





 DEVELOPMENT ASSESSMENT PANEL REPORT	
Application No.	DA/2023/0863
Address	27 Moonbie Street SUMMER HILL
Proposal	Alterations and additions to existing building to convert it into a single dwelling house. Construction of a detached garage and secondary dwelling structure.
Date of Lodgement	19 October 2023
Applicant	Ms Adele T Walsh
Owner	Mr Joseph Rossi Ms Adele T Walsh
Number of Submissions	Initial: 1 After Renotification: 0
Cost of works	\$835,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Section 4.6 request to vary the minimum site area under the Housing SEPP
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	   N
Notified Area	 

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing building to convert it into a single dwelling house and construction of a detached garage and secondary dwelling structure at 27 Moonbie Street, Summer Hill.

The application was notified to surrounding properties and one submission opposing the proposed development was received in response to the initial notification.

Following the preliminary assessment, Council issued a Request for Further Information (RFI) letter and amended plans and additional information was provided. The application was renotified, and no submissions were received in response.

The main issues that have arisen from the application include:

- Section 4.6 request to vary the minimum site area under the Housing SEPP
- Built form and streetscape character of secondary dwelling and garage structure

Despite the items noted above, the proposal was amended during the assessment of the application, and it is considered the amendments result in a proposal that generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and *Comprehensive Inner West Development Control Plan 2016 (DCP 2016) for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill*.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable.

The application is suitable for consent subject to the imposition of appropriate terms and conditions.

2. Proposal

The application seeks development consent for alterations and additions to the existing building to convert it into a single dwelling house as well as construction of a detached garage and secondary dwelling structure.

Specifically, the proposal involves the following works:

- Demolition of external stair to north of existing building;
- Demolition of rear skillion roof and structure at rear of building and reinstatement with new external walls, incorporating doors and windows and new floors at both levels;
- External demolition of miscellaneous paths, paving and fencing;
- Removal of existing upper verandah balustrade and reinstatement with wrought iron balustrade;
- Removal of existing aluminium windows and replacement with timber framed windows;
- Internal demolition of some walls and partial demolition of a wall to provide a new opening;
- Demolition of bathrooms and kitchens on both levels;
- Internal reconfiguration of the existing building to incorporate:
 - At ground floor level – living/ dining area, kitchen, bedroom, study, laundry, bathroom and stairway to access first floor;

- At first floor level – three bedrooms, walk in robe and ensuite, bathroom and storage;
- Construction of a new first floor balcony to rear of existing building;
- Construction of a new timber pergola to rear of existing building over a new terrace and hardstand car space;
- Use of the primary building as a single occupancy;
- Demolition of the existing detached garage;
- Construction of a new garage and secondary dwelling structure in the south west corner of the site, incorporating:
 - At ground level – a single garage, kitchen/dining and living area with stair to access the upper floor;
 - At the upper level – two bedrooms and a bathroom in an attic form;
- Construction of a covered verandah to rear of garage and secondary dwelling;
- Removal of seven trees from the subject site;
- Construction of a new front fence and gate to Moonbie Street and new fencing and driveway gate to Regent Street; and
- Miscellaneous external works including landscaping, and garden walls.

3. Site Description

The subject site is located on the south eastern corner of Moonbie Street and Regent Street, Summer Hill.

The site consists of one allotment and is generally rectangular shaped with a total area of 389.7sqm and is legally described as Lot B in DP 416309.

The site has a primary frontage to Moonbie Street of 15.24 metres and a secondary frontage to Regent Street of approximately 25.61 metres.

The site supports an original two storey, brick building which was formerly a neighbourhood corner shop, with a terrace style two storey dwelling attached to the north. The building has been altered at some time in the past to create a dwelling occupying the entire ground floor and a separate dwelling occupying the entire first floor. The ground floor dwelling is accessed through the original entry to the terrace and the first floor is accessed via an external stair to the north of the terrace. The site has two driveway crossovers on Regent Street. One driveway accesses the hardstand area to the west of the residential building and the other driveway accesses the timber framed garage located in the south west corner of the site.

The adjoining properties support a range of residential uses, including single and double storey dwellings and residential flat buildings. Summer Hill Pre School is located diagonally opposite the site on the corner of Moonbie Street and Lorne Street. There is an Ausgrid asset in the form of an electrical substation located adjacent to the site at 22 Regent Street.

The site is located in the vicinity of a number of locally listed heritage items and the Trafalgar Square, Summer Hill Heritage Conservation Area is located to the south of the site, on the opposite side of Regent Street.

The following trees are located within the rear yard or northern setback of the subject site:

- Tree 1 - *Callistemon citrinus* (Bottlebrush)
- Tree 2 - *Tibouchina spp.* (Tibouchina)
- Tree 3 - *Olea europaea* (Olive)
- Tree 4 - *Syzigium spp.* (Lilli Pilli)

- Tree 5 - *Acer negundo* (Box Elder)
- Trees 6 and 7 - Unidentified deciduous tree
- Tree 8 - *Ficus binnendijkii* (Long-leafed Fig)
- Trees 9 and 10 - *Citrus species*
- Tree 11 - *Schinus areira* (Peppercorn)
- Tree 12 – *Murraya paniculata* (Murraya)

The following street trees are located adjacent to the site:

- Tree 11 - *Schinus areira* (Peppercorn) – located in the road reserve on Moonbie Street
- Tree 13 - *Backhousia citriodora* (Lemon Myrtle) - located between the two driveways on Regent Street

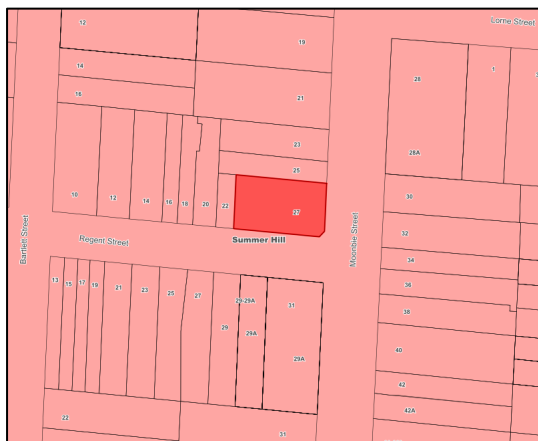


Figure 1: Zoning Map of the subject site (R2 – Low Density Residential highlighted red).



Figure 2: Photo of the subject site (as viewed from the east on Moonbie Street).



Figure 3: Photo of the subject site (as viewed from the south east on Moonbie Street).



Figure 4: Photo of the subject site (as viewed from the west along Regent Street).

4. Background

Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2022/0073	Pre-Development Application - Proposed subdivision and development of the property to create two side by side semi-detached dwellings	Issued 11/05/2022
PDA/2022/0264	Pre-Development Application - Proposed subdivision and development of the existing property at 27 Moonbie Street Summer Hill	Issued 17/10/2022

Surrounding Properties

None of relevance

Application history

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

Date	Discussion / Letter / Additional Information
19/10/2023	Application Lodged.
01/11/2023 to 15/11/2023	Application notified.
22/01/2024	<p>Request for information (RFI) letter issued to the applicant requiring amendments or additional information to address the following:</p> <ul style="list-style-type: none"> • Amendments to the design and form of the garage and secondary dwelling structure to address issues related to its size, scale and form. It was recommended that the following modifications be made to the garage and secondary dwelling structure: <ul style="list-style-type: none"> ○ The overall height and scale be reduced; ○ The expanse of brick wall above the garage doors be reduced; ○ The roof form be modified to be a traditional pitched roof form; ○ An attic style room (or rooms) be incorporated in any upper floor; and ○ Suggestions were provided as to various ways in which a secondary dwelling and carparking could be accommodated on the site, including the suggestion that consideration be given to proposing a single garage with the secondary dwelling split over two levels with an upper level in an attic form; • Section 4.6 request required to vary minimum lot size for secondary dwellings under the Housing SEPP; • The Statement of Environmental Effects to be updated to include assessment against the provisions for secondary dwellings in the <i>State Environmental Planning Policy (Housing) 2021</i>; • Recommendation that the bar be deleted from the upper floor plans as (with the layout proposed) the upper floor could easily

	<p>be used as self-contained dwelling which is akin to a third dwelling on the site.</p> <ul style="list-style-type: none"> • Design revisions to address privacy concerns; • Recommendation that consideration be given to Ausgrid requirements given the proposed works are located near the adjacent electrical substation; • Location of street tree on Regent Street to be shown on plans; • Advice that the Box Elder tree could be removed if required; and • Separate Basix Certificate for Secondary dwelling to be provided.
27/02/2024	<p>Revised plans and additional information were submitted in response to Council’s RFI request. The response incorporated the following:</p> <ul style="list-style-type: none"> • The design and form of the secondary dwelling and garage structure were revised to incorporate a single garage with the secondary dwelling split over two levels with living area at ground level and an upper level in an attic form; • The proposed widening of the western driveway was deleted and the existing eastern driveway crossover was retained to access a hardstand car space; • A Section 4.6 request to vary minimum lot size for secondary dwellings and an updated Statement of Environmental Effects was provided; • Revisions were made to windows and a privacy screen added to the north of the proposed balcony on the principal dwelling to address privacy concerns. The balcony to the secondary dwelling was deleted, • Ausgrid requirements were considered and incorporated into the plans; and • The plans were updated to show removal of the Box Elder and the location of the street Tree on Regent Street. <p>The amended plans are the subject of this assessment report</p>
06/03/2024 to 20/03/2024	<p>In accordance with Council’s Community Engagement Strategy, the amended plans were required to be renotified.</p>

5. Assessment

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

A. Environmental Planning Instruments

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

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*

- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

The following provides further discussion of the relevant issues:

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

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

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

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

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

SEPP (Housing) 2021

Chapter 3 Diverse housing, Part 1 Secondary dwellings

The application seeks consent for a secondary dwelling under the *Housing SEPP* which provides controls relating to various matters including zone, subdivision, floor space ratio (FSR), lot size and parking requirements.

The main design parameters are addressed below:

Division 2 Secondary dwellings permitted with consent

Section	Proposal	Compliance
50 - This part applies to development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.	The site is zoned R2 – Low Density Residential under the <i>IWLEP 2022</i> . Dwelling houses are permitted with consent.	Yes
51 - Development consent must not be granted for the subdivision of a lot.	The proposal does not include subdivision of the existing site.	Yes

Section	Proposal	Compliance
52 (2)(a) - No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land.	The proposal seeks consent for a secondary dwelling. The proposed alterations and additions to the existing building involve converting it into one, principal dwelling. No further dwellings beyond the principal and secondary dwelling are proposed.	Yes
52 (2)(b) - The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	A maximum FSR of 0.7:1 or 272.79sqm applies to the land. The proposal results in an FSR of 0.64:1 or 249.2sqm and complies with Section 4.4 of the <i>IWLEP 2022</i> .	Yes
52 (2)(c) the total floor area of the secondary dwelling is— (i) no more than 60sqm, or (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.	The total floor area of the proposed secondary dwelling is 58.3sqm.	Yes
53 (2)(a) for a detached secondary dwelling a minimum site area of 450sqm	The total site area is 389.7sqm.	No- see assessment below under Section 4.6 of <i>IWLEP 2022</i> .
53 (2)(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	There are two existing parking spaces on the site. The proposal does not alter this arrangement.	Yes

The proposed development is consistent with Chapter 3, Part 1 of the Housing SEPP except for the minimum site area requirements. The development proposes a variation to the minimum site area required by Clause 53(2)(a) of the Housing SEPP under Section 4.6 of *IWLEP 2022*. This matter is discussed in more detail below under Section 4.6 of *IWLEP 2022*.

SEPP (Sustainable Buildings) 2022

The applicant has included BASIX Certificates as part of the lodgment of the application in compliance with the *EPA Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

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

Ausgrid provided comments with regard to the proximity of the proposed works to the existing electricity substation, located within the adjacent site at 22 Regent Street. The Ausgrid requirements have been included as a general condition in the recommendation.

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

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of Chapter C Part 4 of the CIWDCP 2016.

The application seeks the removal of the following trees from within the rear and side setback of the subject site.

- Tree 1 - *Callistemon citrinus* (Bottlebrush)
- Tree 2 - *Tibouchina spp.* (Tibouchina)
- Tree 3 - *Olea europaea* (Olive)
- Tree 5 - *Acer negundo* (Box Elder)
- Trees 9 and 10 - *Citrus species*
- Tree 12 – *Murraya paniculata* (Murraya)

Trees 1, 2, 3, 9, 10 and 12 are of small stature and insignificant within the landscape, therefore their removal is supported, subject to replacement planting. As such, a condition requiring a minimum of 1 x 200 litre size replacement tree has been included in the recommendation.

Tree 5 is listed as an exempt species, therefore, no objection is raised to its removal.

It is noted that there are several trees located within or on land adjacent to the subject site that may be impacted by the proposed works. Tree protection measures for works associated with the proposed development are required to ensure the long-term survival of the trees within the subject site and on the adjoining land.

As such, conditions have been included in the recommendation regarding the Tree Protection Plan (TPP) for the site. Furthermore, all tree protection measures as detailed in the TPP must be implemented and monitored during construction and certified in writing by a Project Arborist.

Overall, the proposal is considered acceptable with regard to the *Biodiversity and Conservation SEPP* and Chapter C Part 4 of the CIWDPC 2016 subject to the imposition of conditions, which have been included in the recommendation of this report.

Inner West Local Environmental Plan 2022

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

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The proposal conserves and maintains the natural, built and cultural heritage of Inner West, • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents, • The design of the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain. 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table R2 – Low Density Residential	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The application proposes alterations and additions to the existing building to convert it into one dwelling house. Dwelling houses are permissible with consent in the R2 zone; and • The application proposes the construction of a secondary dwelling, which is permissible with consent in the R2 Low Density Residential zone. <p>The proposal is consistent with the relevant objectives of the zone, as it will assist to provide for the housing needs of the community within a low density residential environment.</p>	Yes
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. • It is noted that the Ground Floor Demolition Plan shows the existing vehicular crossover being demolished. The amended plans propose retention of the driveway. As such, a condition has been included in the 	Yes, subject to conditions

Section	Proposed	Compliance
	recommendation that the demolition plan be updated to show the retention of the driveway.	

Part 4 – Principal development standards

Control	Proposed	Compliance
Section 4.3 Height of building	Maximum	8.5m
	Proposed	7m
Section 4.4 Floor space ratio	Maximum	0.7:1 or 272.79sqm
	Proposed	0.64:1 or 249.2sqm
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.	Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 53 (2)(a) <i>Non-discretionary development standards</i> of State Environmental Planning Policy (Housing) 2021	See discussion below

Section 4.6 – Exceptions to Development Standards

As outlined above, the proposal results in a breach of the *Section 53(2)(a) – Non-discretionary development standards – the Act, s 4.15* of the Housing SEPP 2021.

The applicant seeks a variation to the non-discretionary development standards under Section 53(2)(a) for the minimum site area of 450sqm for a detached secondary dwelling by 13.4% (60.3sqm).

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.

