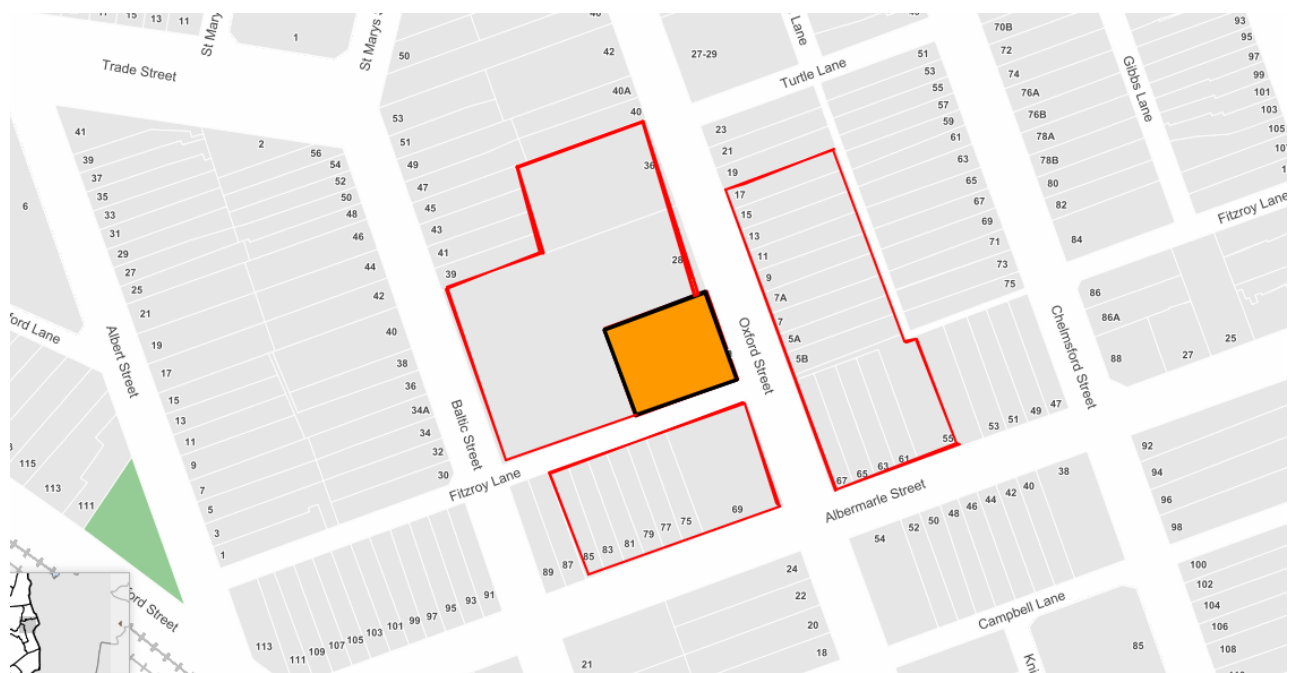






# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2021/0329
<b>Address</b>	26 Oxford Street NEWTOWN NSW 2042
<b>Proposal</b>	To construct a garage/outbuilding at the rear of the site
<b>Date of Lodgement</b>	28 April 2021
<b>Applicant</b>	Mr James Hebron
<b>Owner</b>	Ms Alexandra J Bewg Mr James E Hebron
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$63,300.00
<b>Reason for determination at Planning Panel</b>	Heritage Item
<b>Main Issues</b>	Impact on Heritage Item, Permissibility, Siting
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Statement of Heritage Significance
<b>Attachment D</b>	Draft conditions in the event of approval by Panel



### LOCALITY MAP

Subject Site		Objectors nil		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council to construct a garage/outbuilding at the rear of the site at 26 Oxford Street Newtown.

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

The main issues that have arisen from the application include:

- Impact of the proposed garage /outbuilding on the views and setting of the Heritage Item
- The close proximity of the proposed garage/outbuilding to the heritage Item will result in adverse impacts to the heritage significance of the Item

The identified impacts and non-compliances are considered unacceptable and therefore the application is recommended for refusal.

The application is referred to the Panel for determination as the site involves works to a heritage item and Council's Heritage Specialist does not agree the work will have a minor impact.

## 2. Proposal

The application seeks to demolish part of the premises and construct a double garage.

Specifically, the application includes:

- Construction of a detached outbuilding containing a garage and undercover workout area
- Demolition of a shed

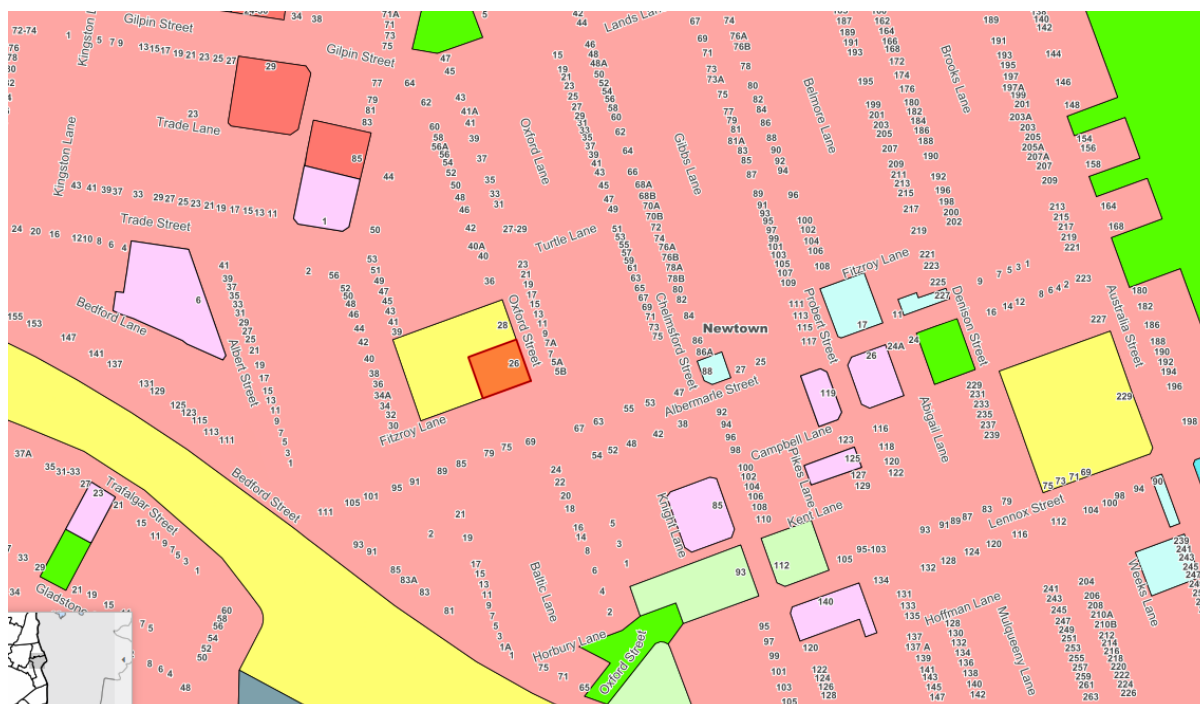
## 3. Site Description

The subject site is located on the western side of Oxford Street, between Fitzroy Lane and Gilpin Street. The site consists of one allotment and is generally rectangular shaped with a total area of 494.6sqm and is legally described as Lot 101 DP 1215843, 26 Oxford Street Newtown.

The site has a frontage to Oxford Street of 20.46metres and a secondary frontage of approximate 24.2 metres to Fitzroy Lane.

The site supports a two storey dwelling house and detached shed. The adjoining properties support two storey buildings including the Athena School.

The subject site is listed as a heritage item.



## 4. Background

### 4(a) Site history

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

A conservation management plan for 26-34 Oxford Street Newtown was prepared by Design 5 Architects in January 1998. A final occupation certificate has been issued for the works in the development application DA201500276.

### Subject Site

Application	Proposal	Decision & Date
PDA/2020/0183	Construct a carport and a first floor studio at the rear of the site	Advice letter sent 15 July 2020
DA 201500276	Alterations and additions to Convent Building at the Athena School including partial demolition and the creation of a parking space accessed from Fitzroy Lane to allow its use as a dwelling house and to Torrens title subdivide the parcel of land on the above property.	Approved 13 November 2015
DA 201500276	This consent was modified and gave consent to carry out internal reconfigurations, restoration of the west and north verandahs with cast iron columns and balustrade	Approved 16 March 2017
DA 201500276.2	Modification of the development consent	Approved 28/2/2018

#### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
11/5/2021- 25/5/2021	Notification
25/6/2021	Site inspection
12/7/2021	RFI letter requiring an alternative design for a carport on the northern side accessed from Oxford Street

### 5. Assessment

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

#### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*

##### 5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

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

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

##### 5(a)(ii) *Marrickville Local Environment Plan 2011 (MLEP 2011)*

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Earthworks
- Clause 6.5 - Development in areas subject to aircraft noise.  
The property is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour (ANEF).

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

Standard	Proposal	non compliance	Complies
<b>Height of Building</b> Maximum permissible: N/A	3.6m	N/A	N/A
<b>Floor Space Ratio</b> Maximum permissible: N/A	-	N/A	N/A

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

The site is zoned SP2 – Educational Establishment under the *MLEP 2011*. The *MLEP 2011* defines the development as:

*Ancillary development (Garage) to a dwelling house*

The development is not permitted within the land use table.

The objectives of the zone are -

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To protect and provide for land used for community purposes.*

The development is not consistent with the objectives of the SP2 zone as it is a garage ancillary to a dwelling house. However, Council may allow the development under Clause 5.10(10) - Conservation incentives of *MLEP 2011*, this is considered below.

*The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—*

*(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*

- Comment: As discussed throughout this report, it is considered that proposal adversely affects the significance of the Heritage Item and it is not established that the conservation of the Item will be facilitated by granting of this consent.

*(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*

- Comment: A conservation management plan (CMP) for 26-34 Oxford Street Newtown was prepared by Design 5 Architects in January 1998. A final occupation certificate has been issued for the works which included conservation works in the development application DA201500276. The proposed development is not consistent the CMP.

*(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*

- Comment: There is no conservation works proposed as part of this development.

*(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*

- Comment: As discussed elsewhere in this report, the proposed development would adversely affect the heritage significance of the heritage item, including its setting.

(e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

- Comment: No significant adverse effect on the amenity of the surrounding area.

As a result of the above, it is considered that the proposed development does not satisfy this Clause and the development is not able to rely on conservation incentives.

Clause 5.10 of MLEP 2011 - Heritage conservation

The subject site is a Heritage Item under *MLEP 2011* and was part of the following site until its recent subdivision namely St Joseph's Girls' School and St Bede's Convent and Presbytery, including interiors, 26 and 36 Oxford Street Newtown (I166).

The site is also in close proximity to the following Heritage Items:

- Victorian terrace, including interiors, 18-24 Oxford Street Newtown (I165)
- Victorian Georgian house and stables, including interiors, 54 Albermarle Street Newtown (I130).
- Victorian Villa, including interiors (I132) located within the Kingston North Estate Heritage Conservation Area (C11).

The following is considered in assessment against the other relevant Clauses of 5.10 -

(1) *Objectives The objectives of this clause are as follows—*

- (a) *to conserve the environmental heritage of Marrickville,*  
 (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

- The proposed development is in close proximity the existing dwelling house and does not conserve the heritage significance of the heritage item, including associated, settings and views.
- The proposed development is not considered to comply with the following controls of Part 8.1.7.1 as it diminishes the Heritage Item and obscures its significant elements -

*C1 Heritage items must be conserved and new development must not diminish the significance of the item.*

*C11 Ancillary buildings on the same site as an individual heritage item must be located in a place that does not obscure the significant elements*

As a result, it is not considered to satisfy the objectives of this Clause.

**(4) Effect of proposed development on heritage significance** *The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

- Comment: As discussed in this report, the proposed development will adversely affect the significance of the Heritage Item

**(5) Heritage assessment** *The consent authority may, before granting consent to any development—*

- (a) *on land on which a heritage item is located, or*  
 (b) *on land that is within a heritage conservation area, or*

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to

which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

- Comment: The application included a Heritage Impact Statement (HIS) which supports the proposed development. However, the findings of the HIS are not supported by Council's Heritage Specialist for the following reason:
  - The location of the garage structure obscures views of the original front façade of the building and may also impact negatively on the setting and curtilage of the item, impacting the heritage significance.

