane.

The proposed alterations and additions will be contained within the existing footprint of the dwelling, with the proposed rear and front alignment of the dwelling to remain unchanged and continue to respond to the alignment of the adjoining attached dwellings that form part of the overall townhouse development. Furthermore, no change to the existing site coverage or landscaped area will occur as a result of the proposed variation to FSR.

The variation sought to floor space ratio (FSR) is primarily as a result of the small allotment size and historic pattern of subdivision and subsequent development, which exacerbates even the slightest of variations to FSR, notwithstanding the existing non-compliance with current numerical standards. As illustrated in the discussion of the other objectives below, the proposed FSR is appropriate for the existing and desired density of development. Moreover, it

is important to reiterate that the proposed alterations and additions only represent a modest 9.5m² increase to the existing gross floor area of the dwelling. Thus, the overall density of the development will remain relatively consistent with the existing development density on the subject site.

(b) to ensure development density reflects its locality,

The subject site is located in the Enmore Park Precinct (Precinct 15) and the Enmore House Estate Heritage Conservation Area. As has been detailed within the Statement of Environmental Effects, the proposal generally aligns with the desired future character of the area. The proposal maintains the original residential use, with the proposed works enhancing and contributing to the character and identity of the neighbourhood. The proposed alterations and additions complement the existing architectural style and form of the dwelling, with the proposed works situated behind the existing roof form of the dwelling. No change to the existing site coverage or landscaped area will occur.

The proposed alterations and additions respond to the style and form of the existing dwelling, ensuring a seamless transition between the existing and proposed works sought. The proposed materials and finishes sought will match the existing dwelling and subsequently remain cohesive with the character of the streetscape.

It is considered that the proposed development satisfies the desired future character of the locality.

It is important to outline that the existing dwelling on the subject site was originally approved as part of a townhouse development under DA201100193. All ten (10) dwellings approved as part of the townhouse development had the same layout and gross floor area. Thus, the FSR of each of these dwellings exceed the maximum FSR standard of 0.7:1. Considering the existing dwelling and adjoining dwellings exceed the maximum FSR standard, the character of the neighbourhood and Edgeware Road streetscape will be unmodified as a result of the non-compliance sought to the current FSR standard.

With respect to the **fifth method**, a sliding scale FSR standard applies to the sites located on the opposite side of Edgeware Road and Lynch Lane and the majority of residential development within Edgeware Road. If the sliding scale FSR standard, which applies to surrounding sites, was adopted for the subject site, the maximum FSR standard afforded to the site would be 1:1 based on the lot area of 178.3m². Thus, the proposed FSR of 0.97:1 is considered appropriate for the context of the site.

(c) to provide an appropriate transition between development of different densities

The subject site is bounded by properties with the same zoning and FSR standard that apply to the proposed development (being the ten townhouses); while a different FSR standard and land zoning applies to sites located on the opposite side of Edgeware Road and Lynch Lane, the overall FSR of the proposal will remain appropriate with the differing densities. A sliding scale FSR standard applies to the sites located on the opposite side of Edgeware Road and Lynch Lane. This sliding scale FSR standard provides the potential for an FSR standard of up to 1.1:1 for attached dwellings, semi-detached dwellings and dwelling houses (Clause 4.4(2C)), pending the site area of the allotment.

If the sliding scale FSR standard, which applies to surrounding sites, was adopted for the subject site, the maximum FSR standard afforded to the site would be 1:1 based on the lot area

of 178.3m². Thus, the proposed FSR of 0.97:1 is considered appropriate for the wider context of the site.

(d) to minimise adverse impacts on local amenity,

The existing built form of the dwelling will remain relatively unchanged with the additional floor area sought generally contained within the existing footprint and envelope of the building. The only change to the existing dwelling form is the addition of a small dormer at the rear of the dwelling which sits below the existing roof ridge height of the dwelling and will have minimal visibility to Lynch Lane. All glazing is orientated to the rear, with no windows or doors to side elevations. As such, no adverse overshadowing, privacy, view loss or visual bulk impacts will be generated by the proposed variation to FSR.

As outlined in the submitted Statement of Environmental Effects, with respect to solar amenity:

"The orientation of the site results in inevitable overshadowing upon the southern-most neighbour, 5/151-153 Edgeware Road:

9am – 12pm: Additional overshadowing only falls upon the roof forms of the carport and dwelling of townhouse #5 for 3.0 hours in the morning.

1pm: Additional overshadowing from the proposed dormer falls upon the roof of the subject site and the adjoining dwelling. The proposed roof of the carport casts modest additional overshadowing upon the existing shed within the subject site and a minor additional area of overshadowing (less than 0.30m²) within the courtyard of townhouse #5 to the south.

2pm – 3pm: Townhouse #5 is self-shadowed by its own carport outbuilding, with no additional impact as a result of the modified carport roof form. The existing shed within the subject site is overshadowed, however this is of no consequence as the shed does not function for the purpose of passive recreation.

The proposed dormer addition and modified carport roof do not result in the loss of any existing solar amenity to townhouse 4 (the subject site) nor townhouse 5."