The objectives of the development standard are as follows:

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

The objectives of the R2 Low Density Residential zone are as follows:

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

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The revised design and supporting documentation demonstrate that the proposal, which has been designed in accordance with the objectives and controls of the LEP and the design guidelines for secondary dwellings as stated in the Comprehensive Inner West DCP 2016, would have no detrimental effect on the function and amenity the subject property, nor the surrounding properties. In this instance, strict compliance with the numerical control for minimum site area is considered unreasonable and unnecessary.*
- *Compliance with the objectives of the Housing SEPP and also the performance criteria and development standards of the DCP is achieved, and therefore a better outcome is achieved, by allowing flexibility with regard to the non-compliance with the numerical control.*
- *It is noted that both the applicant and Council are in concurrence that the site could reasonably support a secondary dwelling, subject to compliance with the LEP standards and DCP performance criteria.*
- *The standard is noted as being non discretionary in that the intention is to prevent the consent authority from requiring a more onerous standard. Clause 4.15(3) of the Environmental Planning and Assessment Act 1979 does not prevent development consent being granted if a non-discretionary development standard is not complied with.*
- *It is demonstrated that the proposal complies with the objectives of the Housing SEPP as well as the development standards of the LEP and the performance criteria of the DCP, with no material impacts upon adjoining properties and no adverse effect on the streetscape and the locality.*
- *The proposal meets the principles of the State Environmental Planning Policy (Housing) 2021 (SEPP).*
- *The proposal complies with the requirements of the SEPP as follows:*
 - *The proposal is for only a principal dwelling and a secondary dwelling;*
 - *The proposed gross floor area is less than that permitted under the Inner West LEP;*
 - *The total floor area of the secondary dwelling is less than 60m².*
- *The proposal has been designed with reference to the performance criteria and design solutions of the Development Control Plan for secondary dwellings, including:*
 - *The proposed setbacks are appropriate for a corner site in a residential zone where the secondary dwelling addresses the secondary frontage on Regent Street, achieving a transition from the original dwelling on the corner, which is built up to the side boundary, and the existing dwellings to the west which are setback from their primary street frontage.*
 - *Landscaped open space for the proposal is achieved in accordance with DCP standards.*
 - *The total gross floor area of the principal dwelling and the secondary dwelling is no more than the maximum FSR allowed under the Inner West LEP 2022. The bulk and scale of the proposed secondary dwelling has been reduced in accordance with Council's request and maintains the appearance of a typical dwelling house (on the corner of Moonbie Street) with ancillary outbuilding to the rear.*
 - *The design presents as a single storey dwelling with an attic and is of a scale and form which is compatible with its context and does not materially detract from the existing streetscape, nor the existing character of the area.*
 - *The proposed secondary dwelling is located upon a portion of the site currently occupied by an existing garage. The remaining landscaped open space is useable*

and also sufficient in size to comply with the minimum requirement under the DCP for a dwelling house.

- *The structure is set back over seven (7) metres from the north side boundary which provides sufficient separation between adjacent dwellings as well as access to readily usable north-facing private landscaped open space with deep soil planting.*
- *The proposed 450mm from the rear boundary to the west (with the existing substation beyond) is considered sufficient given the nature of an ancillary outbuilding to the secondary street frontage of the existing primary dwelling and would not cause material impacts upon the nearest adjacent dwelling on Regent Street which is eight (8) metres away.*
- *In conclusion, this request for an exception to a development standard is sought in accordance with the objectives of Clause 4.6 of the LEP, and on the basis that the proposal meets the performance criteria of the DCP as well as the objectives of the Housing SEPP. It has been demonstrated that the objectives of the relevant planning instruments are achieved by the revised proposal, despite the non-compliance with the minimum site area development standard.*

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

It is considered the development is in the public interest because it is consistent with the objectives of the R2 Low Density Residential zone and objective of the development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

Zone objectives

- The development includes a new secondary dwelling which will provide for the housing needs of the community within a low density residential environment. The objective is reasonably satisfied.
- The proposed secondary dwelling is incorporated into a structure which combines a single garage with the secondary dwelling split over two levels, the upper level being in an attic form. This provides an additional residential use whilst maintaining the character of built and natural features in the surrounding area. The objective is reasonably satisfied.

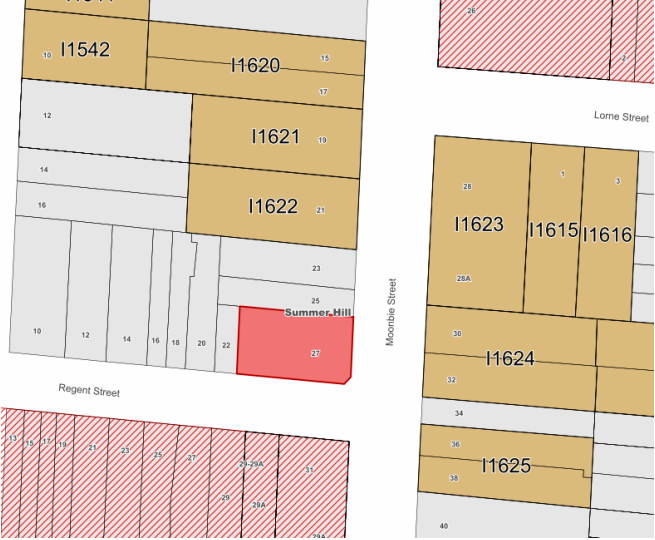
Development Standard objectives

- The proposal seeks to vary the minimum site area for a detached secondary dwelling of the Housing SEPP by 13.4% (60.3sqm). Varying this standard does not result in the consent authority requiring a more onerous standard to be met. The proposal does not offend the intent of the objective.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General in accordance with section 4.6(4)(b) of the *IWLEP 2022*.

The proposal thereby accords with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Section 53(2)(a) of the Housing SEPP and it is recommended the section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
<p>Section 5.4 Controls relating to miscellaneous permissible uses</p>	<p>Section 5.4(9) states that secondary dwellings are limited to a maximum gross floor area of 60sqm, or 35% of the gross floor area of the principal dwelling, whichever is greater (35% being 87.22sqm). The proposed secondary dwelling is 58.3sqm in area and is therefore acceptable with regard to this Section.</p>	<p>Yes</p>
<p>Section 5.10 Heritage conservation</p>	<p>The subject site at No. 27 Moonbie Street, Summer Hill is not listed as a local heritage item nor is the building located within a Heritage Conservation Area.</p> <p>However, as shown in the following map, the building is in the vicinity of several locally listed heritage items and the Trafalgar Square, Summer Hill Heritage Conservation Area is located to the south.</p>  <p><i>Figure 5: Heritage Map (subject site highlighted red, heritage items shown brown and HCA hatched in red).</i></p> <p>The proposal is considered acceptable on heritage grounds as it does not impact the heritage items in the immediate vicinity nor the Heritage Conservation Area on the opposite side of Regent Street. The following is noted:</p> <ul style="list-style-type: none"> • The overall scale of the proposal has been reduced and is generally more in keeping with the streetscape than the preceding proposals submitted in the two, separate Pre-Development Applications; • As previously indicated, the further revisions to design of the secondary dwelling in response to the RFI, have resulted in a built form that is modest in scale and with design and detailing compatible with the existing streetscape; 	<p>Yes</p>

Section	Compliance	Compliance
	<ul style="list-style-type: none"> The proposed changes to the historic portion of the existing building are modest in character and the existing building will still be recognisable as a Victorian era shop with a residence over and terrace house beside; and The proposal includes works that will improve the presentation of the existing historic building on the site. <p>Given the above the proposal respects and preserves the environmental heritage of the Inner West.</p>	

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	Yes, subject to conditions

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Comprehensive Inner West Development Control Plan 2016 (IWDCP 2016) for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWDCP 2016	Compliance
Section 2 – General Guidelines	
A – Miscellaneous	
2 - Good Design	Yes
5 - Landscaping	Yes
8 - Parking	Yes
11 - Fencing	No, see comments
15 - Stormwater Management	Yes
C – Sustainability	
1 – Building Sustainability	Yes
3 – Waste and Recycling Design & Management Standards	Yes
4 – Tree Management	Yes
E1 – Heritage items and Conservation Areas (excluding Haberfield)	
1 – General Controls	Yes
F – Development Category Guidelines	
1 – Dwelling Houses	Yes
2 – Secondary Dwellings	Yes

The following provides discussion of the relevant issues:

Comprehensive Inner West Development Control Plan 2016

The application was assessed against the following relevant parts of the Comprehensive Inner West Development Control Plan 2016 (CIWDCP 2016).

Chapter A – Miscellaneous

Control	Proposed	Compliance
Part 2 – Good Design	<p>The proposal has been designed having regard to Part 2 as it appropriately considers context, scale, built form, density and resource, energy and water efficiency, landscape, amenity, safety and security, social dimensions and aesthetics. The following is noted with particular regard to context, scale and built form:</p> <ul style="list-style-type: none"> • There is a unique pattern of development on the existing site with the compact form of the former corner shop and residence located on the southeast corner. The proposal maintains the compact form of the original, historic building as the alterations and additions are contained within the current building footprint. It is considered that this, in combination with the siting of the proposed garage and secondary dwelling structure (in the same general location as the existing garage) is an appropriate design response to the context on a corner site as follows: <ul style="list-style-type: none"> ○ There is adequate separation between the original corner building and the new structure. This enables the proposed new building to be secondary in scale and form to the principal dwelling and for it to actively present to Regent Street. An alternate longer extension to the rear of the principal dwelling would likely result in a built form with reduced capacity to directly engage with the secondary street; ○ Retention of the wide, side setback to the northern boundary allows for any adverse amenity impacts on the neighbouring property at 25 Moonbie Street to be to be minimised. ○ The proposed configuration of the built form on the site allows for the provision of a large area of north facing landscaped open space which in turn creates ample private open space for both the principal and secondary dwelling. • The proposal actively engages both streets with design elements sympathetic to the character of surrounding development. As such, the proposal enhances the streetscape appearance and character of the site. • The refinement of the proposed new structure to incorporate, a single garage with the secondary 	Yes

Control	Proposed	Compliance
	dwelling split over two levels with an upper level in an attic form, has resulted in a modest built form that is sympathetic to the form, scale and height of development in the streetscape.	
Part 5 – Landscaping	<p>The proposal is consistent with the relevant provisions of Part 5 as follows:</p> <ul style="list-style-type: none"> The proposal maintains and enhances the landscape character of the subject site. The landscaping proposed will create visual interest, increase residential amenity and supports the intention of the DCP in retaining, protecting and integrating significant vegetation within development. 	Yes
Part 8 – Parking	<p>The proposal is consistent with the relevant provisions in Part 8 as follows:</p> <ul style="list-style-type: none"> A minimum of one car parking space is required under this part. There are currently two driveways and associated car spaces on the site. There is no change to the quantity of car spaces provided on the site as one single garage and a hard stand space is proposed. 	Yes
Part 11 – Fencing	<p>The proposal is consistent with the relevant provisions in Part 11 as follows:</p> <ul style="list-style-type: none"> The proposed fencing is consistent with the prevailing desirable fencing patterns in the neighbourhood. The existing front fence to Moonbie Street is approximately 1.5m high which exceeds the maximum height of 1.2m required under this part. The proposal includes demolition of the existing brick fence in this location and replacement with a timber fence on brick base matching the existing front fence height. Furthermore, the proposed front fence matches the height of the adjacent front fence at 25 Moonbie Street. As such, the proposed front fence height of 1.5m is considered acceptable. The height of the side boundary fence and gate to the southern boundary (between the two buildings) does not exceed 1.8m in height as required under this part. Furthermore, the proposed boundary fence and gates in this location are timber which is a more appropriate material in the streetscape than the existing metal fencing. The small portion of fence in front of the secondary dwelling, although technically on a side boundary, adopts the maximum height of 1.2m required for front fences which is a positive streetscape outcome and enables the dwelling to engage with the street. It is noted that while measurements confirm the heights of the proposed fencing, the dimensions for the proposed street boundary fence and gate heights are not shown on the plans. As such, a condition has been included in the recommendation to show the dimensions for fence and gate heights on the elevations. 	No, but acceptable
Part 15 – Stormwater Management	Standard conditions are recommended to ensure the appropriate management of stormwater.	Yes, subject to conditions

Chapter C – Sustainability

Control	Proposed	Compliance
Part 1 – Building Sustainability	The proposal demonstrates good environmental design and performance and will achieve efficient use of energy for internal heating and cooling.	Yes
Part 3 – Waste and Recycling Design & Management Standards	The proposal satisfies the relevant provisions of Part 3 as follows: <ul style="list-style-type: none"> • Adequate waste storage areas and access to these areas have been provided. • Waste management has been designed to minimise impacts on residential amenity. • Standard conditions are recommended to ensure the appropriate ongoing management of waste and during the construction phase. 	Yes, subject to conditions
Part 4 – Tree Management	As previously discussed, the removal of some trees within the subject site is supported subject to replacement planting. Furthermore, there are a number of trees located within or on land adjacent to the subject site that may be impacted by the proposed works. As such, conditions are included in the recommendation to ensure tree protection measures are in place to ensure the long-term survival of the trees within the subject site and on the adjoining land and for a minimum of one x 200 litre size replacement tree to be planted within the subject site.	Yes, subject to conditions

Chapter E1 – Heritage Items and Conservation Areas (excluding Haberfield)

Control	Proposed	Compliance
Part 1 – General	<u>1.9 Development in the vicinity of Heritage Items</u> The development is designed to respond positively to the heritage character of adjoining and nearby heritage buildings and heritage features in the public domain.	Yes

Chapter F – Development Category Guidelines

Control	Proposed	Compliance
Part 1 – Dwelling houses	<u>PC3 Context</u> The proposal is sympathetic with the context and development prevailing in the street as follows: <ul style="list-style-type: none"> • The alterations and additions to the existing building respect the scale and aesthetics of its context and are complementary in architectural style to the existing building; • The design of the proposed structure, incorporating the garage and secondary dwelling, has considered the existing style, form, scale and proportions of surrounding development. The dwellings to the west of the property on the northern side of Regent Street, generally present as single storey, single fronted dwellings. The proposed built form is modest in scale and presents as a garage and small dwelling in an attic form. Furthermore, the proposed height, bulk and scale of the structure provides a transition between the two-storey form of the existing building on the subject site and the single storey properties to the west; and 	Yes