### 5(b) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The Draft IWLEP 2020 maintains the existing land zoning, floor space ratio and heritage conservation provisions currently applicable to the site. As such, the issues discussed above relating the MLEP 2011 would remain of concern under Draft IWLEP 2020.

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

### 5(c) Development Control Plans

MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.10 – Parking	Yes
Part 2.11 – Fencing	Yes
Part 2.14 – Unique Environmental Features	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 4.1 – Low Density Residential Development	No - See Discussion below
Part 8 – Heritage	No – See discussion at 5.10 MLEP 2011
Part 9 – Strategic	No - See Discussion below

The following provides discussion of the relevant issues:

#### (i) Car Parking (Part 4.1.7)

Part 4.1.7 of MDCP 2011 contains objectives and controls relating to car parking design. The development is inconsistent with the relevant objectives and controls for car parking as follows:

- The proposed garage does not respect the heritage nature of the street or enhance the character of the area, being of a scale and form that does not respond to its surroundings, contrary to Objective 18.
- The garage is a distinctly contemporary form in a traditional streetscape and would become a detracting and dominant element on the site, contrary to Objective 19 and Control 14(iii).
- The garage is not compatible in scale, form or materials to the existing Heritage Item, being distinctly contemporary, contrary to Control 14(iv).
- The proposed garage has substantial impact on the garden areas that contribute to the setting of the associated dwelling and the character of the streetscape, contrary to control 14(vii).

Overall, form of the garage does not conform to the car parking requirements of Part 4.1.7 of MDCP 2011. The garage is not consistent with the objectives of Part 4.1.7 in that the garage is not appropriate to the site or streetscape in design and as such there is no justification to vary the controls prescribed by Part 4.1.7.

#### (ii) Newtown North and Camperdown (Part 9.4)

The site is contained within the Newtown North and Camperdown Planning Precinct (Precinct 4) under Part 9 of MDCP 2011. The development is considered inconsistent with the desired future character of the area as follows:

- The proposal does not protect the Heritage Item within the precinct.
- The proposal provides off street parking that will adversely impact the amenity of the precinct.

#### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

- The development would result in adverse impacts to a local heritage item.

#### 5(e) The suitability of the site for the development

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

#### 5(f) Any submissions

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

No submissions were received in response to the initial notification.

#### 5(g) The Public Interest

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

The proposal is contrary to the public interest.



## 6 Referrals

### 6(a) Internal

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

- Heritage Advisor
- Urban Forest
- Development Engineer

### 6(b) External

N/A

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are not payable for the proposal.

## 8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development would result in significant impacts to the heritage significance of the site and is not considered to be in the public interest.

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

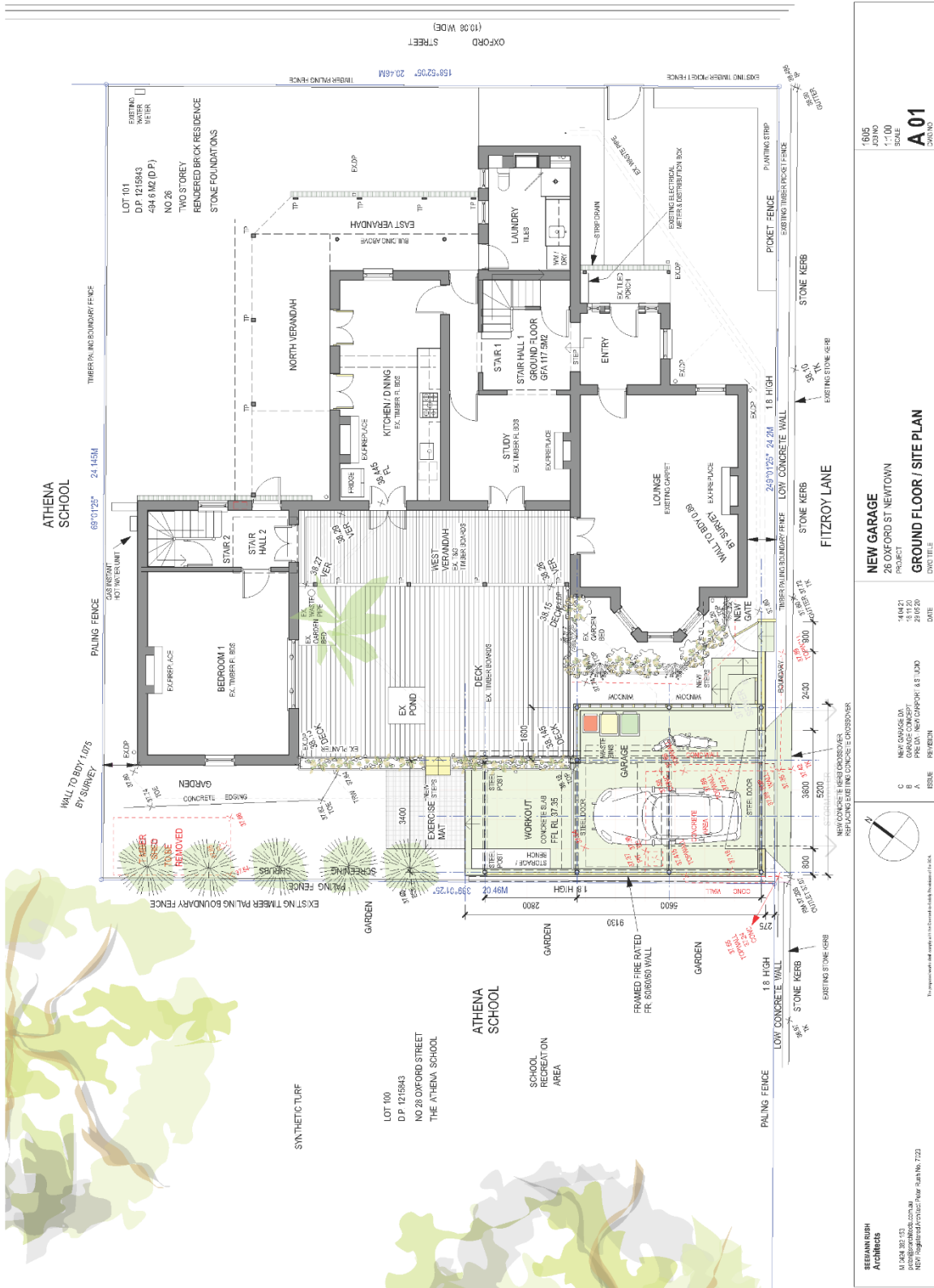
## 9. Recommendation

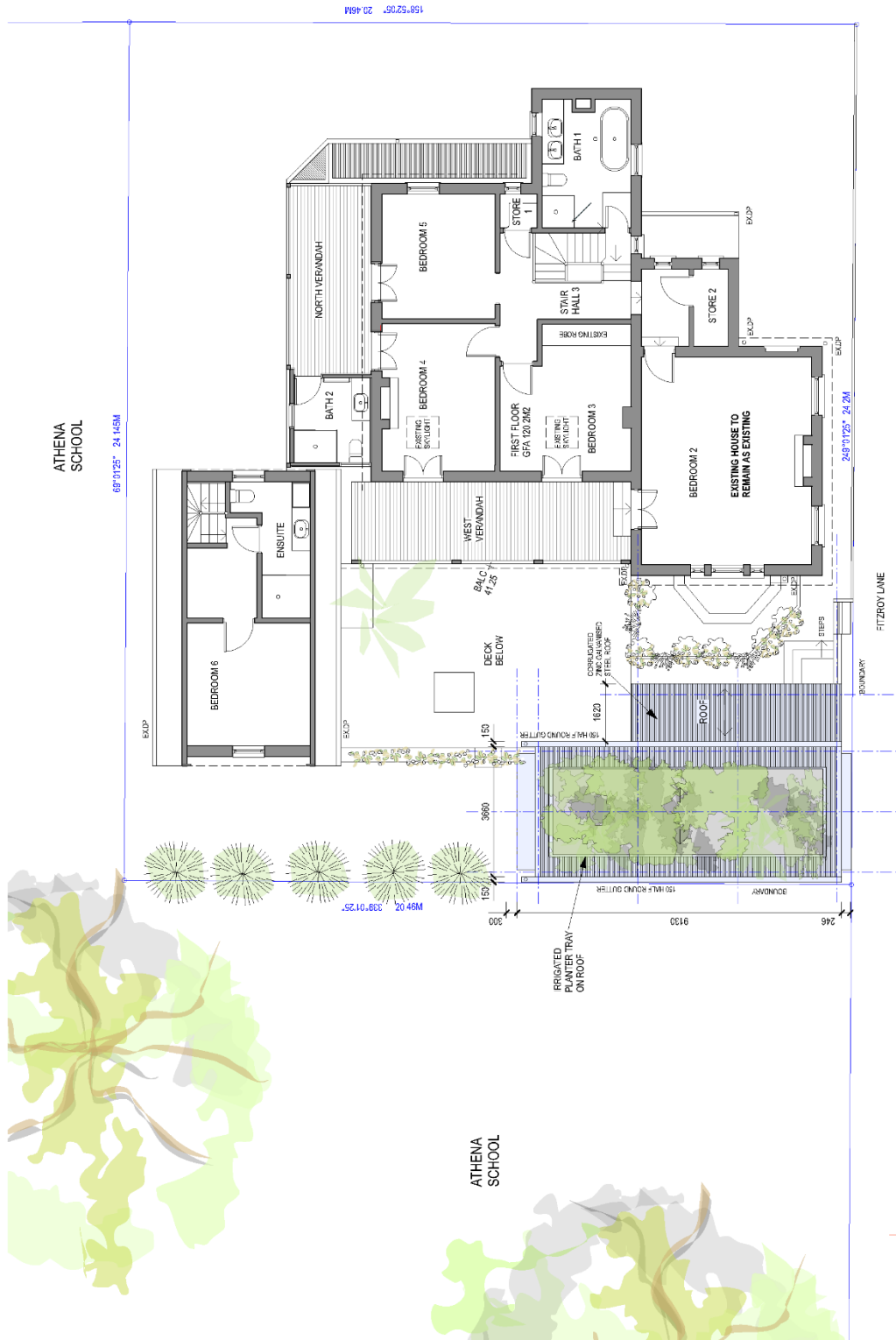
- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, to refuse Development Application No. DA/2021/0329 for to construct a garage/outbuilding at the rear of the site at 26 Oxford Street NEWTOWN NSW 2042 for the following reasons.