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

As the alterations and additions sought are contained within the footprint of the dwelling, no change to the existing landscaping and private open space within the site will occur. The proposed variation to FSR does not require the removal of the existing street trees located along Edgeware Road.

In view of the above, it is submitted that the proposal is consistent with the objectives of Clause 4.4 of the IWLEP22 and that this submission provides sufficient environmental planning grounds to justify contravening the development standard.

6. Are there Sufficient Environmental Planning Grounds?

The assessment above, in addition to the Statement and Environmental Effects and shown throughout the supporting documentation, demonstrates that the resultant environmental impacts of the proposal will be satisfactory. As required by Clause 4.6 (3)(b), it must be demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

The following environmental planning grounds apply:

- The proposed variation to FSR does not hinder the ability of the site to satisfy the objectives of the zone and FSR standard.
- The existing built form of the site and surrounding properties exceed the maximum FSR standard of 0.7:1, with an existing GFA of 161.15m² representing a variation of 36.34m² or 29.1% to the current FSR standard.
 - The existing built form located on the site and adjoining properties was approved as part of a townhouse development under DA201100193. There was no FSR standard at the time of the original approval (Marrickville LEP 2001).
 - The proposed development represents only a modest 9.5m² increase to the existing floor area of the site and will improve upon the amenity of the dwelling for current and future residents.
- The non-compliance to FSR is attributed to the small allotment size, which exacerbates even the slightest of variations to FSR.
 - It is considered unreasonable to strictly enforce the floor space ratio for such small allotments under circumstances where no significant adverse implications to adjoining properties or the public domain will occur.
- A sliding scale FSR standard applies to the sites located on the opposite side of Edgeware Road and Lynch Lane. If the sliding scale FSR standard, which applies to surrounding sites, was adopted for the subject site, the maximum FSR standard afforded to the site would be 1:1 based on the lot area of 178.3m². Thus, the proposed FSR of 0.97:1 is considered appropriate for the context of the site.
- The additional building bulk generated by the proposed variation to FSR is minor compared to the existing built form on the site. The proposed built form remains consistent with the adjoining attached dwellings which form part of the townhouse development.
- The proposed addition is located at the rear of the dwelling and will have limited visibility to the rear laneway. No adverse amenity impacts will be generated by the proposed variation to FSR.

In view of the above, the proposal has addressed the site constraints, streetscape character, and architectural and aesthetic characteristics, and is consistent with the objectives of the development standard.

The proposal results in a development that provides for an orderly and economic use of the land.

In this case, strict compliance with the development standard for FSR in the Inner West LEP 2022 is unnecessary and unreasonable and there are sufficient environmental planning grounds to support contravention of the standard.

7. Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.4.

The objectives of the zone and comments in response are as follows:

Zone R1 General Residential

Objectives of zone

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

The following comments are provided in response to the objectives:

- The proposed development is conducive to meeting the long term housing needs of the community.
- The proposal retains the attached dwelling / townhouses typology and is consistent with the density of development otherwise typical of the existing row of townhouses.
- No other land uses pertain to the proposal.
- The proposed alterations and additions maintain the character of the built and natural features of the area.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard, noting the development will be in the public interest.

8. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard.

The variation to FSR has not resulted in a diminished outcome for the development or creation of unacceptable environmental impacts to adjacent and surrounding properties. The variation has not created a form and scale of development that is out of character with Edgware Road.

The development is generally consistent with the planning controls as detailed within the accompanying Statement of Environmental Effects and aligns with the objectives of the standard.

The existing gross floor area on the site exceeds the maximum FSR standard prescribed under the Inner West LEP 2022. The proposed minor 9.5m² increase to gross floor area is minor and will not result in any negative impacts to adjoining properties or the public domain.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

It is considered that the public is not impacted in any way by maintaining the standard.

9. Is the Variation Well Founded?

It is considered that this has been adequately addressed throughout this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the IWLEP22 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (floor space ratio) and objectives of the R1 General Residential zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the residential character of the area.

Based on the above, the variation is considered to be well-founded.

10. General

Clause 4.6 also states that:

- “(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if:*
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5*
 - (ca) clause 6.27(4),*
 - (cb) clause 6.28,*

*(cc) clause 6.29,
(cd) clause 6.31"*

This variation does not relate to the subdivision of land in a land use zone nominated above. The variation sought is thus not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate has been submitted under separate cover.

Clauses 5.4, 5.5, 6.27(4), 6.28, 6.29 and 6.31 of the IWLEP22 do not apply to the proposal.

11. Conclusion

The proposal does not strictly comply with the maximum floor space ratio standard as prescribed by Clause 4.4 of the IWLEP22. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the IWLEP22 are satisfied as the breach to the controls does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and the use of Clause 4.6 of the Inner West LEP 2022 to vary this development control is appropriate in the context of the case.

Based on the above, it is sensible to conclude that strict compliance with the maximum floor space ratio is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Krystal Narbey
Town Planner
GAT & Associates
Plan 4864