Control	Proposed	Compliance
	<ul style="list-style-type: none"> The incorporation of elements including entry porch, a ground level window and dormer windows into the southern elevation provides a positive contribution to the streetscape as the secondary dwelling actively addresses Regent Street. 	
	<p><u>PC3 Scale</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> The proposal presents as a traditional domestic scale; and The site cover is compatible with that on adjoining lots, enables provision of sufficient landscaped open space and retains the on-site parking. As previously discussed, the proposed site coverage generally reflects the existing pattern of development on the subject site by maintaining the compact form of the original character building in the south east corner and locating the proposed garage and secondary dwelling in the south west corner of the site. It is noted that a large timber pergola is proposed to cover the terrace and hardstand area and is considered an appropriate element in its current form. Any future roof covering to this element would alter the currently proposed pattern of development and likely result in the development presenting as one continuous built form, given the western line of the pergola is located close to the secondary dwelling. As such, a condition has been included in the recommendation that a roof covering cannot be applied to the pergola without the prior consent of Council. <p>Further individual comments are provided specifically for the principal dwelling and the Secondary dwelling structure:</p> <p><i>Principal Dwelling</i></p> <ul style="list-style-type: none"> Under this part, the maximum wall height is required to be 6m. It is noted that the side walls of this component currently exceed the 6m wall height. The alterations to the existing building include replacement of the existing skillion roof to the rear and replacement wall cladding. The replacement roof sits below the fascia (in contrast to the existing roof which sits higher, just below the gutter line) and has a slight increase in pitch meaning that the proposed side walls are slightly lower in height than the existing side walls; and The proposed roof pitch for the replacement rear skillion element is consistent with the roof pitch for similar skillion elements in the streetscape. <p><i>Secondary Dwelling</i></p> <ul style="list-style-type: none"> As discussed, the proposed built form is modest in scale and is compatible with the scale of development prevailing in the street; The upper level is incorporated into an attic form. As such, the proposal appears as no more than 2 storeys; The maximum wall height is less than 6m; and 	<p>Yes, subject to condition</p>

Control	Proposed	Compliance
	<ul style="list-style-type: none"> The compact design and footprint, associated with the secondary dwelling being split over two levels, allows for the provision of a large area of north facing landscaped open space which creates ample opportunity for private open space for the principal and secondary dwelling. 	
	<p>PC4 Building setback The proposal is satisfactory having regard to the relevant provisions of this part. The proposed setbacks for new building work are generally consistent with that prevailing in the street and adequately reduce the appearance of building bulk and scale as follows:</p> <p><i>Principal Dwelling</i></p> <ul style="list-style-type: none"> As the subject site is a corner lot, the existing two storey building on the site has a minimal setback to the front (eastern) boundary addressing Moonbie Street and the side (southern) boundary addressing Regent Street. As such the following is noted regarding setbacks associated with works to the principal dwelling: <ul style="list-style-type: none"> At ground level, the proposed alterations and additions to the west maintain the existing footprint and as such, the side setbacks to the north and south boundaries are not altered by the proposal; At first floor level, the proposed alterations are maintained within the existing first floor footprint. The existing balcony to the west is replaced by a balcony of similar depth which maintains the existing rear (west) setback. The proposed balcony is shorter in length but located further to the north in line with the existing northern building line, as such, the existing northern (side) setback is maintained; and The proposal includes the removal of the existing external stairway and store under to the north. This results in an improved setback arrangement and reduces visual clutter to the Moonbie Street frontage. <p><i>Secondary Dwelling</i></p> <ul style="list-style-type: none"> The proposed siting and resulting setbacks for the garage and secondary dwelling structure reflects the existing pattern of development within the subject site as follows: <ul style="list-style-type: none"> The existing garage to the southwest corner of the site is currently set back 360mm from the side (southern) boundary to Regent Street. The proposal results in an increased setback to the side (southern) boundary to Regent Street, as the front of the garage is setback 900mm and 1.2m respectively at its east and west front corners; The existing setback of the garage to the rear (western) boundary is 400mm and the proposal maintains the existing setback with the side wall of the garage extending no further along the western boundary than the existing garage; The proposed structure is setback a further 1.4m approx. from the existing southern (side) building line 	<p>Yes, subject to conditions</p>

Control	Proposed	Compliance
	<p>established by the existing principal building along the Regent Street boundary; and</p> <ul style="list-style-type: none"> ○ The Regent Street frontage for the proposed secondary dwelling replicates the Moonbie Street frontage of the subject site which consists of a verandah between the front building line and the footpath. • As previously discussed, conditions regarding Ausgrid Requirements due to the proposal's proximity to the common boundary with its asset, have been included in the recommendation. 	
	<p><u>PC5 Facade treatment</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • The existing primary façade of the principal structure generally remains unaltered aside from reinstatement of the wrought iron balustrade, replacement of two aluminium windows with timber windows and external painting. These proposed treatments to the primary façade will enhance the streetscape appearance of the site. • The proposed secondary dwelling incorporates a facade treatment that facilitates engagement with the street in accordance with this part as follows: <ul style="list-style-type: none"> ○ The façade includes a transparent window to a habitable room; ○ The façade includes a door to a habitable room; ○ The façade includes entry articulation with provision of the front covered verandah which is reflective of the prevailing treatment of front facades within the streetscape and the subject site itself on Moonbie Street; and ○ Dormer windows are located in the street facing roof plane. • The front elevation of the secondary dwelling in DA05 D includes a minor drafting error. The eastern and western dormer windows do not match, as the western dormer window incorporates a vertical glazing bar. The applicant has confirmed that no glazing bar is intended. As such, a condition has been included in the recommendation to delete the vertical glazing bar to the western dormer window. • Given the proposed secondary dwelling has direct entry from the street, a condition has been included in the recommendation that a street numbering application be lodged and approved by Council to ensure that the occupancy is appropriately numbered. 	<p>Yes, subject to conditions</p>
	<p><u>PC6 Garage, carports and driveways</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • At least one carparking space is provided, as required under this part. The proposal includes one car space within the proposed single garage and an additional hardstand car space. • Under this part, garages are required to be set back 1m from the front building line. Notwithstanding the proposed garage is accessed off the secondary street, it is setback 	<p>Yes</p>

Control	Proposed	Compliance
	<p>approximately 1.5m from the existing building line of the principal dwelling on the south boundary at Regent Street and complements the scale, form and style of the dwelling.</p>	
	<p><u>PC7 Boundary fences and gates</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • The existing front fence is approximately 1.5m high which exceeds the maximum height of 1.2m required under this part. As previously discussed, the proposal includes replacement of the existing fence with a new fence of matching height which is considered acceptable; • The side boundary fence and gate to the south do not exceed 1.8m in height, as required under this part. The proposed boundary fence and gates are timber which is a more appropriate material in the streetscape than the existing metal fencing; • The small portion of fence in front of the secondary dwelling measures at a maximum height of 1.2m for the secondary dwelling which enables it to engage with the street; and • As previously discussed, a condition has been included in the recommendation for dimensions for the fence heights to be included on the plans to ensure the fences are built in accordance with the height requirements of this part. 	<p>No, but acceptable subject to conditions</p>
	<p><u>PC8 Landscaped area and site coverage</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • Minimum landscaped area required: <ul style="list-style-type: none"> ○ 301-400sqm - 28% • 113.6sqm (29%) landscaped area proposed. • Maximum site coverage required: <ul style="list-style-type: none"> ○ 301-400sqm - 60% • 171.4sqm (44%) site coverage proposed. 	<p>Yes</p>
	<p><u>PC9 Principal private open space</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • The proposed private open spaces for the principal dwelling and the secondary dwelling are directly accessible from the ground floor living area, are at least 20sqm with a minimum dimension of at least 3.5m and have an appropriate level of solar access, natural ventilation and privacy; and • It is noted that the amended plans, with the revised location of the living space to be at ground level, has resulted in improved amenity to the secondary dwelling with regard to its relationship with the private open space. 	<p>Yes</p>
	<p><u>PC13 Solar access</u> The proposal is satisfactory having regard to the relevant provisions of this part as follows:</p> <ul style="list-style-type: none"> • Given the corner location of the site at the southern end of the block, the additional shadows cast by the proposal primarily fall on the road and footpath on Regent Street and Moonbie Street. As such, the proposal does not alter the existing solar access to the private open space or glazing to 	<p>Yes</p>

Control	Proposed	Compliance
	<p>north facing primary living area windows of adjoining properties.</p> <ul style="list-style-type: none"> The siting of the proposed secondary dwelling and maintenance of the wide setback to the northern boundary, allow for solar access to be maximised to the landscaped open space of the subject site <p><u>PC14 Visual privacy</u> An adequate level of visual privacy for the proposed development and adjoining properties is maintained as follows:</p> <p><i>Principal Dwelling</i></p> <ul style="list-style-type: none"> Windows located above the ground floor are positioned to minimise the likelihood of overlooking of adjoining properties. The new timber framed window to Bed 3 replaces an existing window in the same location. The sill of the window is located 1500mm above floor level and given the distance from the common boundary with No. 26 Moonbie Street, it is not likely that the proposal will result in any adverse privacy impacts; and The proposed balcony to Bed 3 includes a privacy screen to the northern side to limit the potential for lateral overlooking to 25 Moonbie Street which is considered acceptable to mitigate privacy impacts. <p><i>Secondary Dwelling</i></p> <ul style="list-style-type: none"> Notwithstanding the distance to the common boundary with 25 Moonbie Street, the windows to the bathroom incorporate obscure glass to the lower pane, a condition has been included in the recommendation to provide a fixed lower pane to ensure mutual privacy is protected. The sill heights to the bedrooms are located 1.65m above floor level, as such, there are no likely adverse privacy impacts resulting from these windows to the property; and There is one high window on the proposed eastern wall of the secondary dwelling. As such the proposal will result in acceptable privacy impacts caused by windows on the existing dwelling within the subject site. 	<p></p> <p>Yes</p>
<p>Part 2 – Secondary dwellings</p>	<p><u>PC1 Site Area</u></p> <ul style="list-style-type: none"> The site area is adequate to incorporate setbacks and landscaped open space in accordance with the DCP. <p><u>PC2 Floor Area</u></p> <ul style="list-style-type: none"> The floor area of the secondary dwelling is 58.3sqm which is less than the DCP requirement of 60sqm. The total gross floor area of the principal dwelling and the secondary dwelling is no more than the maximum FSR allowed under the <i>IWLEP 2022</i>. <p><u>PC3 Building Height</u></p> <ul style="list-style-type: none"> The building height reads as a second storey in an attic and is no greater than the height of the existing dwelling house. Furthermore, it does not detract from the existing low rise streetscape to the west on the northern side of Regent Street. <p><u>PC4 Subdivision</u></p> <ul style="list-style-type: none"> No subdivision is proposed. <p><u>PC5 Setbacks</u></p> <ul style="list-style-type: none"> As previously discussed, the proposed setbacks for the garage and secondary dwelling structure are considered 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Proposed	Compliance
	acceptable in the context and are consistent with the existing pattern of development within the subject site. <ul style="list-style-type: none"> The setbacks to the south and west boundaries allow for the structure to be located in the south west corner of the site. This has the benefit of maximising landscaped area and private open space in the rear yard, and as such maintains a usable back garden for both the principal and secondary dwelling. 	
	<u>PC6 Landscaped Area</u> <ul style="list-style-type: none"> The development does not reduce landscaped areas for the property to less than the minimum required for a dwelling house. 	Yes

C. The Likely Impacts

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

D. The Suitability of the Site for the Development

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

E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 01 November 2023 to 15 November 2023.

A total of one submission was received in response to the initial notification.

The application was renotified between 06 March 2024 to 20 March 2024 due to amended plans being submitted and no submissions were received.

Issues raised in the initial submission are discussed below:

Concern	Comment
Privacy and visual bulk concerns related to the secondary dwelling balcony	Concern was raised with the proposed balcony to the secondary dwelling and impacts on the adjacent property at 25 Moonbie Street in terms of overlooking and associated visual bulk. The amended plans addressed initial concerns as the balcony to the secondary dwelling was deleted from the proposal.
Privacy concerns related to the windows of the raised kitchen and living room of the secondary dwelling	Concern was raised that the windows to living spaces would overlook the neighbouring property at 25 Moonbie Street. A suggestion was made that the sill height to these windows be raised to 1.6m above floor height. The amended plans addressed initial concerns as the living spaces of the secondary dwelling were relocated to ground floor level. Furthermore, as previously discussed, the dormer

	<p>windows to the attic bathroom incorporate obscure glass to the lower pane and the sill heights to the bedroom windows are located 1.65m above floor level. As such, there are no likely adverse privacy impacts resulting from these windows on the property at 25 Moonbie Street.</p>
<p>Invasive Tree Species located in rear yard of subject site</p>	<p>Concern was raised with the existing box elder (Tree 5) located in the rear yard of the subject site. Concern related to it being considered a weed with the potential to grow up to 20m in height. It was stated that the tree could potentially affect the structure at 25 Moonbie Street and the larger canopy would cover the neighbours' rear yard. A request was made for the tree to be removed and replaced with a native species.</p> <p>The applicant has agreed that the tree can be removed, and its removal was supported by Council's Urban Forest team. The amended plans show the proposed tree removal, and a condition has been included in the recommendation for replacement tree planting.</p>

F. The Public Interest

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

This has been achieved in this instance.

6. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of **\$12,592.00** would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

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

7. Referrals

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

- Heritage Specialist;
- Development Engineer; and
- Urban Forest.

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

- Ausgrid

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

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 Section 4.6 *Marrickville Local Environmental Plan 2011* to vary Section 53(2)(a) of the *Housing SEPP 2021*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the minimum site area 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/2023/0863 for Alterations and additions to convert the building into a single dwelling house and construction of a detached garage and secondary dwelling structure. at 27 Moonbie Street, Summer Hill subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

Condition																																																									
1.	<p>Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>																																																								
2.	<p>Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th> <th>Plan Name</th> <th>Date Issued/Received</th> <th>Prepared by</th> </tr> </thead> <tbody> <tr> <td>DA01 D</td> <td>Site Analysis Plan Roof Plan</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA02 D</td> <td>Ground Floor Plan</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA03 D</td> <td>First Floor Plan</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA04 D</td> <td>East Elevation</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA05 D</td> <td>South Elevation</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA06 D</td> <td>North Elevation</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA07 D</td> <td>West Elevation</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA08 D</td> <td>Garage Details</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA13 D</td> <td>Section A - A</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA14 B</td> <td>Demolition Plan Ground Floor</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>DA15 B</td> <td>Demolition Plan First Floor</td> <td>22 February 2024</td> <td>Gordon + Stone Design</td> </tr> <tr> <td>_02</td> <td>Basix Certificate</td> <td>25 February</td> <td>Fudge Investments PTY Limited</td> </tr> <tr> <td>1737291S_02</td> <td>Basic Certificate</td> <td>25 February 2024</td> <td>Fudge Investments PTY Limited</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	DA01 D	Site Analysis Plan Roof Plan	22 February 2024	Gordon + Stone Design	DA02 D	Ground Floor Plan	22 February 2024	Gordon + Stone Design	DA03 D	First Floor Plan	22 February 2024	Gordon + Stone Design	DA04 D	East Elevation	22 February 2024	Gordon + Stone Design	DA05 D	South Elevation	22 February 2024	Gordon + Stone Design	DA06 D	North Elevation	22 February 2024	Gordon + Stone Design	DA07 D	West Elevation	22 February 2024	Gordon + Stone Design	DA08 D	Garage Details	22 February 2024	Gordon + Stone Design	DA13 D	Section A - A	22 February 2024	Gordon + Stone Design	DA14 B	Demolition Plan Ground Floor	22 February 2024	Gordon + Stone Design	DA15 B	Demolition Plan First Floor	22 February 2024	Gordon + Stone Design	_02	Basix Certificate	25 February	Fudge Investments PTY Limited	1737291S_02	Basic Certificate	25 February 2024	Fudge Investments PTY Limited
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	-	Arboricultural Impact Assessment	Undated - recieved 18 November 2023	Arbor Express
	-	External Finishes Schedule	10 October 2023	Gordon + Stone
As amended by the conditions of consent.				
Reason: To ensure development is carried out in accordance with the approved documents.				
3.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands.			
	Reason: To ensure works are in accordance with the consent.			
4.	Bin Storage			
	All bins are to be stored within the property.			
	Reason: To ensure resource recovery is promoted and residential amenity is protected.			
5.	Asbestos Removal			
	Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.			
	Reason: To ensure compliance with the relevant environmental legislation.			
6.	No Approval Granted for Roof to Pergola Structure			
	Roof sheeting cannot be applied to the pergola structure to the rear of the dwelling without the prior consent of Council.			
	Reason: To ensure works are in accordance with the consent.			
7.	Arborists Standards			
	All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373— <i>Pruning of amenity trees</i> and the Safe Work Australia Code of Practice— <i>Guide to Managing Risks of Tree Trimming and Removal Work</i> . Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.			