## Attachment A – Reasons for refusal

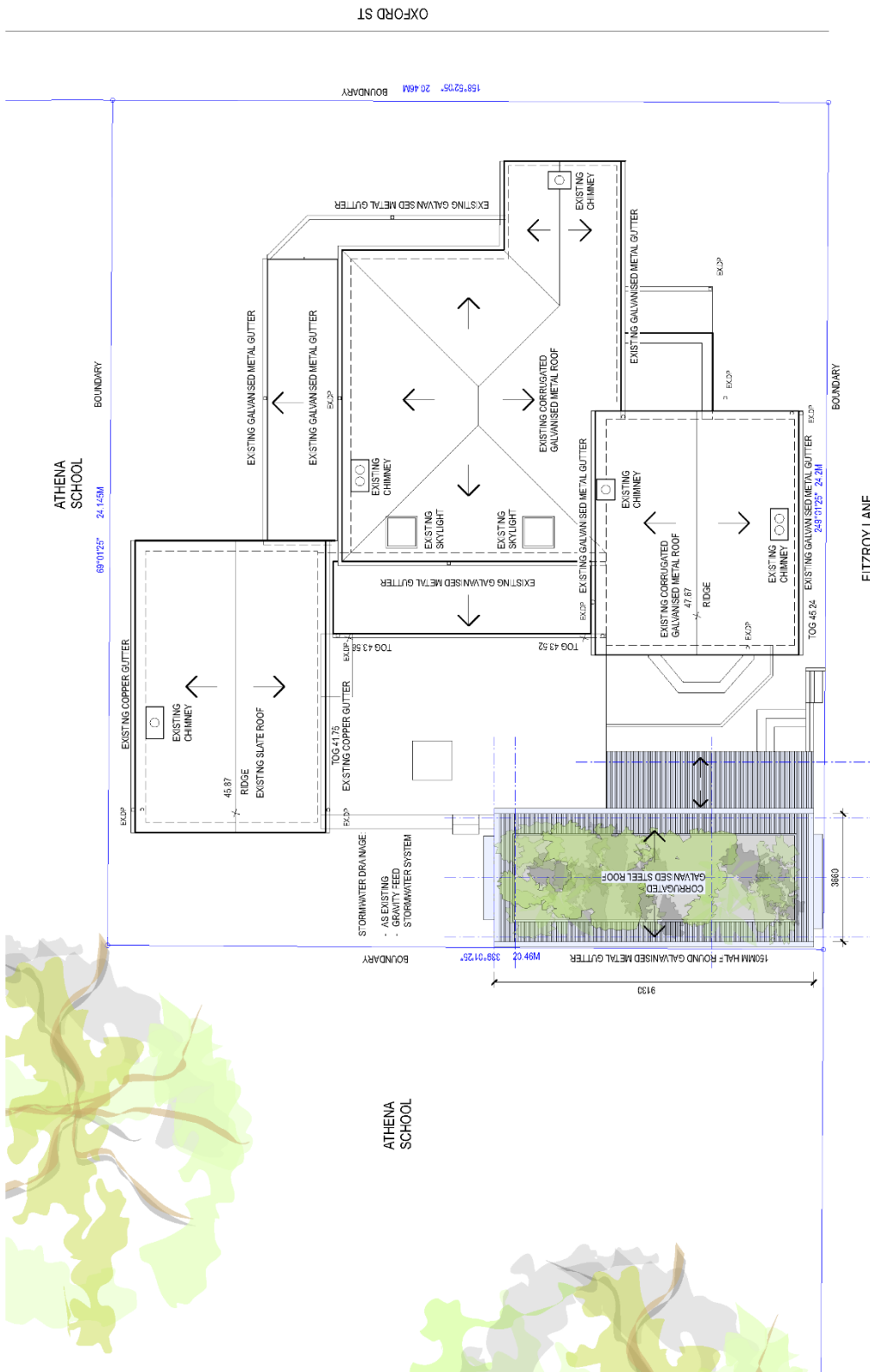
1. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following clauses of *Marrickville Local Environmental Plan 2011*.
  - a. Clause 1.2(2)(g) - Aims of the Plan. The proposed development on the land would have a detrimental impact on the built and unbuilt environment and as such is contrary to the requirement to conserve the environmental and cultural heritage of Marrickville in a manner that is consistent with the need to protect the environment.
  - b. Clause 2.3 - Zone objectives and Land Use Table. The proposed development is not permissible in the Land Use table for the Zone SP2 – Infrastructure (Educational Establishment) zone and does not satisfy the objectives of the zone.
  - c. Clause 5.10(1)(a) & (b), (10) - Heritage Conservation. The proposed development does not conserve the environmental heritage of Marrickville, and the heritage significance of heritage items including associated fabric, settings and views. The proposed development does not provide a conservation incentive.
2. In accordance with Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following parts of Marrickville Development Control Plan 2011 -
  - a. C1 and C11 of Part 8.1.7.1 and C14 (iii) (vii) of Part 4.1.7 as the proposed development and its location will diminish the significance of the Heritage Item, its garden setting, streetscape and will obscure the significant elements.
  - b. Part 9.4.2 Desired Future Character of the Newtown North and Camperdown Precinct (Precinct 4) in that the proposed garage does not protect the heritage Item on the site or the streetscape and is therefore inconsistent with the desired future character of the precinct.
3. In accordance with Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
4. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposal would not be in the public interest.

Attachment B – Plans of proposed development

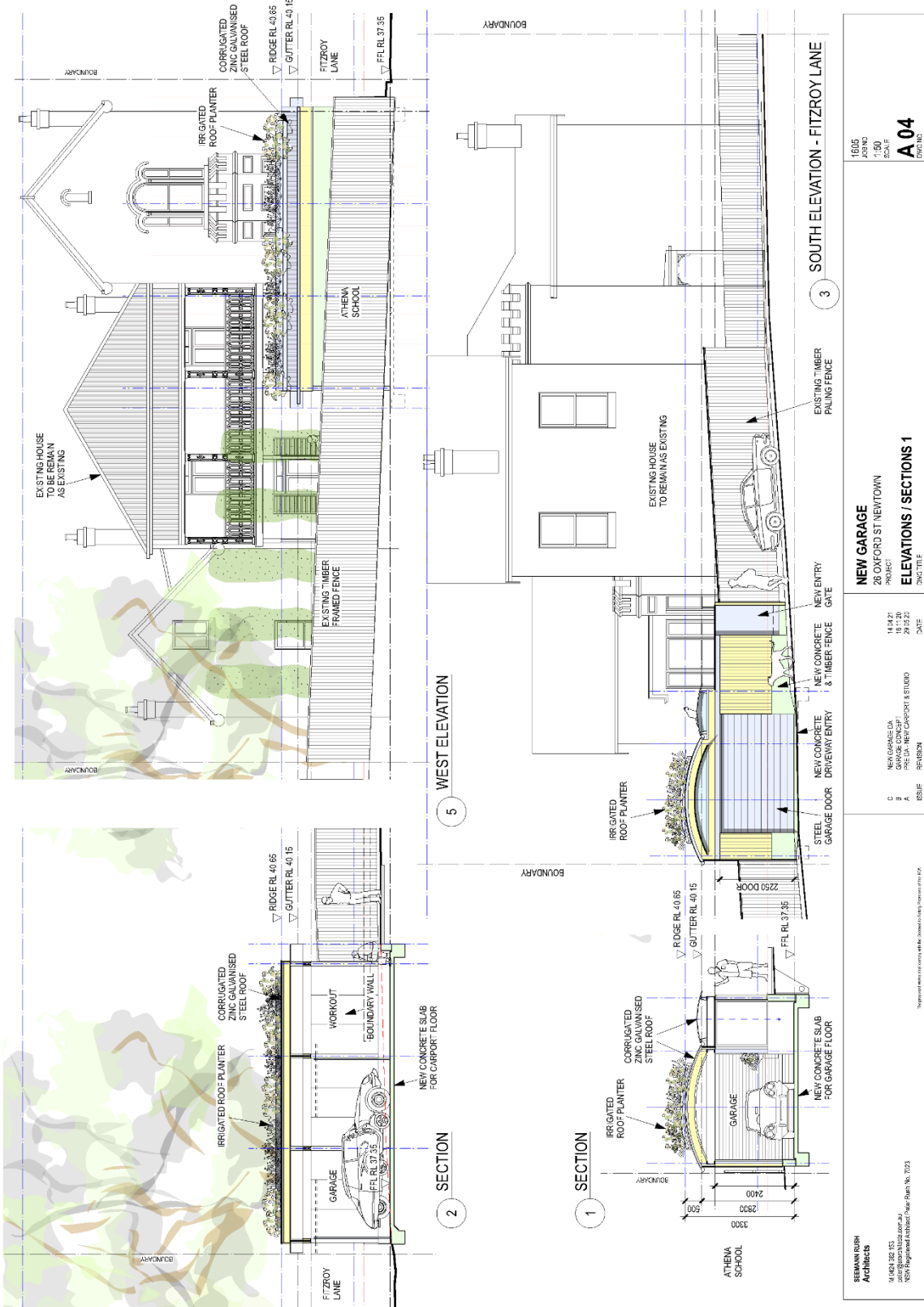


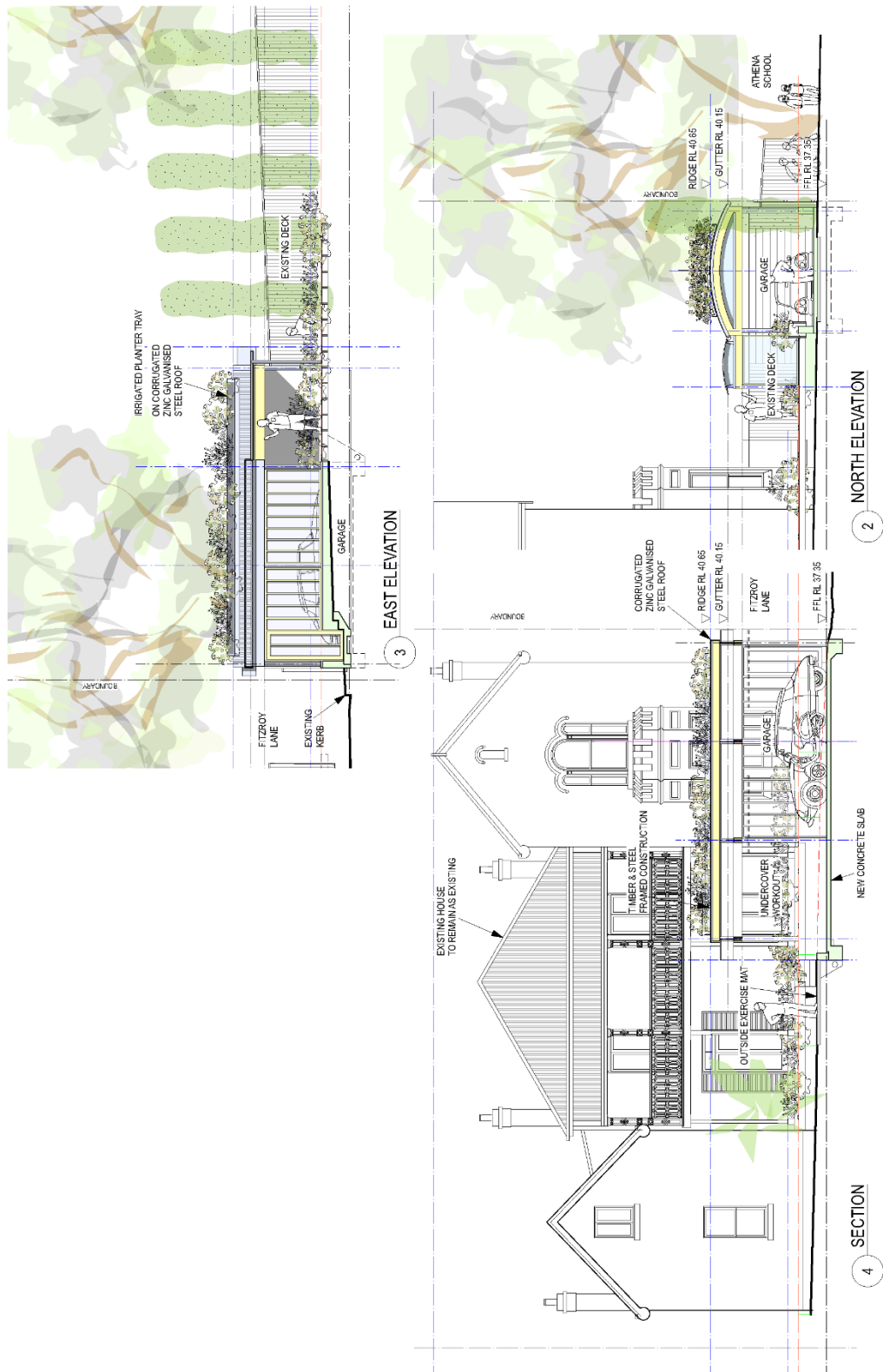


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1605 JOB NO 1:1:00 SCALE A02 DWG NO			NEW GARAGE 28 OXFORD ST NEWTOWN PROJECT FIRST FLOOR PLAN / GARAGE ROOF DWG TITLE		
NEW GARAGE PROJECT FIRST FLOOR PLAN / GARAGE ROOF DWG TITLE			14/02/2018 DATE 29/02/2018 DATE	PREPARED BY: NEWINGHAM & JUDSON REVIEWED BY:	
C NEW GARAGE A ARCHITECTURE B STRUCTURE			ISSUE PREVIEWED		