	Reason: To protect and maintain trees.
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**BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

	Condition												
8.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To establish and document the condition of the existing footpath and roadway for comparison when work is completed.</p>												
9.	<p>Parking Facilities - Domestic</p> <p>Vehicle access must be obtained from the existing vehicle crossing without alteration.</p> <p>Reason: To ensure works are in accordance with the consent.</p>												
10.	<p>Paving/Decking Within the Vicinity of Trees</p> <p>Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the pavement works/decking within the specified radius of the trunk(s) of the following tree/s are constructed in a way so as to ensure that existing moisture infiltration and gaseous exchange are maintained or improved. When preparing an area for paving with the specified radius, the soil surface must not be skimmed or excavated. The new surface and subgrade must be established at grade.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Tree No.</th> <th style="text-align: center;">Botanical/Common Name</th> <th style="text-align: center;">Radius in Metres</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4</td> <td><i>Syzigium spp.</i> (Lilli Pilli)</td> <td style="text-align: center;">As per the approved TPP</td> </tr> <tr> <td style="text-align: center;">6</td> <td>Unidentified deciduous tree</td> <td style="text-align: center;">As per the approved TPP</td> </tr> <tr> <td style="text-align: center;">8</td> <td><i>Ficus binnendijkii</i> (Long-leafed Fig)</td> <td style="text-align: center;">As per the approved TPP</td> </tr> </tbody> </table> <p>Reason: To protect and maintain trees.</p>	Tree No.	Botanical/Common Name	Radius in Metres	4	<i>Syzigium spp.</i> (Lilli Pilli)	As per the approved TPP	6	Unidentified deciduous tree	As per the approved TPP	8	<i>Ficus binnendijkii</i> (Long-leafed Fig)	As per the approved TPP
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11.	<p>Stormwater Drainage System – Minor Developments (OSD is required)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <p style="margin-left: 20px;">a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow</p>												

	<p>pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;</p> <ul style="list-style-type: none">b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;e. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;f. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;g. Only roof water is permitted to be connected to the OSD/OSR. The overflow from the storage tank must be connected by gravity to the kerb and gutter of a public road;h. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;i. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings;j. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;k. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;l. No nuisance or concentration of flows to other properties;m. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;n. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
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	<ul style="list-style-type: none"> o. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets; p. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site; q. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm; r. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; s. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated; t. No impact to street tree(s). <p>Reason: To ensure adequate disposal of stormwater.</p>				
<p>12.</p>	<p>Security Deposit - Standard</p> <p>Prior to the commencement of demolition works or issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" data-bbox="437 1010 1276 1077"> <tr> <td>Security Deposit:</td> <td>\$8,350.00</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$374.50</td> </tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out. Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p>	Security Deposit:	\$8,350.00	Inspection Fee:	\$374.50
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	Reason: To ensure required security deposits are paid.														
13.	<p>Structural Certificate for retained elements of the building</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.</p> <p>Reason: To ensure the structural adequacy of the works.</p>														
14.	<p>Sydney Water – Tap In</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water’s online ‘Tap In’ program to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.</p> <p>Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service providers’ requirements are provided to the certifier.</p>														
15.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1"> <thead> <tr> <th>Contribution Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td> <td>\$9,003.00</td> </tr> <tr> <td>Community Facilities</td> <td>\$1,669.00</td> </tr> <tr> <td>Transport</td> <td>\$1,184.00</td> </tr> <tr> <td>Plan Administration</td> <td>\$116.00</td> </tr> <tr> <td>Drainage</td> <td>\$621.00</td> </tr> <tr> <td>TOTAL</td> <td>\$12,592.00</td> </tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner: $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ Where:</p>	Contribution Category	Amount	Open Space & Recreation	\$9,003.00	Community Facilities	\$1,669.00	Transport	\$1,184.00	Plan Administration	\$116.00	Drainage	\$621.00	TOTAL	\$12,592.00
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<p>16.</p>	<p>Fence Height Dimensions to be Shown on Plans Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with amended plans with annotations showing the heights for the fencing on the street boundaries as follows:</p>

	<ul style="list-style-type: none"> a. The height to the fence and gate on Moonbie Street to be shown as a maximum height of 1.5m. b. The height of the fence and gates associated with the driveway and to the portion of fence to the west of the garage to be shown as a maximum height of 1.8m. c. The height of the fencing in front of the secondary dwelling to be shown as a maximum height of 1.2m. <p>Reason: To ensure works are in accordance with the consent.</p>
17.	<p>Long Service Levy</p> <p>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.</p> <p>Reason: To ensure the long service levy is paid.</p>
18.	<p>Existing Driveway Crossover to be Retained</p> <p>Before the issue of the Construction Certificate, the Ground Floor Demolition Plan - DA14 Issue B dated 17 October 2023 must be amended to show that the existing driveway crossover is being retained.</p> <p>Reason: To ensure the works are in accordance with the consent.</p>
19.	<p>Ausgrid Requirements</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with documentation to the Certifying Authority's satisfaction that the following Ausgrid requirements have been addressed:</p> <ul style="list-style-type: none"> a. Subsidence and vibration must be minimised at the substation site. b. The use of ground anchors under a substation is generally not permitted due to the presence of underground cabling and earthing conductors which may be more than 10m deep. A further area of exclusion may be required in some circumstances. c. The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. d. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building

	<p>ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.</p> <p>e. Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120.</p> <p>f. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non ignitable blast resisting barrier.</p> <p>g. The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ– 100 kHz) (ICNIRP 2010).</p> <p>h. For further details on fire segregation requirements refer to Ausgrid's Network Standard 141. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access.</p> <p>i. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.</p> <p>j. For further details refer to Ausgrid's Network Standard 143.</p> <p>Reason: To ensure the relevant Ausgrid requirements are implemented.</p>
20.	<p>Design Change</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <p>i) The vertical glazing bar to the western dormer window of the secondary dwelling must be deleted.</p> <p>ii) The bathroom windows in the secondary dwelling must have fixed, lower panes.</p> <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
21.	<p>Project Arborist</p> <p>Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.</p> <p>Reason: To protect and maintain trees.</p>
22.	<p>Tree Protection Zone</p>

	<p>To protect the following tree/s, no work must commence until its/their Protection Zone is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area in accordance with the Tree Protection Plan. The fence/s (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site.</p> <table border="1" data-bbox="459 454 1287 685"> <thead> <tr> <th>Tree No.</th> <th>Botanical/Common Name</th> <th>Radius in metres</th> </tr> </thead> <tbody> <tr> <td>4</td> <td><i>Syzygium spp.</i> (Lilli Pilli)</td> <td>As per the approved TPP</td> </tr> <tr> <td>6</td> <td>Unidentified deciduous tree</td> <td>As per the approved TPP</td> </tr> <tr> <td>7</td> <td>Unidentified deciduous tree</td> <td>As per the approved TPP</td> </tr> <tr> <td>8</td> <td><i>Ficus binnendijkii</i> (Long-leafed Fig)</td> <td>As per the approved TPP</td> </tr> <tr> <td>13</td> <td><i>Backhousia citriodora</i> (Lemon Myrtle)</td> <td>Around the perimeter of the planting cut out</td> </tr> </tbody> </table> <p>Reason: To protect and maintain trees.</p>	Tree No.	Botanical/Common Name	Radius in metres	4	<i>Syzygium spp.</i> (Lilli Pilli)	As per the approved TPP	6	Unidentified deciduous tree	As per the approved TPP	7	Unidentified deciduous tree	As per the approved TPP	8	<i>Ficus binnendijkii</i> (Long-leafed Fig)	As per the approved TPP	13	<i>Backhousia citriodora</i> (Lemon Myrtle)	Around the perimeter of the planting cut out
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<p>23.</p>	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>																		
<p>24.</p>	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>																		
<p>25.</p>	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties - 25 Moonbie Street and 22 Regent Street Summer Hill to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>																		

26.	<p>Construction Fencing</p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>
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DURING BUILDING WORK

	Condition																					
27.	<p>Tree Protection</p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.</p> <p>Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.</p> <p>Any public tree within five (5) metres of the development must be protected in accordance with Council's <i>Development Fact Sheet—Trees on Development Sites</i>.</p> <p>No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers and locations correspond with Arboricultural Impact Assessment prepared by Robert de Jong of <i>Arbor Express</i> - undated) :</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Tree No.</th> <th style="text-align: center;">Botanical/Common Name</th> <th style="text-align: center;">Location</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4</td> <td><i>Syzigium spp.</i> (Lilli Pilli)</td> <td>As per site plan in TPP</td> </tr> <tr> <td style="text-align: center;">6</td> <td>Unidentified deciduous tree</td> <td>As per site plan in TPP</td> </tr> <tr> <td style="text-align: center;">7</td> <td>Unidentified deciduous tree</td> <td>As per site plan in TPP</td> </tr> <tr> <td style="text-align: center;">8</td> <td><i>Ficus binnendijkii</i> (Long-leafed Fig)</td> <td>As per site plan in TPP</td> </tr> <tr> <td style="text-align: center;">11</td> <td><i>Schinus areira</i> (Peppercorn)</td> <td>As per site plan in TPP</td> </tr> <tr> <td style="text-align: center;">13</td> <td><i>Backhousia citriodora</i> (Lemon Myrtle)</td> <td>Street Tree (Regent Street)</td> </tr> </tbody> </table> <p>Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:</p> <ol style="list-style-type: none"> a. Green for trees to be retained; b. Red for trees to be removed; c. Blue for trees to be pruned; and d. Yellow for trees to be transplanted. <p>Reason: To protect and maintain trees.</p>	Tree No.	Botanical/Common Name	Location	4	<i>Syzigium spp.</i> (Lilli Pilli)	As per site plan in TPP	6	Unidentified deciduous tree	As per site plan in TPP	7	Unidentified deciduous tree	As per site plan in TPP	8	<i>Ficus binnendijkii</i> (Long-leafed Fig)	As per site plan in TPP	11	<i>Schinus areira</i> (Peppercorn)	As per site plan in TPP	13	<i>Backhousia citriodora</i> (Lemon Myrtle)	Street Tree (Regent Street)
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28.	<p>Inspections by Project Arborist</p> <p>The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:</p> <table border="1" data-bbox="448 483 1278 696"> <thead> <tr> <th data-bbox="448 483 887 546">Tree No./ Botanical/ Common Name/ Location</th> <th data-bbox="887 483 1107 546">Time of Inspection</th> <th data-bbox="1107 483 1278 546">Key stage/ Hold point</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 546 887 696">4, 6, 7, 8, 11 and 13</td> <td data-bbox="887 546 1107 696">In accordance with the approved Tree Protection Plan prepared by Robert de Jong of <i>Arbor Express</i> (undated).</td> <td data-bbox="1107 546 1278 696"></td> </tr> </tbody> </table> <p>Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.</p> <p>Reason: To protect and maintain trees.</p>	Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point	4, 6, 7, 8, 11 and 13	In accordance with the approved Tree Protection Plan prepared by Robert de Jong of <i>Arbor Express</i> (undated).										
Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point														
4, 6, 7, 8, 11 and 13	In accordance with the approved Tree Protection Plan prepared by Robert de Jong of <i>Arbor Express</i> (undated).															
29.	<p>Limited Root Pruning</p> <p>No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s must be severed or injured in the process of any works during the construction period:</p> <table border="1" data-bbox="459 1021 1278 1312"> <thead> <tr> <th data-bbox="459 1021 596 1055">Tree No.</th> <th data-bbox="596 1021 1126 1055">Botanical/Common Name</th> <th data-bbox="1126 1021 1278 1055">Radius in met</th> </tr> </thead> <tbody> <tr> <td data-bbox="459 1055 596 1122">4</td> <td data-bbox="596 1055 1126 1122"><i>Syzygium spp.</i> (Lilli Pilli)</td> <td data-bbox="1126 1055 1278 1122">As per the a TPP</td> </tr> <tr> <td data-bbox="459 1122 596 1178">6-7</td> <td data-bbox="596 1122 1126 1178">Unidentified deciduous trees</td> <td data-bbox="1126 1122 1278 1178">As per the a TPP</td> </tr> <tr> <td data-bbox="459 1178 596 1245">8</td> <td data-bbox="596 1178 1126 1245"><i>Ficus binnendijkii</i> (Long-leafed Fig)</td> <td data-bbox="1126 1178 1278 1245">As per the a TPP</td> </tr> <tr> <td data-bbox="459 1245 596 1312">13</td> <td data-bbox="596 1245 1126 1312"><i>Backhousia citriodora</i> (Lemon Myrtle)</td> <td data-bbox="1126 1245 1278 1312">Perimeter of cut out</td> </tr> </tbody> </table> <p>All excavation within the specified radius of the trunks of the above trees being hand dug to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and <i>fit for purpose tool</i>. The pruning must be undertaken by a practicing Arborist.</p> <p>Reason: To protect and maintain trees.</p>	Tree No.	Botanical/Common Name	Radius in met	4	<i>Syzygium spp.</i> (Lilli Pilli)	As per the a TPP	6-7	Unidentified deciduous trees	As per the a TPP	8	<i>Ficus binnendijkii</i> (Long-leafed Fig)	As per the a TPP	13	<i>Backhousia citriodora</i> (Lemon Myrtle)	Perimeter of cut out
Tree No.	Botanical/Common Name	Radius in met														
4	<i>Syzygium spp.</i> (Lilli Pilli)	As per the a TPP														
6-7	Unidentified deciduous trees	As per the a TPP														
8	<i>Ficus binnendijkii</i> (Long-leafed Fig)	As per the a TPP														
13	<i>Backhousia citriodora</i> (Lemon Myrtle)	Perimeter of cut out														
30.	<p>Works to Trees</p>															

	<p>Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:</p> <table border="1" data-bbox="459 394 1163 719"> <thead> <tr> <th data-bbox="459 394 943 427">Tree/location</th> <th data-bbox="943 394 1163 427">Approved works</th> </tr> </thead> <tbody> <tr> <td data-bbox="459 427 943 490">1. <i>Callistemon citrinus</i> (Bottlebrush) located as per the AIA</td> <td data-bbox="943 427 1163 490">Removal</td> </tr> <tr> <td data-bbox="459 490 943 553">2. <i>Tibouchina spp.</i> (Tibouchina) located as per the AIA</td> <td data-bbox="943 490 1163 553">Removal</td> </tr> <tr> <td data-bbox="459 553 943 586">3. <i>Olea europaea</i> (Olive) located as per the AIA</td> <td data-bbox="943 553 1163 586">Removal</td> </tr> <tr> <td data-bbox="459 586 943 649">5. <i>Acer negundo</i> (Box Elder) located as per the AIA</td> <td data-bbox="943 586 1163 649">Removal</td> </tr> <tr> <td data-bbox="459 649 943 683">9-10 <i>Citrus spp</i> x2 located as per the AIA</td> <td data-bbox="943 649 1163 683">Removal</td> </tr> <tr> <td data-bbox="459 683 943 719">12. <i>Murraya paniculata</i> (Murraya)</td> <td data-bbox="943 683 1163 719">Removal</td> </tr> </tbody> </table> <p>Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's <i>Development Fact Sheet—Trees on Development Sites</i>.</p> <p>Reason: To protect and maintain trees.</p>	Tree/location	Approved works	1. <i>Callistemon citrinus</i> (Bottlebrush) located as per the AIA	Removal	2. <i>Tibouchina spp.</i> (Tibouchina) located as per the AIA	Removal	3. <i>Olea europaea</i> (Olive) located as per the AIA	Removal	5. <i>Acer negundo</i> (Box Elder) located as per the AIA	Removal	9-10 <i>Citrus spp</i> x2 located as per the AIA	Removal	12. <i>Murraya paniculata</i> (Murraya)	Removal
Tree/location	Approved works														
1. <i>Callistemon citrinus</i> (Bottlebrush) located as per the AIA	Removal														
2. <i>Tibouchina spp.</i> (Tibouchina) located as per the AIA	Removal														
3. <i>Olea europaea</i> (Olive) located as per the AIA	Removal														
5. <i>Acer negundo</i> (Box Elder) located as per the AIA	Removal														
9-10 <i>Citrus spp</i> x2 located as per the AIA	Removal														
12. <i>Murraya paniculata</i> (Murraya)	Removal														
<p>31.</p>	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>														
<p>32.</p>	<p>Construction Hours – Class 1 and 10</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>														
<p>33.</p>	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>														

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
34.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To protect the built environment from construction works and development.</p>
35.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.</p> <p>Reason: To protect the built environment from construction works.</p>
36.	<p>Certification of Tree Planting</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:</p> <p>A minimum of 1 x 200 litre size replacement tree, which will attain a minimum mature height of seven metres, must be planted in a more suitable location within the property at least 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.</p> <p>If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.</p> <p>Reason: To ensure appropriate tree planting is undertaken.</p>
37.	<p>Project Arborist Certification</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.</p> <p>Reason: To protect and maintain trees.</p>

<p>38.</p>	<p>Works as Executed – Site Stormwater Drainage System</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:</p> <ul style="list-style-type: none"> a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans. <p>Reason: To ensure adequate disposal of stormwater.</p>
<p>39.</p>	<p>Operation and Management Plan</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:</p> <ul style="list-style-type: none"> a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc. <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
<p>40.</p>	<p>Dilapidation Report</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties - 25 Moonbie Street and 22 Regent Street, Summer Hill to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the</p>

	<p>letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To determine potential construction impacts.</p>
41.	<p>Street Numbering</p> <p>Given an additional occupancy is created in a secondary dwelling that has direct entry from the street, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed.</p> <p>Reason: To ensure occupancies are appropriately numbered</p>

OCCUPATION AND ONGOING USE

	Condition
42.	<p>Operation and Management Plan</p> <p>The Operation and Management Plan for the on-site detention and/or on-site retention/re-use, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

	Condition
43.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the <i>Roads Act 1993</i> to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To protect the built environment from construction works.</p>
44.	<p>Tree Protection</p> <p>To protect the following tree/s, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved <i>Tree Protection Plan</i> and/or with Council's <i>Development Fact Sheet—Trees on Development Sites</i>:</p>

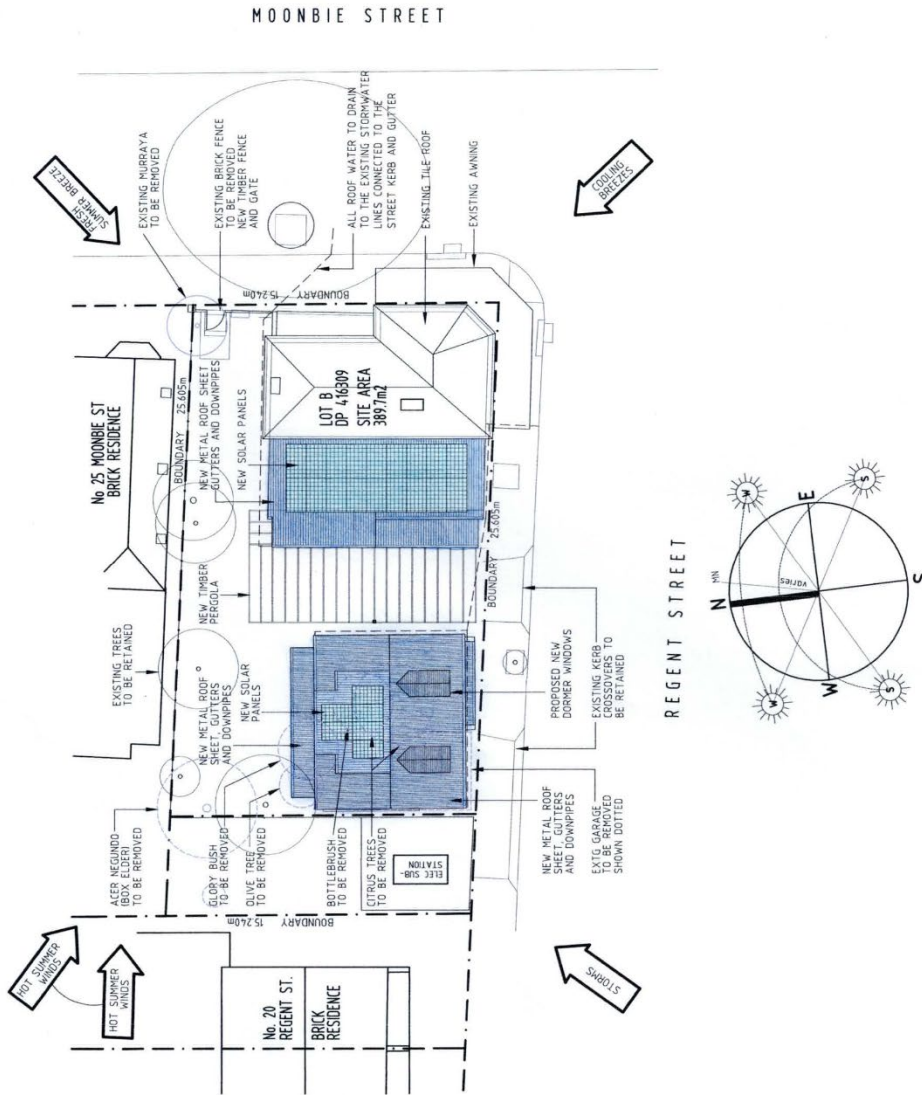
	Tree No.	Botanical/Common Name/Location
	11	<i>Schinus areira</i> (Peppercorn) located on Moonbie Street frontage
Reason: To protect and maintain trees.		

Attachment B – Plans of proposed development

SCHEDULE OF BASIX CERTIFICATE COMMITMENTS		DATE	ISSUED FOR REVISED DA SUBMISSION
<p>BASIX CERTIFICATE No. J02 FOR THE PRINCIPAL DWELLING</p> <p>FIXTURES AND SYSTEMS</p> <p>HOT WATER NEW HOT WATER SYSTEM TO BE ELECTRIC HEAT PUMP</p> <p>LIGHTING 40% OF ALL NEW LIGHT FITTINGS ARE TO BE FITTED WITH FLUORESCENT COMPACT FLUORESCENT, OR LED LAMPS</p> <p>FIXTURES ALL NEW OR ALTERED WCs TO HAVE A FLOW HEADS TO HAVE A FLOW RATE NO GREATER THAN 6 LITRES PER MINUTE OR A MINIMUM 3 STAR RATING</p> <p>CONSTRUCTION</p> <p>INSULATION EXTERNAL FRAMED WALLS TO HAVE MINIMUM R1.30 (OR R170 INCLUDING CONSTRUCTION) RATED INSULATION EXTERNAL BRICK VENEER WALLS TO HAVE MINIMUM R16 (OR R170 INCLUDING CONSTRUCTION) RATED INSULATION BASKET CEILING WITH SKELTON ROOF ARE TO HAVE MINIMUM R0.9 FOR GLAZED BLANKET INSULATION TO ROOF</p> <p>GLAZING REQUIREMENTS ALL NEW WINDOWS AND GLAZED DOORS TO BE CONSTRUCTED IN ACCORDANCE WITH THE BASIX CERTIFICATE No. J02 ACCOMPANYING ALL NEW WINDOWS AND GLAZED DOORS TO BE CONSTRUCTED IN ACCORDANCE WITH THE BASIX CERTIFICATE No. J02 ACCOMPANYING</p>	<p>BASIX CERTIFICATE No. J02 FOR THE SECONDARY DWELLING</p> <p>WATER COMMITMENTS</p> <p>FIXTURES ALL SHOWER HEADS TO HAVE A MINIMUM OF 4 STAR RATING, BUT 4 LITRES PLUS SPRAY FORCE (4/OR COVERAGE TESTS) ALL WCs TO BE HAVE A MINIMUM OF 4 STAR RATING ALL KITCHEN AND BASIN TAPS TO HAVE A MINIMUM OF 4 STAR RATING</p> <p>ALTERNATIVE WATER A RAINWATER TANK OF MINIMUM 2000L IS TO BE INSTALLED IN ACCORDANCE WITH REGULATORY AUTHORITIES THE RAINWATER TANK IS TO COLLECT RAIN RUNOFF FROM AT LEAST 45.6m² OF ROOF AREA AT LEAST ONE OUTDOOR TAP IS TO BE CONNECTED TO THE RAINWATER TANK</p> <p>THERMAL PERFORMANCE AND MATERIALS</p> <p>GENERAL THE SKYLIGHT IS TO BE GLAZED UNDER THE KNC AND MUST BE MAXIMUM 2 STOREYS THE CONDITIONED FLOOR AREA OF THE DWELLING MUST NOT EXCEED 300m² THE DWELLING MUST NOT CONTAIN OPEN MEZZANINE AREA EXCEEDING 250L HABITABLE ATTIC ROOM</p> <p>FLOORS, WALLS, AND CEILING/ROOF ALL FLOORS, WALLS AND CEILING/ROOF ARE TO BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIFICATIONS, INCLUDING INSULATION AS LISTED IN THE BASIX CERTIFICATE</p> <p>CEILING FANS AT LEAST ONE CEILING FAN IS TO BE INSTALLED IN A DAYTIME HABITABLE SPACE</p> <p>GLAZED WINDOWS AND DOORS ALL NEW WINDOWS AND GLAZED DOORS TO BE CONSTRUCTED IN ACCORDANCE WITH THE BASIX CERTIFICATE No. J02 ACCOMPANYING ALL NEW WINDOWS AND GLAZED DOORS TO BE FABRICATED IN ACCORDANCE WITH THE BASIX CERTIFICATE No. 102925J01</p>	22/02/24	A
<p>ENERGY COMMITMENTS</p> <p>HOT WATER NEW HOT WATER SYSTEM TO BE ELECTRIC HEAT PUMP</p> <p>COOLING SYSTEM 1-PHASE AIRCONDITIONING - NON DUCTED WITH MINIMUM 4 STAR ENERGY RATING TO BE INSTALLED IN AT LEAST ONE BEDROOM THE LIVING ROOM IS NOT HAVE A COOLING SYSTEM OR DUCTING TO ACCOMMODATE A HEATING SYSTEM</p> <p>HEATING SYSTEM 1-PHASE AIRCONDITIONING - NON DUCTED WITH MINIMUM 4 STAR ENERGY RATING TO BE INSTALLED IN AT LEAST ONE BEDROOM THE LIVING ROOM IS NOT HAVE A HEATING SYSTEM OR DUCTING TO ACCOMMODATE A HEATING SYSTEM</p> <p>VENTILATION AN INDIVIDUAL FAN IS TO BE INSTALLED IN THE KITCHEN, DUCTED TO FACADE OR ROOF WITH MANUAL ON/OFF SWITCH</p> <p>ARTIFICIAL LIGHTING ALL NEW LIGHT FITTINGS ARE TO BE FITTED WITH FLUORESCENT COMPACT FLUORESCENT OR LED LAMPS</p> <p>NATURAL LIGHTING AT LEAST ONE WINDOW IS TO BE INSTALLED IN THE KITCHEN AT LEAST ONE WINDOW IS TO BE INSTALLED IN THE BATHROOM</p> <p>ALTERNATIVE ENERGY A PHOTOVOLTAIC SYSTEM IS TO BE INSTALLED TO BE CONNECTED TO THE ELECTRICAL SYSTEM THE PHOTOVOLTAIC SYSTEM IS TO GENERATE AT LEAST 6.6 PEAK KILOWATTS OF ELECTRICITY PER YEAR WITH AN ANGLE BETWEEN 10 AND 25 DEGREES FACING NORTH</p> <p>OTHER NUSTON COOKTOP AND ELECTRIC OVEN TO BE INSTALLED TO THE KITCHEN A FIXED OUTDOOR CLOTHES LINE IS TO BE INSTALLED</p>	<p>STORMWATER MANAGEMENT NOTES ROOF WATER FROM ALL EXISTING AND PROPOSED STRUCTURES TO DRAIN TO THE EXISTING STORMWATER LINES CONNECTED TO THE STREET KEEP AND DRAINER IN ACCORDANCE WITH THE COUNCIL REQUIREMENTS</p> <p>TREE MANAGEMENT NOTES FOR TREE DETAILS ON THIS PROPERTY, REFER TO THE ARBORICULTURAL REPORT BY ARBOR EXPRESS ACCOMPANYING THIS APPLICATION ALL TREE LOCATION AND SPECIES ARE SHOWN IN ACCORDANCE WITH THE ARBORICULTURAL REPORT</p>	29/08/23	HS
<p>ALTERATIONS AND ADDITIONS TO 27 MOONBRIE STREET SUMMER HILL</p> <p>SCHEDULES AND NOTES</p>		23/02	DA00

Gordon + Stone
DESIGN

105 RESERVOIR STREET
SUMMER HILLS NSW 2010
PH 9212 3844 FAX 9212 3455
ns@gordonstone.com.au



DATE	REVISIONS	DRAWN BY	SCALE	DATE	DATE	DATE	DATE
28/08/23	A. PRELIMINARY ISSUE FOR DISCUSSION PURPOSES	HS	1:200	29/08/23	DA01		
20/09/23	B. MINOR AMENDMENTS, SOLAR PANELS ADDED, NOTES ADDED, ISSUE FOR CLIENT APPROVAL						
10/10/23	C. TREE RETAINS, ASTER, NOTES AMENDED, ISSUED FOR DA SUBMISSION						
22/02/24	D. GARAGE / SECONDARY DWELLING AMENDED, SCHEDULES SHOWN ON DRAWING DA00, ISSUED FOR REVISED DA SUBMISSION						