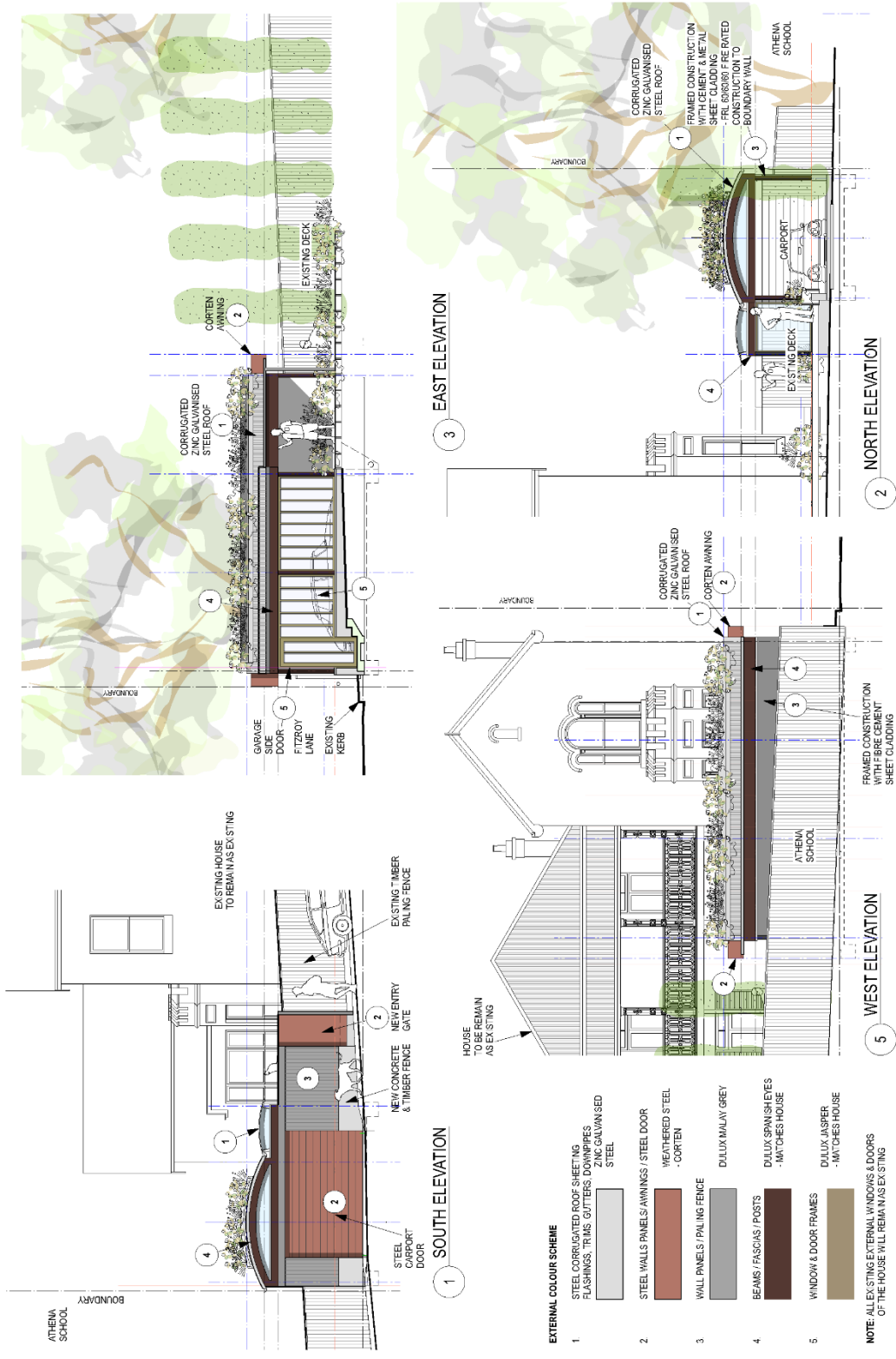
<p><b>SEEWANNBURSH Architects</b>                  MUMUKSHU SEEWANNBURSH                  ARCHITECT                  NSW Registered Architect Number 1223</p>		<p><b>NEW GARAGE</b>                  26 OXFORD ST NEWTOWN                  PROJECT  <b>ROOF PLAN / SITE PLAN</b>                  DWG TITLE</p>		<p>1605                  JOB NO                  1:100                  SCALE  <b>A 03</b>                  DRAWING</p>	
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<p>3880                  9130                  469'02" 338'01'25"                  BOUNDARY</p>		<p>159'02'05" 20.46M                  BOUNDARY                  OXFORD ST</p>		<p>248'01'25" 24.2M                  BOUNDARY                  FITZROY LANE</p>	





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**SEWANNABURGH Architects**  
 M: 08 9498 3613  
 P: 08 9498 3613  
 NSW Registered Architect No. 1223

**NEW GARAGE**  
 28 OXFORD ST NEWTOWN  
 PROJECT  
**EXTERNAL MATERIALS & FINISHES**  
 DWG TITLE

14/02/20  
 29/02/20  
 DATE

NEW GARAGE  
 PROJECT  
 PRELIMINARY CONCEPT I.E.T. JDD  
 PREVIEW

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Attachment C – Statement of Heritage Significance

# HERITAGE IMPACT STATEMENT



**No. 26 Oxford Street, Newtown**

April 2021|J4488

**Weir  
Phillips**  
Heritage  
and Planning

Level 19, 100 William Street Woolloomooloo NSW 2011  
Phone: (02) 8076 5317

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## 1.0 INTRODUCTION

### 1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application for the construction of a single garage with attached workout space at No. 26 Oxford Street, Newtown, New South Wales.

The site is located within the Inner West Council area. The principal planning control for the site is the *Marrickville Local Environmental Plan 2011 (LEP 2011)*. The site is listed as a heritage item of local significance by Schedule 5 Part 1 of the *LEP 2011* as part of 'St Joseph's Girls' School and St Bede's Convent and Presbytery, including interiors,' Nos. 26 and 36 Oxford Street, Newtown (166). The site is also located within the vicinity of a number of heritage items listed by this Schedule and opposite the North Kingston Estate Conservation (C11) Area as defined by Schedule 5 Part 2 of the *LEP 2011*. Under Part 5.10 of the *LEP 2011*:

*(4) Effect of proposed development on heritage significance*

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

*(5) Heritage assessment*

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The appropriate heritage management document in this instance is a Heritage Impact Statement (HIS).

This statement has been prepared at the request of the owners of the site and accompanies plans prepared by Seemann Rush Architects.

### 1.2 Authorship and Acknowledgements

This statement was prepared by Alice Fuller, B.Appl.Sc.(CCM), M.Herit.Cons.(Hons.), and James Phillips, B.Sc.(Arch.), B.Arch., M.Herit.Cons.(Hons.), of Weir Phillips Heritage and Planning.

There is an existing Conservation Plan (CP) for this site, the details of which are as follows:

- Design 5 Architects, *St. Joseph's Primary School and the Convent of the Good Samaritan, 26-34 Oxford Street, Newtown, NSW, Conservation Plan*. Unpublished report dated January 1998.

This Conservation Plan is hereafter referred to as the *CP 1998*.

An addendum to this plan was prepared in 2010 by Design 5.

The authors of this statement acknowledges the information obtained from this plan.

---

### 1.3 Limitations

The history and assessment contained in the *CP 1998* and the addendum were relied upon. No additional historical research was provided for.

An Aboriginal assessment and historical archaeology were not provided for.

### 1.4 Methodology

This statement has been prepared with reference to the *NSW Heritage Manual* update *Statements of Heritage Impact* (2002) and with reference to the Council planning controls listed under Section 1.6.

#### 1.4.1 Physical Evidence

A site visit was carried out in March 2021. Unless otherwise stated, the photographs contained in this statement were taken by the authors on this occasion.

#### 1.4.2 Documentary Evidence

##### 1.4.2.1 General References

- Design 5 Architects, *St. Joseph's Primary School and the Convent of the Good Samaritan*. Unpublished Conservation Management Plan prepared for the Sisters of the Order of the Good Samaritan, dated January 1998.
- Design 5 Architects, *The Athena School, Former St. Joseph's Primary School and the Convent of the Good Samaritan. Addendum to the Conservation Management Plan*. Unpublished addendum prepared for the Athena School, dated 17 March, 2010.

##### 1.4.2.2 Listing Sheets

- *Abbotsford*, No. 69-73 Albermarle Street, Newtown. State Heritage Inventory Database No.: 2030076.
- *Athena School*, No. 26-34 Oxford Street, Newtown. State Heritage Inventory Database No.: 2030080.
- *North Kingston Estate Heritage Conservation Area*, Newtown. State Heritage Inventory Database No.: 2030503.
- *Victorian villa, including interiors*, No. 69 Albermarle Street, Newtown. State Heritage Inventory Database No.: 2030076.

##### 1.4.2.3 Planning Documents

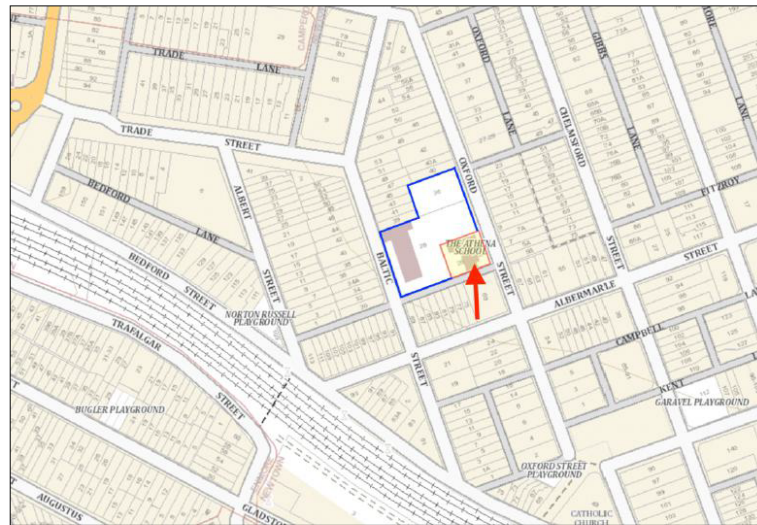
- *Marrickville Development Control Plan 2011*.
- *Marrickville Local Environmental Plan 2011*.

### 1.5 Site Location

No. 26 Oxford Street, Newtown, is located on the north western corner of Oxford Street and Fitzroy Lane. The site is identified as Lot 101 D.P. 1215843. This lot is hereafter referred to as the 'subject site.'

No. 26 Oxford Street shares a joint heritage listing with Athena School, No. 36 Oxford Street, which lies to its north and west. Athena School lies on a separate lot (Lot 100 D.P. 1215843) and is not owned by the owners of the subject site.

Figure 1 identifies the location of the subject site within Newtown. In this plan, the subject site is outlined in red, coloured yellow and marked by the arrow. Athena School is outlined in blue and coloured white.



**Figure 1: Site Location.**  
SIX Maps; annotation by WP Heritage and Planning.

**2.0 BRIEF OUTLINE OF THE HISTORICAL DEVELOPMENT OF THE SITE**

**2.1 Preamble**

For a detailed history of the site, refer to the *CP 1998*.<sup>1</sup> The following provides a summary of this history contained in this document.

**2.2 Original Occupation**

While the *CP 1998* did not include an Aboriginal history, it is acknowledged that the Inner West Council area lies within the traditional lands of the Gadigal people of the Eora Nation.

**2.3 Kingston Farm**

The Colony of New South Wales was officially declared at Sydney Cove on 26 January, 1788. All land was declared Crown land. In December 1792, Governor Phillip established the boundaries of the Township of Sydney. The subject property lies outside these boundaries. From January 1793, successive governors granted land outside the township boundaries in order to open up the land and augment the Colony's food supplies.<sup>2</sup>

The subject site lies on land granted to Lieutenant Thomas Rowley and known as *Kingston Farm*. *Kingston Farm* comprised 240 acres of land and was granted to Rowley in a series of grants between 1793 and 1803. The term '-farm' is common on early grants and clearly set out the purpose for which the land was granted.