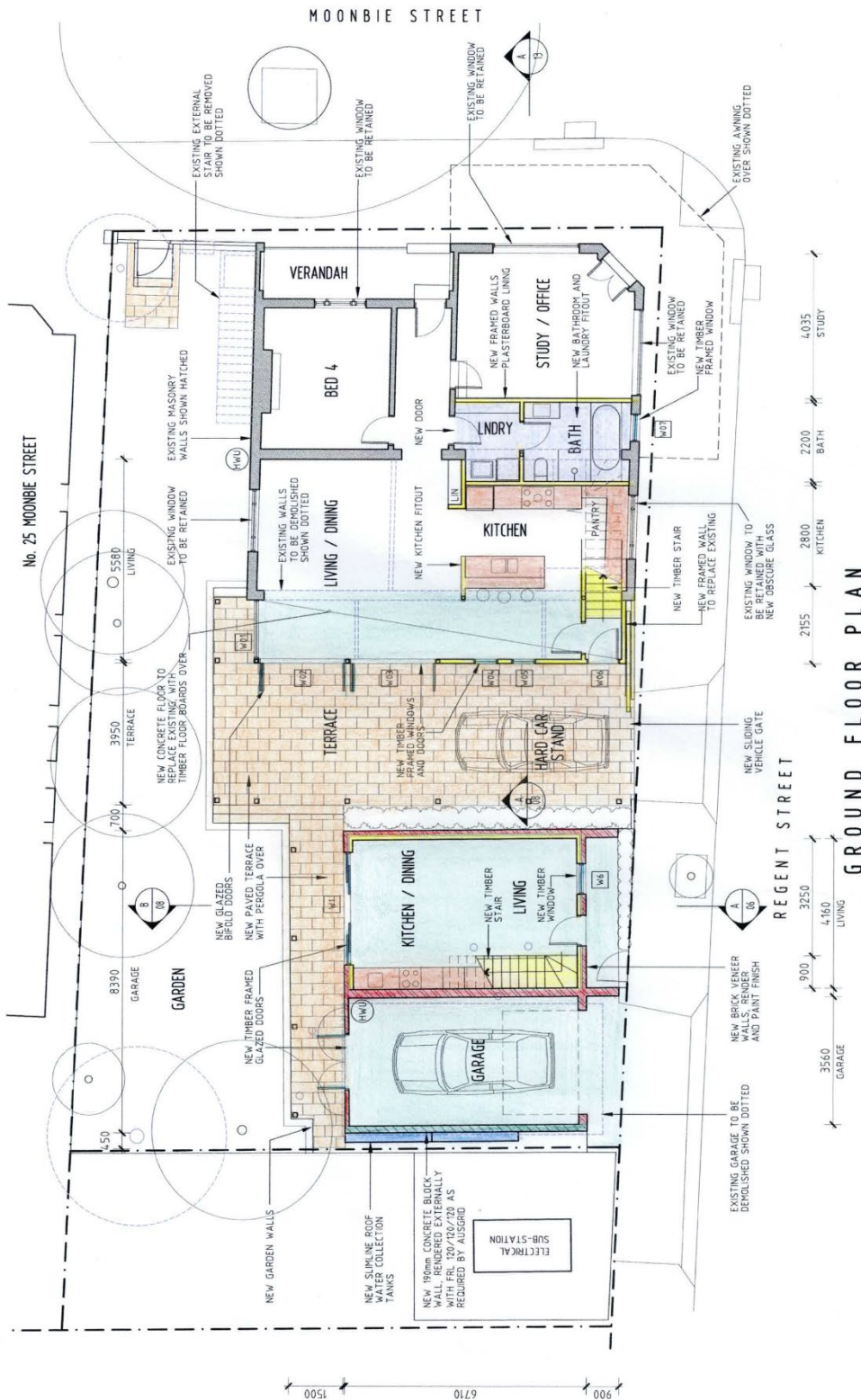
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ALTERATIONS AND ADDITIONS TO
 27 MOONBIE STREET
 SUMMER HILL

DRIVING TITLE
 SITE ANALYSIS PLAN
 ROOF PLAN

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 DATE: [Signature]
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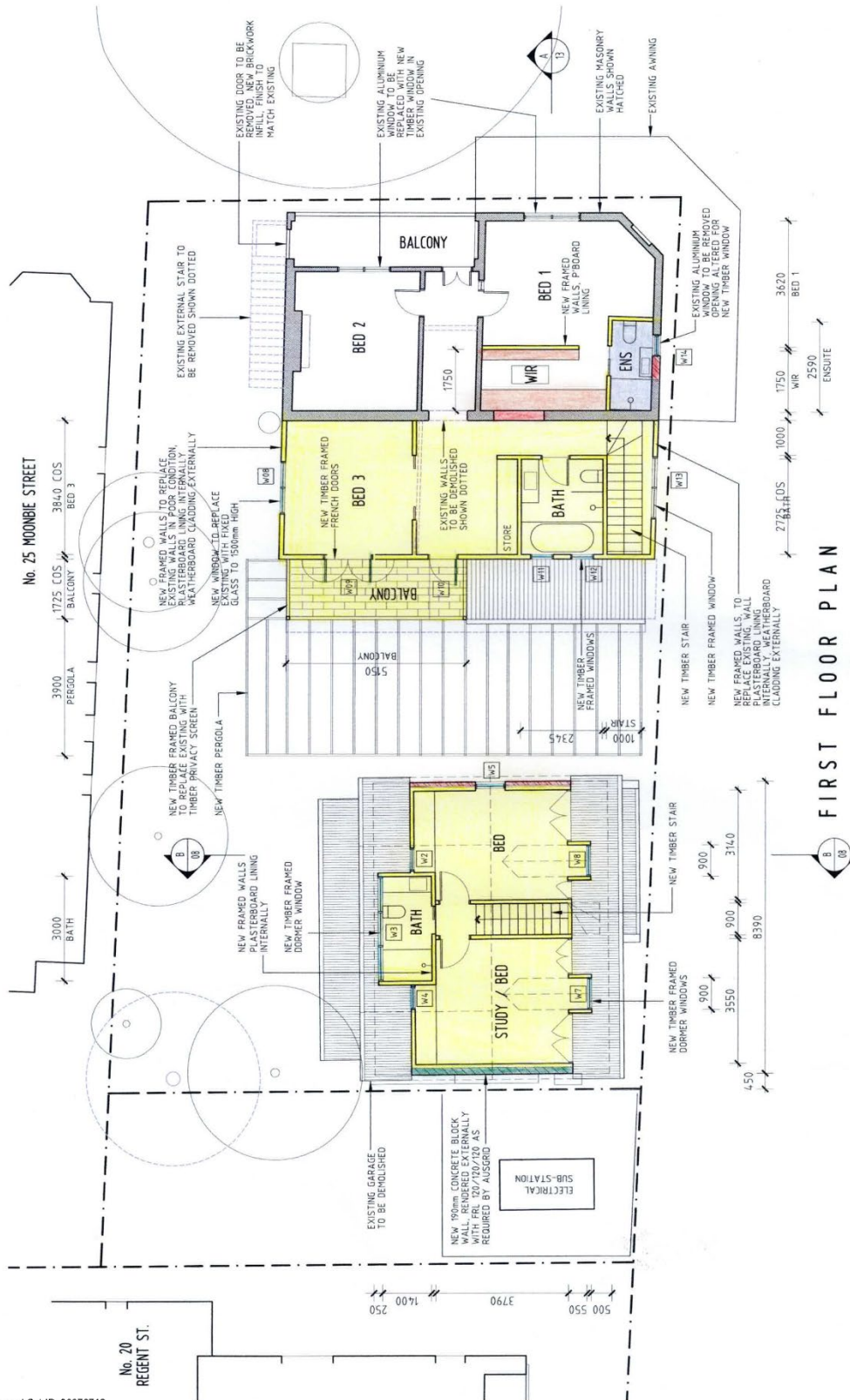
ALTERATIONS AND ADDITIONS TO
 27 MOONBIE STREET
 SUMMER HILL
 DA02 TITLE
 GROUND FLOOR PLAN

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REVISIONS	DATE
A	28/08/23
B	20/09/23
C	10/10/23
D	22/02/24

A PRELIMINARY ISSUE FOR DISCUSSION PURPOSES
 B MINOR AMENDMENTS
 C TREE DETAILS AGREED, NOTES AMENDED
 D GARAGE / SECONDARY DWELLING AMENDED, MINOR AMENDMENTS AS REQUIRED BY COUNCIL ISSUED FOR REVISED DA SUBMISSION



FIRST FLOOR PLAN

DATE	28/08/23 E
DATE	26/09/23
DATE	10/10/23
DATE	27/02/24

REVISIONS

- A. PRELIMINARY ISSUE FOR DISCUSSION PURPOSES
- B. MINOR AMENDMENTS ISSUED FOR CLIENT APPROVAL
- C. TREE DETAILS ASSES, NOTES AMENDED ISSUED FOR DA SUBMISSION
- D. GARAGE / SECONDARY LABELLING AMENDED MINOR AMENDMENTS, BAR REMOVED ISSUED FOR REVISED DA SUBMISSION

NO. 25 MOONBIE STREET
 1725 COS BALCONY
 3840 COS BED 3
 3900 PERGOLA
 3000 BATH
 5150 BALCONY
 2735 COS
 1000 STAIR
 2775 COS
 1000 BATH
 1750 WIR
 2590 ENSUITE
 3620 BED 1

NO. 20 REGENT ST.
 500 550
 1400 250
 3790
 450
 900
 3550
 900
 3140
 8390

NO. 25 MOONBIE STREET
 1725 COS BALCONY
 3840 COS BED 3
 3900 PERGOLA
 3000 BATH
 5150 BALCONY
 2735 COS
 1000 STAIR
 2775 COS
 1000 BATH
 1750 WIR
 2590 ENSUITE
 3620 BED 1

NO. 20 REGENT ST.
 500 550
 1400 250
 3790
 450
 900
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 900
 3140
 8390

ALTERATIONS AND ADDITIONS TO
 27 MOONBIE STREET
 SUMMER HILL

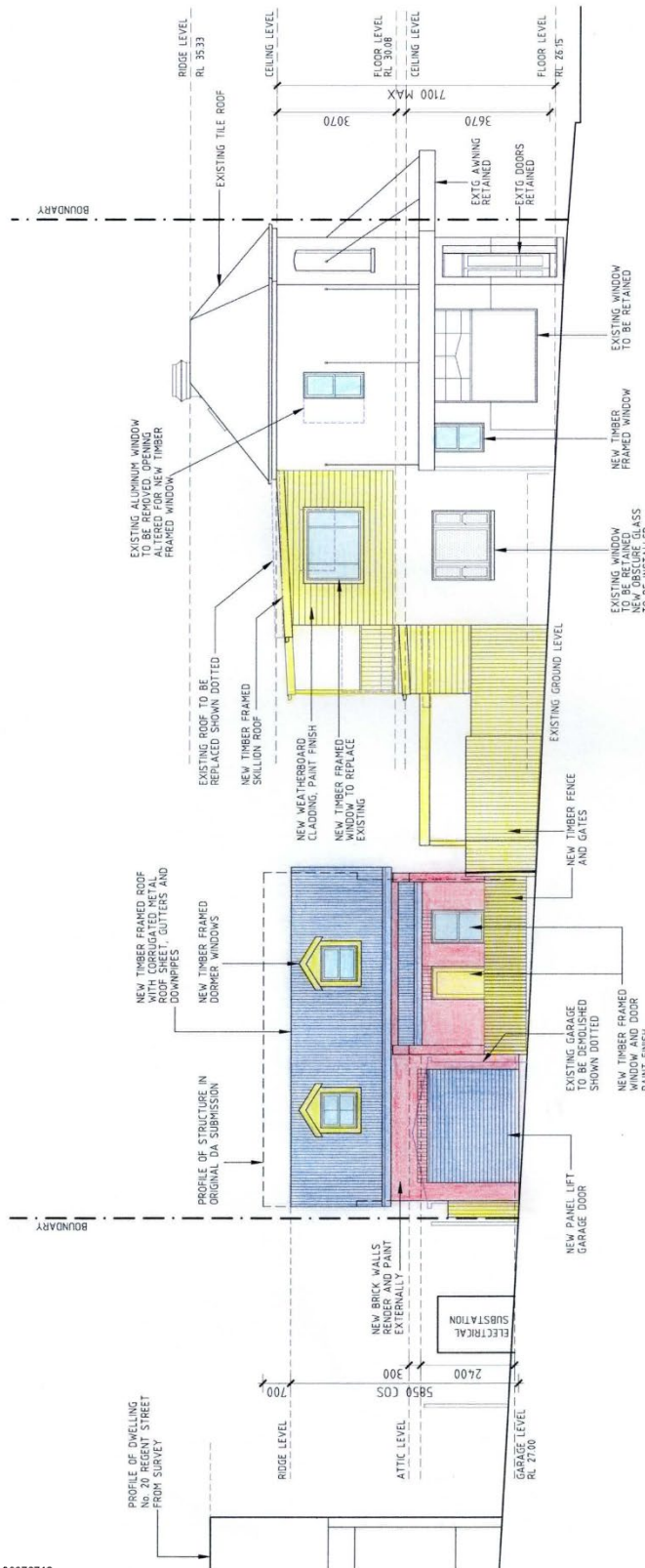
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 PLAN 17/001/04/003

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SOUTH ELEVATION
(REGENT STREET)

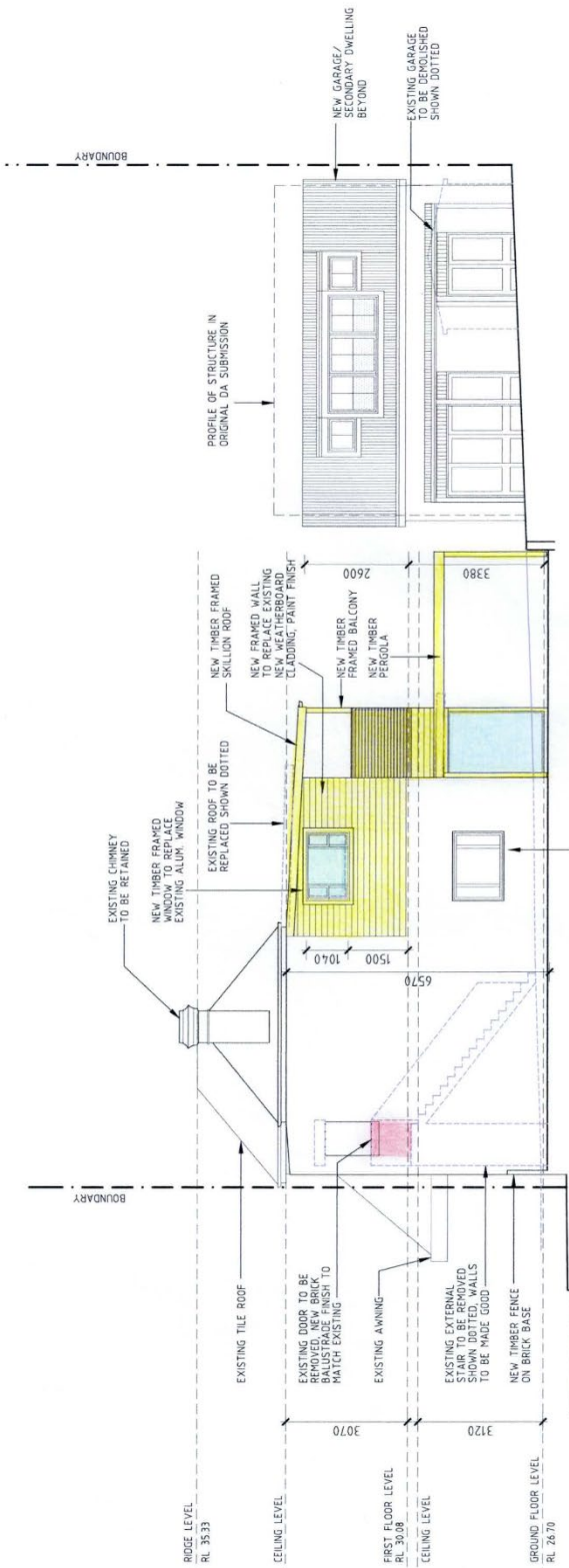
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DATE 20/08/23
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APPROVED BY
DATE 23/02
JOB NO. 23102

ALTERATIONS AND ADDITIONS TO
27 MOONBIE STREET
SUMMER HILL
D
DRAWING TITLE
SOUTH ELEVATION

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DESIGN
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REVISIONS	DATE
A. PRELIMINARY ISSUE FOR DISCUSSION PURPOSES	28/08/23
B. MINOR AMENDMENTS. ISSUE FOR CLIENT APPROVAL	20/09/23
C. ISSUED FOR DA SUBMISSION	10/10/23
D. GARAGE / SECONDARY DWELLING AMENDED AMENDMENTS AS REQUIRED BY COUNCIL. ISSUED FOR REVISED DA SUBMISSION	22/02/24

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ALCA 11 003 846 025



NORTH ELEVATION

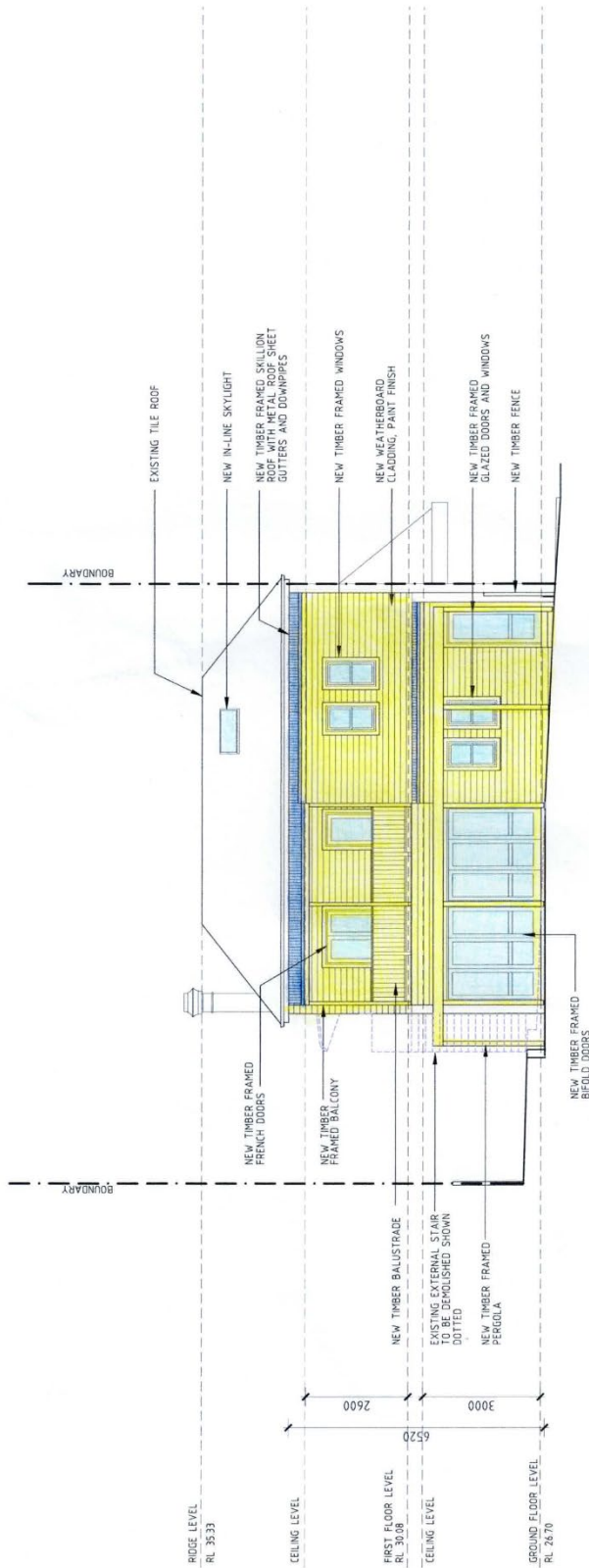
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B	20/09/23				
C	10/10/23				
D	22/02/24				

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DRAWING TITLE: NORTH ELEVATION
 DRAWING NO.: 23102
 APPROVED BY: HS
 DRAWN BY: HS
 DATE: 20/09/23
 SCALE: 1:100
 DRAWING NO.: DA06

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 DATE: 17/03/84 025



WEST ELEVATION

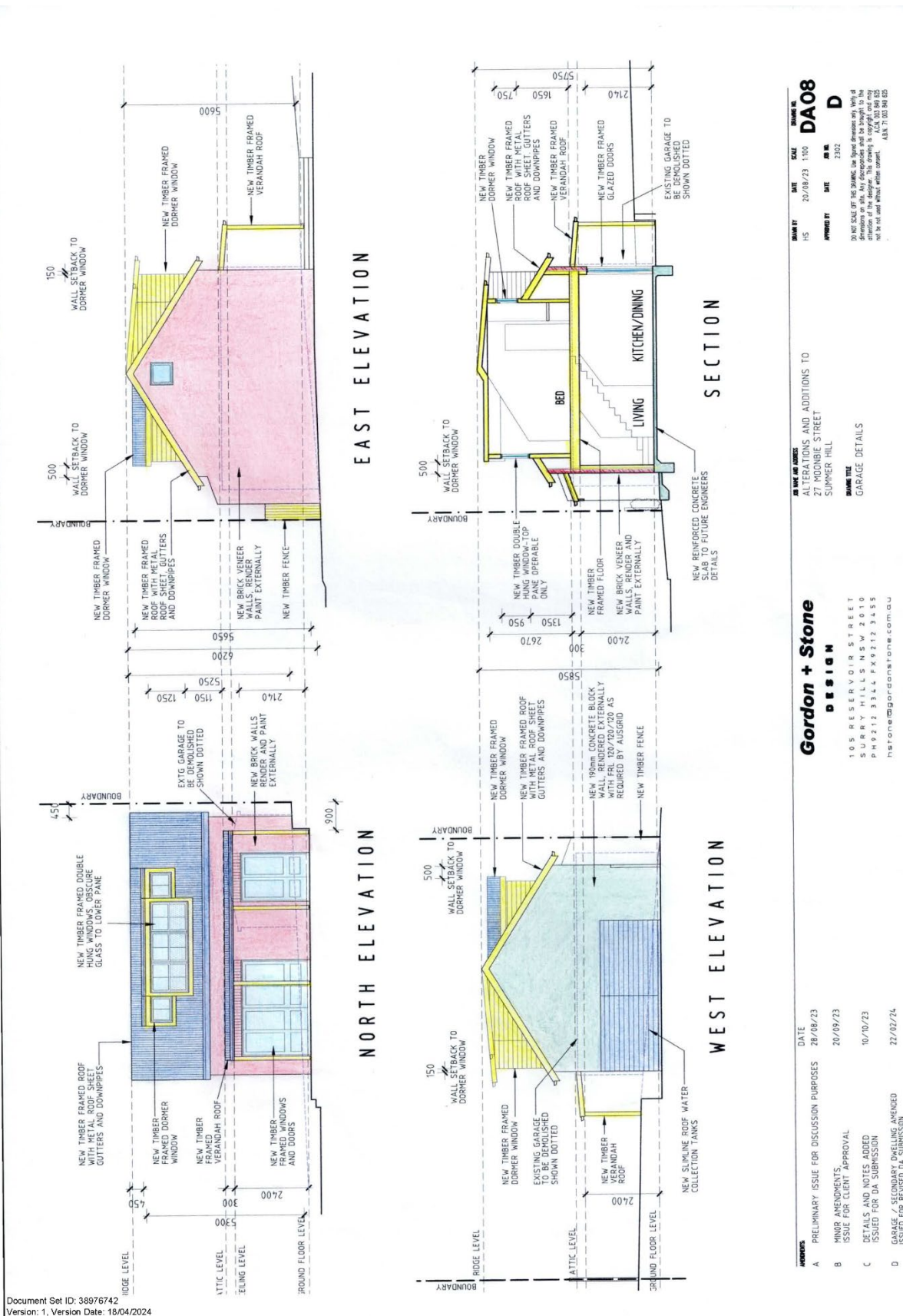
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Version: 1, Version Date: 18/04/2024

REVISIONS		DATE		ISSUE AND PURPOSE	
A	PRELIMINARY ISSUE FOR DISCUSSION PURPOSES	28/08/23			
B	MINOR AMENDMENTS, WINDOWS AMENDED ISSUE FOR CLIENT APPROVAL	20/09/23			
C	ISSUED FOR DA SUBMISSION	10/10/23			
D	MINOR AMENDMENTS TO ELEVATION, ISSUED FOR REVISED DA SUBMISSION	22/02/24			

DESIGNER	DATE	SCALE	DRAWING NO.
Gordon + Stone	20/09/23	1:100	DA07
DESIGN			
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PROJECT ADDRESS	DATE	SCALE	DRAWING NO.
ALTERATIONS AND ADDITIONS TO 27 MOONBIE STREET SUMMER HILL	20/09/23	1:100	DA07
DRAWING TITLE	DATE	SCALE	DRAWING NO.
WEST ELEVATION	23/02		D

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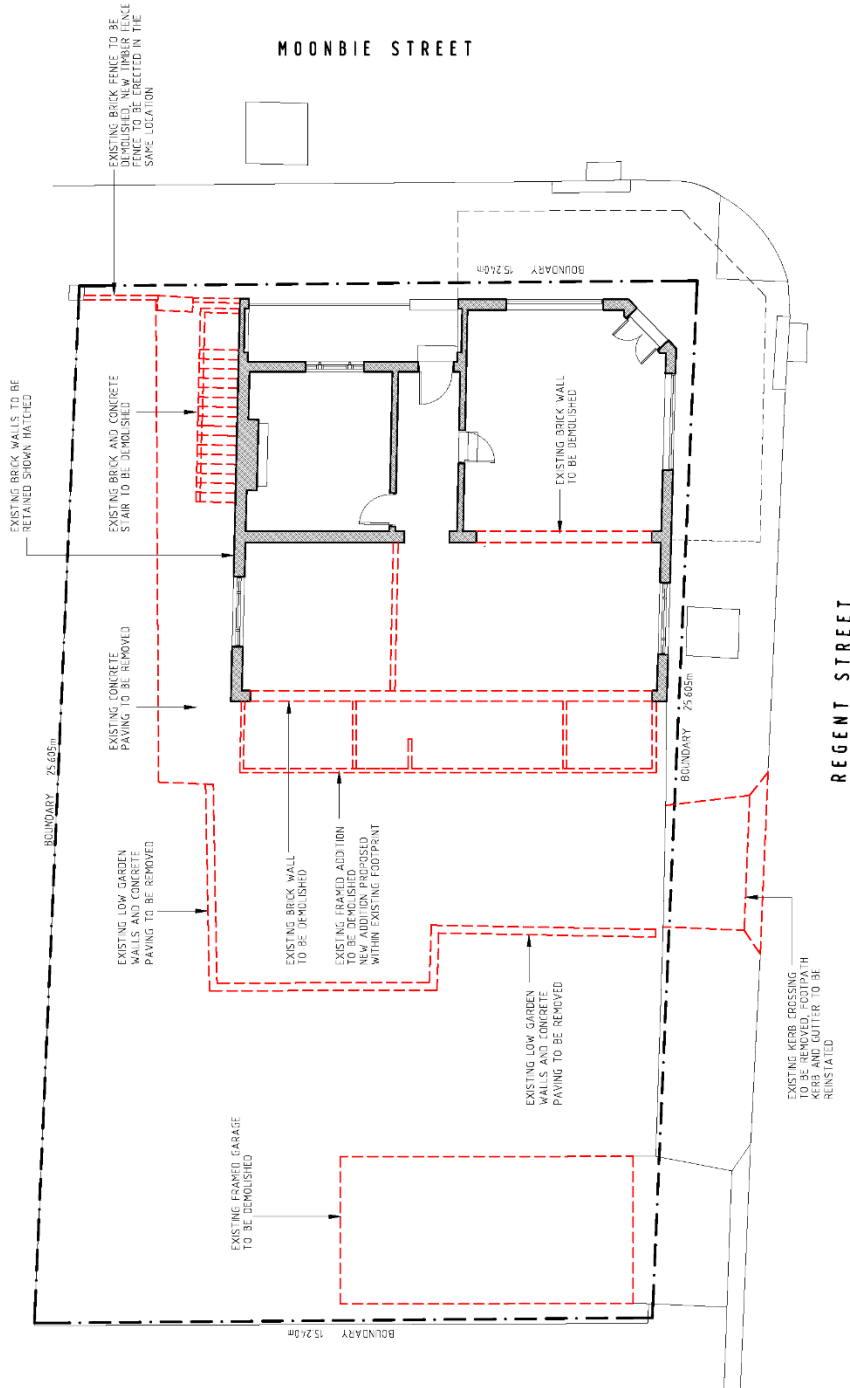
NO.	REVISION	DATE	SCALE	BY	DATE	SCALE	NO.
A	PRELIMINARY ISSUE FOR DISCUSSION PURPOSES	28/08/23		HS	20/08/23	1:100	DA08
B	MINOR AMENDMENTS	20/09/23		HS	20/08/23	1:100	DA08
C	DETAILS AND NOTES ADDED ISSUED FOR DA SUBMISSION	16/10/23		HS	20/08/23	1:100	DA08
D	GARAGE / SECONDARY DWELLING AMENDED ISSUED FOR REVISED DA SUBMISSION	21/02/24		HS	20/08/23	1:100	DA08