<sup>1</sup> Refer to Design 5 Architects, *St. Joseph's Primary School and the Convent of the Good Samaritan*. Unpublished Conservation Management Plan prepared for the Sisters of the Order of the Good Samaritan, dated January 1998. See Appendix D and Pages 21-26. This document is hereafter referred to as the *CP 1998*.

<sup>2</sup> Additional information not in the *CP 1998*.

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The Kingston Estate, as it became known, was divided into two when the railway line between Sydney and Parramatta was constructed in the 1850s. The land to the north of the railway line became known as the North Kingston Estate. In 1854, this land was subdivided and offered for sale through Mort & Company. Despite the opening of the railway line in 1855 and the proximity of the estate to the new station at Newtown, sales were slow until the 1880s.

#### 2.4 Prospect Cottage

The subject site forms part of Lot 268 Section 4 of the North Kingston Estate. This land was among the lots sold as part of the early land sales. Lot 268 was conveyed to Robert Pemberton Richardson in January 1857. Richardson was an employee of Mort & Company who, soon after acquiring this land, left to set up business with Edward Wrench, founding what is now one of the largest real estate agents in New South Wales. Within a year, Richardson had constructed a four-room cottage on his land, known as *Prospect Cottage*. This cottage comprises the central part of the existing building on the subject site. *Aylesbury* and *Wendover*, on opposite corners fronting Albermarle Street, are dwellings of a similar period in close proximity of the site.

Richardson and his wife lived at *Prospect Cottage* from 1857 until 1862, when the property was sold to timber merchant James Smith.

#### 2.5 Alterations to Prospect Cottage

According to the *CP 1998*, Smith carried out additions to the cottage soon after acquiring it. These additions comprised a second storey over the original four-room cottage; and a two storey addition to the north western corner of the building, comprising a large room on the ground floor and two attic rooms above. The *CP 1998* concludes that the additions were likely to have been completed by c.1871.

In 1870, Smith enlarged his land holding by purchasing the adjoining lot to the north, Lot 269, from Francis Greenhill. Nothing appears to have been built upon this lot before this time.

In 1871, the name of *Prospect Cottage* was changed to *Darnlee House*.

#### 2.6 Darnlee House and Further Additions

Further alterations were carried out *Darnlee House* on the southern side of the original four-room cottage. These additions comprised a new entrance and a large room on the ground and first floors. These works were complete by 1878, when they were described in an advertisement for the sale of the property.

The construction of outbuildings and the development of the grounds during Richardson and Smith's ownership periods of ownership are not recorded. By 1878, however, the outbuildings at *Darnlee House* included a coach house, stable, buggy-shed and man's room on the western (Baltic Street) boundary and a summer house and conservatory in the lawn area behind the dwelling. The water supply was obtained from two wells, an underground reservoir and city water pipes. The area in front of the dwelling was described as being 'tastefully laid out as a flower garden and planted with well selected flowering shrubs, evergreen and ornamental trees', with the residue comprising a separately fenced grass paddock and drying ground.<sup>3</sup> There is no above ground evidence of these outbuildings or the landscaping.

Smith sold the property to Thomas Thomas in March 1879 for £2,000. Thomas lived at the property until his death in February 1881. In June 1881, the property was sold to

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<sup>3</sup> 'The Sydney Morning Herald' 11 December, 1878 cited in the *CP 1998*.

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Thomas Peate of the grocery firm of Peate and Harcourt. A year later, Peate sold the property to the Trustees of the Order of the Good Samaritan for use as a convent.

The Sisters of the Good Samaritan were founded in 1857 and were Australia's first indigenous order. Originally founded to provide refugees to 'penitent women', the order later became an important part of the Catholic education system.

By the time that the Catholic Church acquired *Darnlee House*, the North Kingston Estate was at last realising its potential. After 1880, free-standing villas and terraces came to characterise the area.

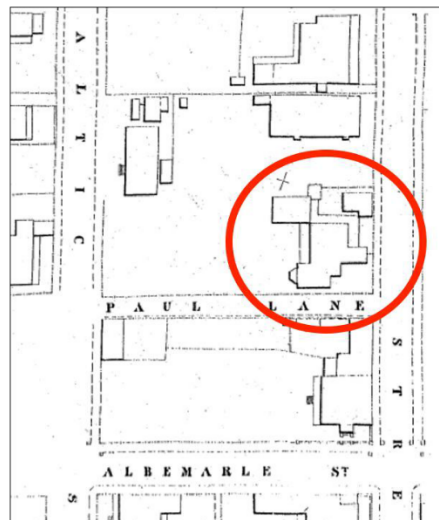
## 2.7 The Order of the Good Samaritan, St. Bede's Convent and School

*Darnlee House* comprised around 20 rooms when the Catholic Church purchased it. The building was adapted for use as a convent for the four founding sisters and for use as a school. The establishment of this school and convent was part of the Catholic Church's wider response to the *Public Instruction Act of 1880*. With government financial support for denominational education removed entirely by 1882, the Catholic Church built their own schools and staffed them with religious orders.

The new convent, St. Bede's Convent, was officially opened on 7 January, 1883. The Sisters ran a girl's high school in a schoolroom on the ground floor of the convent and a primary school in the basement of the nearby St. Joseph's Catholic Church. Two years later a purpose-built building for the high school was designed by Sheerin & Hennessy and erected on land to the north of the convent, fronting Oxford Street. The building, which was designed for over 100 students, was in use in January 1886. Sheerin & Hennessy designed many educational buildings for the Catholic Church. The building on the subject site, hereafter referred to as the Oxford Street Building, is a relatively simple example of Sheerin & Hennessy's work when seen alongside St. Patrick's Seminary at Manly (1885), St. Joseph's College at Hunters Hill (1883-1892) and Santa Sabina College at Strathfield (1894).

In 1887, a two storey primary school building was erected to the west of the convent fronting Baltic Street. The building, hereafter referred to as the Baltic Street Building, was most likely the work of a local builder and was opened in March 1888. The following year, the Christian Brothers took over the primary and secondary education for boys, leaving infant boys and girls and primary and secondary girls on the St. Bede site. Figure 2 provides a survey of the site from 1890, showing the Convent on the subject site and the Oxford Street Building and the Baltic Street Building now part of Athena School.





**Figure 2:**  
**Plan of the Site (circled) from**  
**the Sydney Metropolitan**  
**Detail Series, 1890.**  
*CP January 1998.*

The Baltic Street Building was extended to the south in 1901, doubling its length, and a balcony erected along both sides of the building. The building now extended in front of the convent. Although on the same site, the high school in Oxford Street and the primary school on Baltic Street were separated by a fence; there was little interaction between the two.

Figure 3 provides a photograph of the convent from Oxford Street in c.1900.



**Figure 3: The Convent in the early 1900s.**  
*Good Samaritan Archives, cited in the CP 1998.*

Figure 4 provides an aerial photograph over the site from 1943. There appears to be dense planting along the Fitzroy Street boundary of the subject site. The area to the west of the convent, being the area of proposed works, is open.



**Figure 4: Aerial photograph over the site, 1943.**  
NSW Lands Department, 1943.

While student numbers at the schools remained high, by the mid 1950s, Post World War II migration had brought the enrolments at St. Bede's to a peak at over 400 students. For the period 1939 to 1959 there were six or seven Sisters living at the convent, all of whom taught at the schools. By the late 1960s, this had reduced to four Sisters, only two of whom taught at the schools.

By the 1960s, significant social and economic changes had far reaching implications on the school and convent. More lay teachers entered the Catholic education system. Changes to the education system lead to the closure of St. Bede's High School in 1962. The students were transferred to schools at Broadway or Marrickville. The buildings were then taken over by St. Joseph's Primary School. Figure 5 provides an aerial photograph of the area to the west of the Convent, being the area of proposed works, from around this time. There is little planting or formal landscaping. There is, however, planting around the bay of the southern wing of the convent.



**Figure 5: Convent west elevations, c.1960s and 1970s.**  
Good Samaritan Archives, cited in the *CP 1998*.

Government financial assistance in the 1970s supported teaching programmes and funded much-needed maintenance and repair programmes to the buildings on the site. Additional works were carried out in the 1970s-1980s to improve the quality of accommodation, including the construction of the kitchen/laundry on the northern side of the convent.

The number of students at St. Joseph's Primary School fell steadily through the 1990s. The school closed at the end of 1998. The site was purchased by the Athena School, a small secular co-educational school for students from pre-Kindergarten to 16 years of age.

## **2.8 Athena School and Subdivision**

In 2015, Council approved the subdivision of the Athena School, separating the subject site from the School (DA201500276). The approval also provided for alterations to the former convent building (including demolition of part) and conversion of it into a private residence. As part of this approval, a car parking space was created off Fitzroy Lane adjacent to the former convent. Two further applications have modified this consent (DA201500276.01 and DA201500276.02). Works approved and executed under these applications include the restoration of the western and northern verandahs, changes to openings, extensive internal restoration and the painting of the exterior.

## **3.0 SITE ASSESSMENT**

### **3.1 The Site**

For the following, refer to Figure 6, an annotated aerial photograph over the site, and the survey that accompanies this application. For the purposes of this statement, the Oxford Street boundary is designated the eastern boundary.

The site is roughly rectangular in shape. It has a eastern boundary (to Oxford Street) of 20.46m; a southern boundary (to Fitzroy Lane) of 24.2m; a western boundary of 20.46m; and a northern boundary of 24.145m. The site area is 494.6sqm. The site falls gently to the west.

There a high timber fences around the site. The fence across the Oxford Street boundary and returning part way along the Fitzroy Lane boundary is a tall timber palisade fence. The remainder of the Fitzroy Street boundary has a lapped and capped timber fence, with matching vehicular gate. A design has been spray painted on the fence.



**Figure 6:**  
Aerial photograph over the site.  
SIX Maps; annotation by WP Heritage and Planning.

The building (being the former convent) on site, described below, occupies the majority of the site area. The principal pedestrian access into the site is from Oxford Street, where a gate opens into a small formal paved courtyard in the south eastern corner of the site. This courtyard leads into an L-shaped yard in the north eastern corner of the site finished in paving, decking and artificial grass. Plants in this area are primarily in pots. The western side of the building opens onto a timber deck which, in turn, steps down to pebbled driveway/courtyard area with stepping stones and garden beds. The planting on the site dates from after 2015-2016.

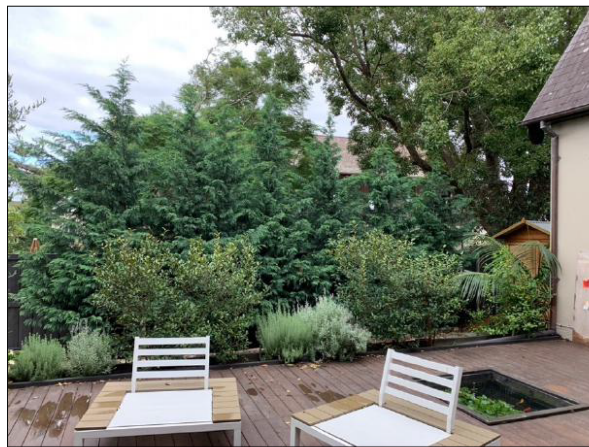
Figures 7 to 11 illustrate the courtyard the western side of the building, being the area of proposed works. Refer also to the photographs in the following sections.



**Figure 7:**  
High timber lapped and capped fence along the southern boundary (Fitzroy Lane). Also showing a view towards the site on approach from the south.



**Figure 8:**  
Existing gate opening  
onto Fitzroy Lane. The  
proposed garage will  
open onto the lane in  
this location.



**Figure 9:**  
Deck on the western  
side of the building,  
looking west towards  
Athena School.



**Figure 10:**  
Timber deck on the  
western side of the  
building, looking  
towards the south  
western corner where  
it is proposed to  
construct the garage.