NO.	REVISION	DATE	SCALE	BY	DATE	SCALE	NO.
1	ALTERATIONS AND ADDITIONS TO 27 MOONBIE STREET SUMMER HILL	20/08/23	1:100	HS	20/08/23	1:100	DA08
2	GARAGE DETAILS	20/08/23	1:100	HS	20/08/23	1:100	DA08

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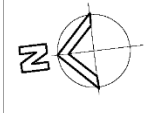


GROUND FLOOR DEMOLITION PLAN

NO	DATE	SCALE	DRAWN BY
1	21/08/23	1:200	DA14
2			B

ALTERATIONS AND ADDITIONS TO
27 MOONBIE STREET
SUMMER HILL
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NO	DATE	DESCRIPTION
A	15/06/23	PRELIMINARY ISSUE FOR DISCUSSION PURPOSES
B	17/07/23	ISSUE FOR ADDITIONAL DA SUBMISSION

Document Set ID: 38978742
Version: 1, Version Date: 16/04/2024

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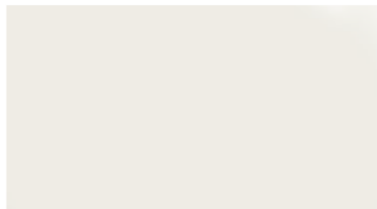
Alterations and Additions to
27 MOONBIE STREET SUMMER HILL
EXTERNAL FINISHES SCHEDULE

10/10/23

Walls
(Weatherboard and existing painted brick)
Paint finish
Dulux 'Dieskau' or equivalent



Timber window and doors
Pergola and building details.
Dulux 'Whisper White' or equivalent



Roof sheet,
Colorbond 'Shale Grey' or equal



Gutters and downpipes
Colorbond 'Monument' or equal



GORDON+STONE DESIGN
ACN 003 849 625

Document Set ID: 38278842
Version: 1, Version Date: 18/09/2023

Attachment C – Section 4.6 Exception to Development Standards**REQUEST FOR EXCEPTION TO A DEVELOPMENT
STANDARD**

made under

CLAUSE 4.6 OF INNER WEST LEP 2022

In relation to

SEPP (Housing) 2021

To accompany:

DA/2023/0863**Development Application for Alterations and Additions to
27 Moonbie Street Summer Hill**

19/04/24

PREPARED BY

Gordon and Stone Design

APPLICANT

Ms. Adele Walsh

EXECUTIVE SUMMARY

This request for an exception to a development standard made under the provisions of clause 4.6 of the Inner West Local Environmental Plan 2022 (LEP). The proposal includes a non-compliance with Section 53 (2)(a) Nondiscretionary development standards – the Act, s 4.15 in Chapter 3, Part 1 – Secondary dwellings, in the State Environmental Planning Policy (Housing) 2021. This clause requires a minimum site area of 450m² for a detached secondary dwelling.

In this case the site area of the subject property at 27 Moonbie Street Summer Hill is 389.7m² by survey, which represents a 13.4% or 60.3m² variation to this development standard.

This request seeks to demonstrate that in the instance of the proposed alterations and additions to 27 Moonbie Street Summer Hill, the statutory planning control contained in the State Environmental Planning Policy (Housing) 2021 for minimum site area is, in this specific instance, unreasonable and unnecessary, and that approval of the proposal would not be counter to the objectives of the relevant planning standards and guidelines on the basis of there being sufficient environmental planning grounds to justify the contravention of the development standard. The applicant seeks Council's approval for a departure from this numerical control on the basis of there being no material impacts resulting from the non-compliance with the site area control for development of a secondary dwelling.

This application to vary a development standard accompanies a revised Development Application submission, including architectural drawings which describe the location and extent of works, to be read in conjunction with the revised Statement of Environmental Effects which discusses the proposal and its likely impact on the immediate context.

The revised design and supporting documentation demonstrate that the proposal, which has been designed in accordance with the objectives and controls of the LEP and the design guidelines for secondary dwellings as stated in the Comprehensive Inner West DCP 2016, would have no detrimental effect on the

function and amenity the subject property, nor the surrounding properties. In this instance, strict compliance with the numerical control for minimum site area is considered unreasonable and unnecessary.

This request seeks to demonstrate that the objectives of the relevant planning instruments are achieved by the revised proposal, despite the non-compliance with the minimum site area development standard.

RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The proposal includes a non-compliance with Section 53 (2)(a) Non-discretionary development standards – *the Act, s 4.15* in Chapter 3, Part 1 – *Secondary dwellings, in the State Environmental Planning Policy (Housing) 2021*.

The following planning instruments are relevant to the assessment of the proposal:

Environmental Planning and Assessment Act 1979

Section 4.15 Evaluation states:

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards--

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Section 4.15 EPA Act 1979 is referenced in the Housing SEPP 2021 for Secondary Dwellings with the note that: *s4.15(3) does not prevent development consent being granted if a non-discretionary development standard is not complied with.*

Inner West Local Environment Plan 2022

The objectives of Clause 4.6 of the LEP are stated as:

4.6 Exceptions to development standards:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The basis for this request, as detailed below, is that compliance with the objectives of the Housing SEPP and also the performance criteria and development standards of the DCP is achieved, and therefore a better outcome is achieved, by allowing flexibility with regard to the non-compliance with the numerical control. The strict application of the minimum site area control in relation to the secondary dwelling proposed for the subject site is considered unreasonable and unnecessary in this instance as strict compliance is not physically possible. It is noted that both the applicant and Council are in concurrence that the site could reasonably support a secondary dwelling, subject to compliance with the LEP standards and DCP performance criteria.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The development standard for minimum site area in the Housing SEPP for Secondary Dwellings is not expressly excluded from the operation of this clause. Rather, the standard is noted as being non-discretionary in that the intention is to prevent the consent authority from requiring a more onerous standard. Clause 4.15(3) of the Environmental Planning and Assessment Act 1979 does not prevent development consent being granted if a non-discretionary development standard is not complied with.

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*

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

Compliance with the minimum site area standard is unreasonable and unnecessary in this circumstance as it is demonstrated that the proposal complies with the objectives of the Housing SEPP as well as the development standards of the LEP and the performance criteria of the DCP, with no material impacts upon adjoining properties, no adverse effect on the streetscape and the locality. Combined with the intention of the minimum site area standard to be a non-discretionary standard, i.e. that non-compliance does not prevent development consent being granted, it is considered that there are sufficient environmental planning grounds (compliance with the LEP and DCP) for the proposal to be supported on merit, despite the contravention of the minimum site area standard in the Housing SEPP. This consideration is demonstrated in detail below.

Note: The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

The grounds on which the matters are demonstrated are detailed in this document.

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

The above requirement would be met by Inner West Council. The remaining subclauses 5 to 8 are non-applicable or repealed.

State Environmental Planning Policy (Housing) 2021

Part 1 – Secondary dwellings, Section 53 (2)(a) *Non-discretionary development standards – the Act, s 4.15* states:

(2) *The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies— (a) for a detached secondary dwelling—a minimum site area of 450m²*

The objective of this clause is to identify a development standard for site area that, if complied with, would prevent the consent authority from requiring a more onerous standard. Clause 4.15(3) of the Environmental Planning and Assessment Act 1979 does not prevent development consent being granted if a non-discretionary development standard is not complied with.

Non-discretionary development standards are standards that if complied with, prevent consent authorities from:

- *taking the non-discretionary development standard into further consideration in determining the DA;*
- *refusing the DA on the grounds that the development does not comply with those standards;*
- *imposing a condition of consent that has the same, or substantially the same, effect as the standard but is more onerous than the standard.*

With respect to the proposal, whilst the total floor area of the secondary dwellings is not more than 60m²; Council's request for further information, dated 22 January 2024, highlights a numerical non-compliance with the provisions of the Housing SEPP for Secondary Dwellings. Specifically, the requirement for minimum lot size of 450m² for detached secondary dwelling. The existing site area is 389.7m² which is 60.3m² less than the minimum required non-discretionary development standard for site area. Council's request for further information also provides the relevant criteria for assessment of the proposal in terms of the non-compliance, specifically that the proposal demonstrate the following:

- *(the secondary dwelling) can be adequately accommodated within the available site area; (and that)*
- *the proposal must satisfy the provisions of the DCP in regard to Secondary Dwellings*

THE PROPOSAL CONSIDERED IN RELATION TO THE PRINCIPLES OF THE STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The principles of this Policy are as follows:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) mitigating the loss of existing affordable rental housing.*

The proposal meets the above principles in that it would:

- Provide for an increased diversity of housing within the locality, specifically smaller dwellings with access to private open space at ground level and off-street parking;
- Provide an opportunity for accommodation for low to moderate income households;
- Support a reasonable level of amenity in terms of accommodation with landscaped open space, off-street carparking in an established suburb;
- Deliver additional housing in a locality which is well serviced with existing infrastructure and services;
- Provide additional accommodation with a relatively small increase in built-upon area with minimal adverse climate and environmental impacts;
- Contribute positively to its locality in terms of scale and form;
- Provide an opportunity for short-term rental accommodation.
- Not result in a loss of existing affordable rental housing within the community.

The particular requirements for secondary dwellings permitted with consent are as follows:

- (a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and*
- (b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and*
- (c) the total floor area of the secondary dwelling is—*
 - (i) no more than 60m², or*
 - (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.*

The proposal complies with the above requirements:

- The proposal is for only a principal dwelling and the secondary dwelling;
- The proposed gross floor area is less than that permitted under the Inner West LEP;
- The total floor area of the secondary dwelling is no more than 60m².

The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies:

- (a) for a detached secondary dwelling—a minimum site area of 450m²,*
- (b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

The subject site, having a site area of 389.7m², does not meet this *non-discretionary development standard*, however the objective of this clause is to identify a development standard for site area that, if complied with, would prevent the consent authority from requiring a more onerous standard. Clause 4.15(3) of the Environmental Planning and Assessment Act 1979 does not prevent development consent being granted if a non-discretionary development standard is not complied with. Council has indicated general support provided the proposal complies with the provisions of the DCP.

THE PROPOSAL CONSIDERED IN RELATION TO THE PROVISIONS OF THE COMPREHENSIVE INNER WEST DEVELOPMENT CONTROL PLAN 2016 FOR SECONDARY DWELLINGS

Given s4.15(3) does not prevent development consent being granted if a non-discretionary development standard is not complied with and Council's acknowledgment that Council is supportive of a secondary dwelling on the site in this instance, if it can be shown that it can be adequately accommodated within the available site area. This means that the proposal must satisfy the provisions of the DCP in regard to Secondary Dwellings which have been previously discussed; the revised proposal has been designed to comply with the relevant provisions of the DCP, as detailed below, and as such, compliance with the DCP demonstrates that the proposal is worthy of consideration under Clause 4.6 of the LEP.

The Proposal

The proposal is for conversion of the existing building at the corner of Moonbie and Regent Streets from two dwellings into a single dwelling, with the erection of a new secondary dwelling with single-car garage, fronting Regent Street. The site-specific planning decisions which informed the location, orientation and scale of the proposed secondary dwelling are the result of consultation with Inner West Council planning officers by way of a thorough pre-DA process which considered the opportunities and constraints of the site, including the existing site area and the proposal to locate a new dwelling to the rear of the site, currently occupied by an existing garage with footpath crossing to Regent Street.

Development Control Plan Performance Criteria and Design Solutions

The proposal has been designed with reference to the performance criteria and design solutions of the Development Control Plan for secondary dwellings, specifically the following (*in italics*):

Site area is adequate to enable development that incorporates adequate setbacks and landscaped open space in accordance with this DCP.

The prescribed design solution for this criterion is that the proposal be assessed on merits. The proposed setbacks are appropriate for a corner site in a residential zone where the secondary dwelling addresses the secondary frontage on Regent Street, achieving a transition from the original dwelling on the corner which is built up to the side boundary, and the existing dwellings to the west which are setback from their primary street frontage.

Landscaped open space for the proposal is achieved in accordance with DCP standards.

To ensure that the size of the secondary dwelling is less than the dwelling house.

The size of the proposed secondary dwelling is less than the primary dwelling and not greater than 60m² in floor area.

To ensure that the combined size of the dwelling house and secondary dwelling has a bulk and scale that maintains the appearance of a typical house and ancillary outbuilding.

The total gross floor area of the principal dwelling and the secondary dwelling is no more than the maximum FSR allowed under the Inner West LEP 2022. The bulk and scale of the proposed secondary dwelling has been reduced in accordance with Council's request and maintains the appearance of a typical dwelling house (on the corner of Moonbie Street) with ancillary outbuilding to the rear.

Building height:

- is no greater than the height of the dwelling house*
- is compatible with the existing or desired future character of the area*
- does not detract from existing low rise streetscapes*

The height of the proposed secondary dwelling has been reduced and is significantly lower than the primary dwelling house. The design presents as a single storey dwelling with an attic and is of a scale and form which is compatible with its context and does not materially detract from the existing streetscape, nor the existing character of the area which is likely to be maintained.

Setbacks:

- *are consistent with that prevailing in the street*
- *reduce the appearance of building bulk*
- *enable adequate solar access to main living areas and principal private open space*
- *ensure no significant adverse amenity impacts on adjoining properties*
- *achieve adequate visual privacy*
- *minimise noise transmission*
- *create deep soil areas that are sufficient to conserve existing trees or to accommodate intensive new landscaping.*

The proposed secondary dwelling is located to address Regent Street which is, in effect, the secondary frontage of the property, thus achieving a transition from the original dwelling on the corner, which is built up to the Regent Street boundary, and the existing dwellings to the west which are setback from their primary street frontage. This is considered characteristic for corner sites in the locality and would result in no material adverse amenity impacts in terms of privacy, solar access and noise transmission.

The structure is set back over 7 metres from the north side boundary which provides sufficient separation between adjacent dwellings as well as access to readily usable north-facing private landscaped open space with deep soil planting. The proposed 450mm from the rear boundary to the west (with the existing substation beyond) is considered sufficient given the nature of an ancillary outbuilding to the secondary street frontage of the existing primary dwelling and would not cause material impacts upon the nearest adjacent dwelling on Regent Street which is 8 metres distant. The proposal complies with the performance criteria of this standard.

Development does not unreasonably reduce the area or useability of landscaped open space.

The proposed secondary dwelling is located upon a portion of the site currently occupied by an existing garage. Whilst the proposal does reduce the area of landscaped open space, the resulting space is useable and also sufficient in size to comply with the minimum requirement under the DCP for a dwelling house. The proposal complies with this standard.

Based on the above items of compliance with the criteria and standards of the DCP, the proposal achieves the objectives of the planning instruments notwithstanding the non-compliance with numerical control for site area and is considered a reasonable and appropriate use of the site.

CONCLUSION

This request for an exception to a development standard is sought in accordance with the objectives of Clause 4.6 of the LEP, as detailed above and on the basis that the proposal meets the performance criteria of the DCP as well as the objectives of the Housing SEPP as listed above. It has been demonstrated in detail above that the objectives of the relevant planning instruments are achieved by the revised proposal, despite the non-compliance with the minimum site area development standard.

We trust that the above is in order and that Council has sufficient information to consider this request, in conjunction with the revised design proposal as illustrated in the amended plans submitted herewith.

Gordon and Stone Design