**Figure 11:**  
Courtyard to the  
west of the above  
deck, looking north.

### 3.2 The Building

The building (being the former convent building) on the site is a substantial free standing one and two storey building constructed of rendered masonry with hipped and gabled roof forms clad in slate or corrugated metal sheet. As set out in the *CP 1998*, the building comprises four different sections, constructed at two different times. The building was described in the *CP 1998* as follows:

“The central and earliest part of the house is covered by a pyramidal corrugated iron roof. Very little of this earliest part of the house can be seen externally, because it is enclosed by later additions. This central block has a two storey verandah on the western side which is no partially enclosed, but evidence survives of the cast iron balustrade and columns. The single storey verandah on the eastern side is now fully enclosed and evidence exists of earlier timber columns and trellis work. The enclosed two storey verandah on the north face is a mid-twentieth century addition which replaced the earlier single-storey verandah passage from the external kitchen to the original dining room. The first floor overhangs the verandah on the north eastern corner, which suggest that may have been substantial, possibly iron, columns to carry this unusual structure.

The building was probably a four roomed cottage with a short central passage leading from the front door on the Oxford Street side. These rooms currently form the dining room, the music room, and the stair hall (although the stairs date from a later phase). The French doors on the ground floor and the window in the dining room are the only remaining joinery from this phase of the building. The intervening walls between the two northern rooms was removed by the late 1870s to form the long room currently used as dining room. There is evidence of a blocked doorway from the passage to the room which forms the western half of the dining room.

The second storey of the central block has later joinery mouldings, though the balustrading of the stair with its square balusters, simple turned newels and continuous handrail suggests the stair was insert (and therefore the second storey added) soon after the original cottage was constructed. The two pairs of French doors leading from the western bedrooms onto the enclosed verandah were constructed at

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different times. The southern pair were originally a window. A window on the adjacent wall was blocked when the southern addition was built, probably in the late 1870s.

The enclosed western verandah has been extended by about 2 ½', probably re-using the original cast iron columns and balustrade. This alteration was made after the southern addition was built and may have been done when the bathroom was inserted in the mid twentieth century.

The eastern wing may have been a single-storey building, with a second storey added at the same time as the second storey on the main building. The early subdivision maps suggest that this wing is not contemporaneous with the original cottage, but there is nothing in the fabric which confirms this, and the window joinery matches the adjacent eastern window the cottage. The door joinery in the ground-floor room suggests this was probably a service room of some kind. It has a fireplace, which is now hidden behind a plasterboard partition on the eastern wall, and was therefore probably a laundry. (The kitchen was in a separate building).

The northern side of the house refers to the Victorian fashion for the Gothic revival in domestic buildings with its steep gabled roof, casement windows in the attic storey, and a hood mould to the southern window. This wing contains a single ground floor room, originally the fining room and a stair hall with two bedrooms in the attic above. The details of the dog-leg stair match the stair in the main body of the house, suggesting this wing was built at the same time as the second storey of the main house or soon after. Some of the window joinery also confirms a late 1850s or 1860s date with fine glazing bars and margin lights. However, the architraves to the ground floor doors and windows match the later northern addition. The chimneypiece has been removed, sadly, as this would have assisted considerably in dating this part of the building. It is unfortunate, too, that the original skirting has been removed so that a dry lining could be fixed to the dado level. This dado is not original.

The attic rooms have tent-form ceilings and have been re-lined with plasterboard which possibly obscures evidence about the original configuration of these rooms. The simple quirked skirtings suggests these spaces were originally servants' rooms. The double casement windows at either end of the attic have altered frames suggesting the joinery is not original to the opening, though the openings themselves are original.

The southern wing of the house is an Italianate two-storey gabled structure, with double hung sash windows. A single-storey bay faces the garden with a tripartite window above. There is a mixture of window shapes where the square headed windows have square Gothic hood moulds and the round-headed windows have Italianate label moulds. The castellation above the bay window and over the entry are more reminiscent of the Gothic revival than Italianate, but are consistent with the mixture of styles often used in the late Victorian period. Unfortunately, the label moulds and sills are missing to the window in the bay. They may have been removed when the windows were filled in (1976) or opened up recently.

This wing consists mainly of a single large room on each floor. The ceilings are higher than elsewhere in the house so that wing is taller than the rest of the building. The chimney pieces on both ground and first

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floors are timber with carved console brackets decorated with acanthus leaves. The matching chimney piece in the dining room and one of the first floor bedrooms suggest that these latter chimney pieces were probably replaced when the southern wing was added. The first floor room has a deeply recessed plater cornices and those on the ground floor are reproductions.

A small room which opens off the first floor landing has the remanent of a lead drain pipe on the outside and may have been the shower room described in the 1878 sale notice. A large hook on the ceiling is consistent with this hypothesis.

A single storey face brick building was added to the northern side of the convent in 1975. This consists of a laundry and a kitchen with rendered internal walls, plaster board ceilings and cornices with aluminium sliding windows.<sup>4</sup>

The building has since been restored, including the re-opening of the northern and western verandahs. The proposed works lie adjacent to the western elevation of the two main sections of the building (the central section and southern wing) and to the south of the northern wing. Figures 12 to 14 illustrate these elevations of the building. Additional photographs of the building, from the public domain, can be found in later sections of this statement.



**Figure 12:**  
Western elevation of the southern wing of the building. This wing is in the Victorian Italianate Style, with Gothic Style overtones.

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<sup>4</sup> CP 1998, pp.12-16.





**Figure 13:**  
The hipped roof central section of the building with the restored two storey verandah.



**Figure 14:**  
The southern elevation of the Gothic Style northern wing.

No works are proposed to the interior of the building, which is not described for the purposes of this statement.

**3.3 The Surrounding Area**

**3.3.1 The General Area**

As demonstrated by Figure 15, the site is located within a densely developed predominately residential area. The north west-south east running streets of the North Kingston Estate remain clearly legible. Lots are generally long and narrow, producing a dense pattern of development. Most lots have a primary frontage to a street and rear lane access. Buildings are mostly one and two storey in scale and date from the Victorian and Federation periods with some later infill.



Figure 15: Aerial photograph over the site and the surrounding area.  
SIX Maps.

### 3.3.2 Oxford Street

Oxford Street rises gently to the north-west. There are narrow footpaths to either side of the street, remnant stone kerbing in parts and irregularly spaced street trees. The section of the street in which the site is located is mixed in character. This part of the street does not lie within a Conservation Area.

North of the subject site, and separated from it by a high paling fence, lies Athena School, No. 36 Oxford Street, which is part of the same heritage listing as the subject site. There is an asphalted playground to the immediate north of the site, with a large deciduous tree. On the other side of the playground, is a late nineteenth century single storey brick building with a pitched roof clad in concrete tiles.

Opposite the site, on the eastern side of Oxford Street, lies a long row of single storey Federation period terraces. These terraces have a consistent set back from the street behind palisade fences and gardens. Originally face brick, they have undergone varying degrees of alteration and addition.

Figures 16 to 18 illustrate the character of Oxford Street in the vicinity of the site.



**Figure 16:**  
Looking south  
towards the site,  
marked by the  
arrow, on  
approach along  
Oxford Street,  
showing the  
general character  
of the street.



**Figure 17:**  
Athena School  
to the north of  
the site (which is  
just visible on the  
left hand side of  
the photograph),  
as seen from Oxford  
Street.



**Figure 18:**  
Oxford Street,  
opposite the site.

**3.3.3 Fitzroy Lane**

Fitzroy Lane falls to the west from Oxford Street to Baltic Street. The lane is narrow; there are no footpaths or street trees. There is remnant stone kerbing.

South of the subject site, on the opposite corner of Fitzroy Lane and Oxford Street, is No. 69 Albermarle Street, a substantial heritage listed two storey Victorian period villa. This villa presents a side elevation to Oxford Street and a rear elevation to the Fitzroy Lane. It is built to its side and rear boundaries. Continuing south along this side of the lane, lie the garages and rear elevations of dwellings fronting Albermarle Street. There is no consistency in the rear elevations of these dwellings and garages.

Athena School extends along the western side of the subject site to occupy the corner of Fitzroy Lane and Baltic Street. There is a substantial two storey late nineteenth century school building on this corner of the site. Figure 8 above shows how fencing and vegetation largely screen this school building when standing within the subject site.

Figures 19 to 24 illustrate Fitzroy Lane in the vicinity of the site.



**Figure 19:** General view west along Fitzroy Lane from Oxford Street. The arrow points to the proposed location of the garage. The southern end of the two storey classroom building at the adjoining Athena School is visible beyond the site.



**Figure 20:** No. 69 Albermarle Street as it presents to the Oxford Street and Fitzroy Lane corner, opposite the site.



Figure 21:  
Looking west  
along the  
southern side of  
Fitzroy Lane,  
opposite the site.



Figure 22:  
Continuing west  
from Figure 20  
above.



Figure 23:  
Looking west  
along the  
southern side of  
Fitzroy Lane,  
opposite the site.



**Figure 24:**  
The two storey  
classroom within  
Athena School on  
the corner of  
Baltic Street and  
Fitzroy Lane,  
from Fitzroy  
Lane.

#### 4.0 ASSESSMENT OF SIGNIFICANCE

##### 4.1 Summary of Statutory Heritage Listings

No. 26 Oxford Street, Newtown:

- Is listed as a heritage item by Schedule 5 Part 1 of the *Marrickville LEP 2011*. The listing is a combined listing with the adjoining site to the north and west, which reads: for 'St Joseph's Girls' School and St Bede's Convent and Presbytery, including interiors,' Nos. 26 and 36 Oxford Street, Newtown (I66). Curtilage: Lot 1, DP 595079; Lot 1, DP 725270. Local significance.
- Is located with the North Kingston Estate Heritage Conservation Area (C11) as defined by Schedule 5 Part 2 of the *Marrickville LEP 2011*. Local significance.

The site:

- Is not listed on the State Heritage Register under the auspices of the *NSW Heritage Act 1977*.

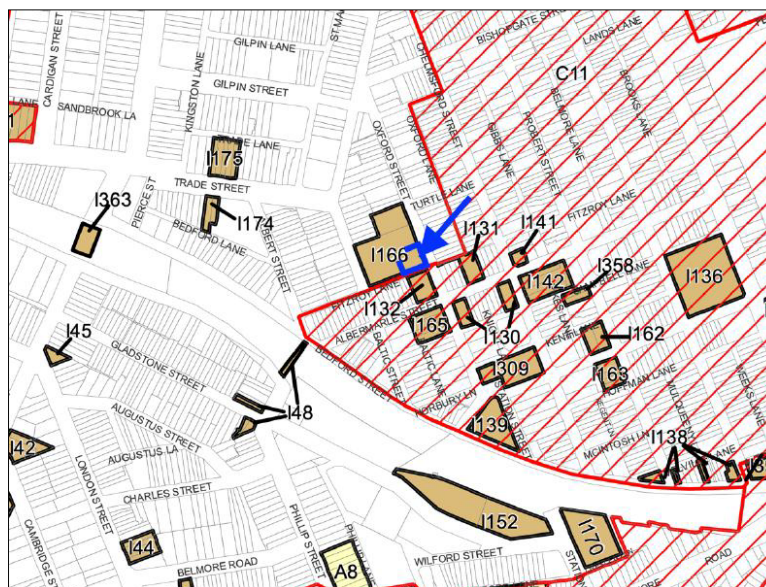
##### 4.2 Heritage Items in the Vicinity of the Site

###### 4.2.1 Identifying the Items and Conservation Areas

For the following, 'in the vicinity' is determined with reference to physical proximity, the nature of the proposed works and existing and potential view corridors.

There are no heritage items or conservation areas listed by the State Heritage Register, under the auspices of the *NSW Heritage Act 1977*, within the vicinity of the site.

For the following, refer to Figure 25, which shows the location of heritage items and conservation areas listed by Schedule 5 Parts 1 and 2 of the *Marrickville LEP 2011* with respect to the site. In this plan, heritage items are coloured brown and numbered. Conservation Areas are hatched in red and numbered. The subject site is outlined in blue and marked by the arrow.



**Figure 25: Heritage Items/Conservation Areas in the vicinity of the site.**  
Heritage Plan, Marrickville LEP 2011; annotations by WP Heritage and Planning.

The following heritage items and conservation areas lie within the vicinity of the site.

**4.2.2 Heritage Items**

- **St Joseph’s Girls’ School and St Bede’s Convent and Presbytery, including interiors, No. 36 36 Oxford Street, Newtown (166 in Figure 25 above)**

No. 36 Oxford Street, Newtown forms part of the heritage listing that includes the subject site. It adjoins the site to the north and west, is on separate lot to the subject site and is under separate ownership. No. 36 Oxford Street shares a common history with the subject site until 2016, when the two sites were subdivided. As noted above, it is now Athena School.

The School is separated from the subject site by a high paling fence. The buildings within the School grounds that are closest to the site are illustrated by Figure 17 above and Figure 24 below.

The School shares a statement of significance with the subject site. See Section 4.5 below.

The principal view corridors towards the School are obtained from directly outside of it on Oxford Street and Baltic Street. The narrowness of Fitzroy Lane and the high boundary fences restricts views towards the School from the Lane. Figure 7 demonstrates how the School is not visible when standing directly outside of the gates/fence of the subject site on Fitzroy Lane and looking north. There are restricted views towards the southern end of two storey classroom building fronting Baltic Street from Fitzroy Lane. Refer to Figures 19 and 24 above.

View corridors out of the School are primarily towards Oxford and Baltic Streets. Views across the subject site from the School are restricted to views of the roofs and upper parts

of elevation because of the high boundary fencing. These views are further partially screened by vegetation.

This item has a lot boundary curtilage.

- **Victorian villa, including interiors, No. 69 Albermarle Street, Newtown (I132 in Figure 25 above)**

This item lies opposite the site, on the corner of Oxford Street and Fitzroy Lane. Its principal frontage is to Albermarle Street. The State Heritage Inventory describes this item as follows:

‘Two storey, freestanding, Victorian villa featuring a central two storey, square porch. The facade has been rendered and ruled to represent ashlar stonework and is detailed with moulded labels, strings, sills and brackets to the principal facade. The window opening to the ground floor and to the enclosed first floor windows and the entry to the porch have semi-circular arches. The site is enclosed by a palisade fence with square rendered posts. In 1998 the cast iron filigree balcony was reinstated.’<sup>5</sup>

Figure 26 illustrates this item from Albermarle Street. Figures 19 and 20 above illustrate this item from Oxford Street and Fitzroy Lane.



**Figure 26:**  
No. 26 Albermarle Street from the corner of Oxford Street. The subject site is just visible beyond.

The State Heritage Inventory provides the following statement of significance for this item:

‘This large Victorian villa is a good example of the upper middle class residential development which took place in parts of North Kingston in the 1870’s - 80’s. It contrasts strongly with the small terrace housing found in nearby streets and forms an important element within a group which represents the growth of this area over a period of 50 years. This item has a lot boundary curtilage.’<sup>6</sup>

<sup>5</sup> *Victorian villa, including interiors, No. 69 Albermarle Street, Newtown.* State Heritage Inventory Database No.: 2030076.

<sup>6</sup> *Ibid.*



The principal view corridors towards the site are obtained from outside of it on Albermarle Street. As illustrated by Figure 27, the first floor of the building on the subject site is visible through the side garden of this item from Albermarle Street. The location of the proposed garage is blocked by dense vegetation and fences.

The front corner of No. 69 Albermarle Street is visible on approach along Oxford Street from the south. This item is also visible on approach along Oxford Street from the north, past the site and from Fitzroy Lane. The latter are clearly secondary view corridors.

The principal view corridors out of this item are across Albermarle Street. The return verandah suggests that there were once views to the west. There are no significant views out of this item over the subject site.



**Figure 27:**  
View from Albermarle Street across the side garden of No. 69 Albermarle Street towards the subject site. The first floor of the southern wing is visible. The location of the proposed garage is not visible.

- **North Kingston Estate Conservation Area (C11 in Figure 24 above)**

Fitzroy Lane forms one of the boundaries of the North Kingston Estate Conservation Area. The State Heritage Inventory listing sheet describes the Conservation Area as follows:

‘The Kingston North Heritage Conservation Area is one of the earliest large developments in the Marrickville local government area. Its dense urban pattern was created in a single subdivision of 190 acres of the Kingston Farm in 1854, most of which were further divided into narrower lots. The Area contains a wide range of modest 19th-century workers housing from the Victorian period with some infill cottages and terraces from the Federation and Inter-War and contemporary periods. The typologies include timber and brick workers cottages, attached housing and small runs of terraces. Modesty of scale and simplicity of form are important elements in the character of the built environment of the Kingston North area.

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The Area also includes a very good group of middle-class Victorian houses and corner shops. These are located on Albermarle Street, which enjoys an axial vista of the spire of St Stephen's Church, designed by Edmund Blacket and built between 1871 and 1874, replacing an earlier (1844) church on the site. Numbers 38, 54, 55-59 and 69-73 Albermarle Street, 18-24 Oxford Street and 88-90 Chelmsford Street are listed in the Marrickville LEP as individual heritage items. Their strong streetscape presence, relationship to each other, contribution to the streetscape of Albermarle Street and context within the Kingston North development makes them a particularly significant group within the area.

Other individual heritage items include St Stephen's Church and the surviving part of the cemetery, the former Newtown Baptist Church on the corner of Church and Lennox Streets, the three rows of terraces on Lennox Street (2-8 and 38-84 Lennox Street); the group of former shops in Bedford/Probert Streets; St Joseph's Roman Catholic Church and Boys' and Girls' schools in Bedford, Lennox and Oxford Streets; and the Court House/Police Station group at 222 Australia Street and hotel at number 202. Several more properties were investigated as part of the Heritage Items Review and are recommended for listing for their individual heritage values; including the Victorian Italianate terrace at 82-88 Chelmsford Street, Coronation Hall (95-103 Lennox Street) and the former Electricity substation at 134 Lennox Street. Each of these existing and potential individual heritage items contributes to the variety and quality of their immediate streetscapes and the heritage significance of Kingston North as a heritage conservation area.

Similar building typologies are found throughout the area regardless of the underlying period of construction. These respond to the narrow street frontage available to development and the preponderance of roof planes and ridgelines oriented parallel to the road alignment. The streetscapes within the area are tightly defined with most dwellings built boundary-to-boundary with minimal setbacks and create a strong street wall. Building heights vary between one and two stories throughout the area, although a general trend of single storey and more modest cottages and terraces at the northern end and more substantial, two storey terraces south of Bishopgate Street can be seen. The area also contains some notable streetscapes of terrace housing, for example the groups of terraces in Australia, Probert and Lennox Streets, each of which is highly contributory to the streetscape through the consistency of its facade, form and detailing.

The mixture of uses is traditional for the inner areas of Sydney and include residential, small-scale retail, churches, schools, parks and industrial. Their juxtaposition provides ongoing evidence of the compact form and integration of land uses common in the 19th Century. Most contribute to the area through the retention of 19th and early 20th Century fabric, scale and form.

Even though the area demonstrates a wide range of built forms, eras and typologies very little development in the area reads as intrusive, even though there are poor examples of each type of development to be found in the area. A small number of 1960s red textured brick residential flat buildings can also be found scattered through the area providing evidence of early urban redevelopment.

The evidence of the surviving fabric suggests that many early fences were of iron palisade construction. Many have survived and continue to contribute highly to the integrity and quality of the streetscapes and the

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area. They are particularly prominent elements when viewed on an angle from the footpath; when their strong rhythms yet transparent quality is highlighted. Other early fences included low (less than 600mm) timber paling pickets (with flat tops). Many original fences have been replaced by a variety of styles, materials and heights, introducing a highly discordant element into the streetscape views. These fences are however all potentially removable and although impossible to replace the original fabric, the opportunity exists to construct a new fence that fits more gently within the streetscape.

Most private open space is minimal, with little space available for the planting of trees. Where space is available and accessible from the rear lane it is often used for car parking.

The topography is undulating, Albemarle Street generally follows the main ridge line in the area with Australia Street describing the secondary ridge at right angles, with the other streets falling away to the low points at the outside edges of the conservation area.

Opportunities for extensive or district views are limited, although some can be gained from the southern edges of the precinct. Street views are generally strongly directional and guided by the street wall of the adjacent housing. A notable exception to this is available along the axial vista along Albemarle Street towards the spire of St Stephen's Anglican Church, which is a rare element within the Marrickville area.<sup>7</sup>

The Conservation Area opposite the site is illustrated by Figures 20 to 23 above.

The State Heritage Inventory listing sheet provides the following statement of significance for this item:

"The North Kingston Estate Heritage Conservation Area is of historical significance for demonstrating the pattern of development in the Council area from early land grants to densely settled urban landscape. This can be seen through the range of high style and modest dwellings of typologies and densities found in the area which demonstrate the different phases of development and options for housing available to the worker of the 19th Century. It occupies land within the Kingston Farm Estate; one of the most important of Marrickville's early Estates. The subdivision pattern and distribution of development throughout the precinct provides the earliest example found in Marrickville of the socio-topographic patterns of land use; with the ridgeline of Albemarle Street notable for its early and grander houses, with modest workers' cottages on the lower slopes. The street layout was formed in the original subdivision of 190 acres. The North Kingston Estate Heritage Conservation Area is of aesthetic significance for its 19th Century houses (detached and semi-detached) and their settings, 19th and early 20th Century terraces and houses (detached and semi-detached) including several highly cohesive groups, 19th Century corner shops, local shopping precinct and small industrial development found throughout the area. The modest scale of the original cottages and terraces in the area reinforces their original purpose as worker's housing. The Area is representative of the range of building types and forms available to the Victorian worker, including the detached cottage, semi-detached pair and terrace house."<sup>8</sup>

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<sup>7</sup> *North Kingston Estate Heritage Conservation Area*, Newtown. State Heritage Inventory Database No.: 2030503.

<sup>8</sup> *Ibid.*

The principal view corridors associated with this Conservation Area lie within the streets of the Conservation Area. Aside from the view towards the rear corner of the heritage item at No. 69 Albermarle Street, there are no significant views into the Conservation Area from Fitzroy Lane.

• **Other items**

There are number of other items in the vicinity of the site, including Nos. 38 and 54 Albermarle Street (I130) and Nos. 18-24 Oxford Street (I165). The site of the proposed works is not visible from these heritage items because of intervening buildings. They are not further considered by this statement.

**4.3 Integrity**

No. 26 Oxford Street demonstrates mixed integrity.

**4.3.1 The Site**

The boundaries associated with *Prospect Cottage*, and later St Joseph's Girls' School and St Bede's Convent and Presbytery, have altered overtime. When *Prospect Cottage* was first erected it was associated with only one lot (Lot 268) of the North Kingston Estate subdivision. The additions of the 1860s-1880s to the original cottage (being the building on the subject site) are all contained within the boundaries of this allotment. In 1870, the grounds of what was now *Darnlee House* were expanded to the north by Smith's purchase of Lot 269. In 2015, the site was subdivided, creating No. 26 and No. 36 Oxford Street. The existing northern and western boundaries of the subject site are not historic boundaries. The existing fencing is modern. The historic photograph, Figure 3 above, suggests that there was a high paling fence along the Fitzroy Lane boundary at least from the late nineteenth century.

The layout of grounds around the building on the site have clearly altered over time. There are no remnants of earlier garden layout or planting schemes. As demonstrated by Figure 28, a photograph of the western side of the building in 2015, the existing layout and planting on the western side of the building all dates from c.2015 and later.



**Figure 28:**  
The western side of the building in 2015 demonstrating how planting dates from after this time.  
WP Heritage, 2015.

**4.3.2 The Building**

The *CP 1998* sets out the evolution of the building on the site (being the former convent) in some detail. Particular reference should be made to Section 1.4 Description and Appendix B Physical Survey. Briefly:

The building has a long history of alteration and addition. The building evolved from a four-room cottage to twenty-room convent. Materials from all periods are extant in the building, with the most dominant phase being the c.1870s villa. The most recent phase of works, c.2016 and later, has included the restoration of the western elevation, notably of the verandah. It is this elevation that addresses the area of proposed works.

#### 4.4 View Corridors Towards the Site

The *CP 1998* does not define view corridors. The following view corridors are identified.

##### 4.4.1 Oxford Street

It is not clear whether *Prospect Cottage* originally addressed Oxford Street or the more distant Baltic Street. When the cottage became a villa in the late Victorian period, the main entrance was clearly from Oxford Street, with the primary outlook from the villa being towards Baltic Street. This outlook and view corridor from Baltic Street directly towards what was, by then, the convent was lost when the Baltic Street School building was extended in the early 1900s.

The most significant surviving views towards the building on the site are obtained from directly outside of the site on Oxford Street and, to a lesser extent, on approach from the south along Oxford Street. The latter view corridor is of the south eastern corner of the building. There are also angled view corridors towards the site on approach from the north along Oxford Street and when close to it. The area of proposed works is only visible- and then obliquely- in view corridors from Oxford Street when very close to the site on approach from the south. Further south, the massing and scale of No. 26 Albemarle Street conceals the site. Refer to Figures 29 and 30.



Figure 29: The site from Oxford Street. The area of proposed works is not visible.



**Figure 30: The site on approach from the south from near the corner of Fitzroy Lane. The area of proposed works is just visible.**

#### **4.4.2 Fitzroy Lane**

The building on the site is visible from directly outside of the site on Fitzroy Lane and on approach up the lane from the west. When close to the site, the view is primarily of the southern elevation of the building. On approach from the west, the view is of the upper part of the western elevation of the southern (Italianate Style) wing and, depending on the angle, the roofs of the central and northern parts of the building. Views are partially screened by vegetation and are limited by the narrowness of the lane and high fences. The setting of the building within these view corridors is one of a narrow lane dominated by high fences and rear garages. These views are secondary view corridors to those obtained from Oxford Street. Refer to Figures 31 to 34 below and to Figure 7 above, which shows the view from directly outside of the gate on Fitzroy Lane.



**Figure 31: View towards the site on approach up Fitzroy Lane from the south. The building is largely screened by vegetation.**



**Figure 32: View towards the site on approach up Fitzroy Lane from the south from closer to the site than Figure 30 above.**



Figure 33: View towards the site on approach up Fitzroy Lane from the south, from a wider angle.



Figure 34: View towards the site on approach up Fitzroy Lane from the south when outside of the site.

**4.4.3 Other View Corridors**

The upper part of the southern wing of the building is just visible through the trees from Baltic Street, north of its junction with Fitzroy Lane. This is a minor view corridor. Refer to Figure 35.





Figure 35: The site from Baltic Street just north of its junction with Fitzroy Lane.

**4.5 View Corridors Out of the Site**

View corridors out of the site only exist at first floor level because of the high boundary fences. View corridors over the area of proposed works are filtered by vegetation and are of the Baltic Street building.

**4.6 View Corridors within the Site**

There are no long distance view corridors within the site towards the building because of its proximity to its boundary fences.

**4.7 Significance**

**4.7.1 State Heritage Inventory**

The State Heritage Inventory listing sheet provides the following statement of significance for the site:

‘The school is associated with the village settlement in the area in the 1860’s - 70’s, but the rapid growth led to a demand for larger classroom and new school buildings. The Convent is a long established part of a local community.’<sup>9</sup>

**4.7.2 Conservation Plan 1998**

For a full assessment to Heritage NSW standards, refer to the *CP 1998*.

The *CP 1998* provides the following statement of significance for the site:

‘3.1 Primary Cultural Significance:

3.1.1 The earliest part of the convent building, originally known as Prospect Cottage may be the first building on the 1854 subdivision of the Kingston Estate.

<sup>9</sup> *Athena School*, No. 26-34 Oxford Street, Newtown. State Heritage Inventory Database No.: 2030080.

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- 3.1.2 The school buildings have historical significance for their association with the development of Catholic education in the local area.
  - 3.1.3 The school buildings and convent have high significance to members of the local community many of whom, sometimes generations of the same family, attended St. Joseph's Primary School or St. Bede's Girl's High School.
  - 3.1.4 The convent has local historic significance because it was built by and lived in by Robert Richardson, founder of the real estate firm, Richardson and Wrench.
  - 3.2 Secondary Cultural Significance:
    - 3.2.1 The convent has regional historic significance as evidence of the development of Newtown, from a rural village to an inner city suburb in the second half of the nineteenth century. The convent and the group of three early houses in Albermarle Street form the corner of a residential development in the immediate vicinity which was much intensified in the late nineteenth century.
    - 3.2.2 The Oxford Street building is of regional architectural significance because it is a typical example of the work of the prominent architect firm Sheerin and Hennessy.
    - 3.2.3 The open arrangement of the convent and school buildings retains aesthetic significance at a local level as their grouping is reminiscent of the character of Newtown in the late nineteenth century. The open grouping with its mature planting is a welcome contrast to the denser development in its immediate vicinity.
    - 3.2.4 The convent and school buildings are of regional aesthetic significance as an intact group of Catholic educational buildings where the convent was an integral part of that group.<sup>10</sup>

#### 4.7.3 Revised Statement

These statements were written when the subject site was part of the same lot and under common ownership with No. 36 Oxford Street. The following statement considers the subject site only.

No. 26 Oxford Street, Newtown has local historic, social and aesthetic significance. The building on the site has its origins in a c.1854 cottage known as *Prospect Cottage*, thought to be the earliest building on the North Kingston Estate subdivision. This cottage has historic associations with Robert Richardson, founder of Richardson & Wrench. The transformation of this cottage into a substantial Victorian villa, known as *Darnlee*, in the 1860s and 1870s is representative of the type and standard of development occurring on the North Kingston Estate at this time. The villa demonstrates the influence of two major styles of domestic Victorian Architecture, the Italianate and Gothic Revival Styles.

Of equal significance is the ownership and occupation of the site by the Sisters of the Good Samaritan from 1882 until 2010. The former villa was their convent. The site has close historic associations with the adjoining Athena School, formerly St. Joseph's Primary School and St. Bedes Girls High School, which was staffed by the Sisters.

The development of the site from modest cottage to grand villa to convent and school reflects the growth and changing character of the North Kingston Estate over time.

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<sup>10</sup> CP 1998, p.58.

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## 5.0 SCOPE OF WORKS

The following should be read in conjunction with the plans prepared by Seeman Rush Architect that accompany this application.

It is proposed to construct a free standing single garage with workout space to the rear to the west of the building and close to the Fitzroy Lane boundary. The garage will be accessed from Fitzroy Lane. The garage will be constructed of painted fc sheet and metal cladding, with a corrugated zinc galvanised roof with irrigated planting and a Corten steel door opening into Fitzroy Lane. Doors, windows and beams etc. will be painted in colours to match the existing building.

It is also proposed to

- Remove the planting along part of the western boundary to accommodate the garage.
- Replace the existing concrete cross over into Fitzroy Lane with a new cross over.
- Install a new section of paling fence on a concrete base to match the existing.
- Install a new pedestrian gate to Fitzroy Lane.
- Install new stairs onto the existing deck on the western side of the building.

No works are proposed to the existing building.

## 6.0 EFFECT OF WORKS

The following is written with an understanding of the heritage objectives and controls provided by *Marrickville LEP 2011* and the *Marrickville Development Control Plan 2012 (DCP 2012)*, in particularly Section 2.10 Parking and Part 8 Heritage. The requirements for Heritage Impact Statements set out by Heritage NSW guidelines have been read and understood, as have the policies of the *CP 1998*.

### 6.1 Effect of Works on the Site

The first question to be answered is why are the proposed works required?

The proposed works are required because the former convent is now a dwelling. This is an appropriate use for the building and is likely to continue in the long term. Providing for covered parking on site, with additional space for living requirements or storage, facilitates what is an appropriate use, which in turn provides an ongoing incentive for the maintenance of the building. Providing storage takes pressure of rooms within the building, allowing these rooms to be used for their intended purposes. The proposed location is the only location on the site where a garage can be located. There is already a hardstand in this location.

The proposed work will not impact upon significant fabric. No works are proposed to the former convent building. The planting to be removed dates from after 2015. The deck to which a step will be added was constructed in 2015-16. The fence, which will be modified, is a modern element.

The proposed works will have an acceptable impact on view corridors towards the site and the way that it reads within its setting for the following reasons:

- The proposed works will not impact upon the way in which the site presents to Oxford Street. These are the most significant surviving view corridors towards the former convent. The proposed works will not be visible at all from directly outside of the site on Oxford Street or on approach from the north or south. The only location from which they may be visible is from just to the south of the Oxford Street and Fitzroy Street corner. In these view corridors, the garage will read as a small

detached structure that is clearly secondary to the dwelling, within a lane characterised by high fences and similar garage door openings.

- The proposed works will be visible from Fitzroy Lane. As identified above, views towards the former convent from the lane are secondary to those from Oxford Street and are only of the dwelling above fence height. The impact is acceptable because the garage will read as being completely detached from the dwelling and as a small secondary structure. It is simple in design and clearly contemporary in detail; the design makes no attempt to mimic the more dominant Victorian Italianate or Gothic style detailing of the dwelling. The proposed roof top planting mimics the existing vegetation visible above the fence. The same extent of the dwelling will remain visible from Fitzroy Lane, particularly on approach from the west.
- The insertion of a garage door and the modification to the fencing will have no impact because these elements will sit comfortably within a laneway comprising similar elements. These elements will not impact upon the ability to understand the building as a former Victorian villa, and later convent, with Italianate and Gothic overtones.

The proposed works will block view corridors towards part of the ground floor elevation of the building when standing within the site. This will impact upon the setting of the building within the site for the following reasons:

- The proposed garage is detached from the dwelling and separated from it as far as is possible on what is a small site.
- The proposed garage is small in massing and scale and will not challenge the dominance of the former convent.
- The proposed garage is simple in form and detailing. The more complex forms and architectural detailing of the former convent will remain dominant.
- The existing planting around the bay of the southern wing at ground floor level is retained. This planting already partially screens views out of the windows at this level. The central part of the dwelling will be further recessed from the garage, retaining views across the new deck towards the boundary. Views from the first floor level will remain unobstructed.
- The proposed roof top planting will help to integrate the structure into the site.

## 6.2 Effect of Work on Nearby Heritage Items and Conservation Areas

### 6.2.1 St Joseph's Girls' School and St Bede's Convent and Presbytery, including interiors, No. 36 36 Oxford Street, Newtown

The proposed works will have no impact on the fabric of the former St. Joseph's School or on significant view corridors to or from it. Significant views towards the School are obtained from Oxford Street and Baltic Street. The proposed works will not be visible in conjunction with the School from these streets. The public will still be able to view, appreciate and understand the significance of the item.

The proposed works have the potential to impact upon the setting of the school. The impacts are minimal and acceptable for the following reasons:

- The proposed garage is a small structure that will lie substantially below the high fence line. It will not overwhelm or challenge the school buildings or have undue prominence within their setting.
- The existing views from the west within the School site towards the former Convent are blocked by the high fence and vegetation. The majority of the proposed garage will lie below the fence line and will be no higher than the vegetation that currently blocks views towards the lower part of the former convent from the School. The removal of this vegetation is mitigated by the proposed planting on the garage roof. There will be no loss of the extent of the former convent that is visible from the school site. The upper part of the former convent will remain visible from the School.

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The remaining visual relationships between the two sites, which also demonstrate their historic relationships, are retained.

**6.2.2 Victorian villa, including interiors, No. 69 Albermarle Street, Newtown**

The proposed works will have no impact upon this item for the following reasons:

- There will be no impact on the fabric of this item.
- The proposed works will not block significant view corridors to and from this item.
- The proposed works will be visible in conjunction with this item from Fitzroy Lane. View corridors towards the rear of this item from Fitzroy Lane are not significant. In any event, the proposed garage will sit comfortably within a lanescape that includes garages, garage doors and contemporary elements. The proposed works will not have undue prominence in the setting of this item.

**6.2.3 North Kingston Estate Conservation Area**

The proposed works will have no impact on the fabric of this Conservation Area and will not be visible within significant view corridors into, within or out of it. It will have no impact on the ability to understand the historic and aesthetic significance of the Conservation Area as it is defined above.

The proposed works will be visible from Fitzroy Lane, which forms part of the boundary of this Conservation Area. The garage will not have undue prominence within the setting of this lane which is already characterised by high rear fences, garages and contemporary elements.

**7.0 CONCLUSION**

This HIS has outlined the history and assessed the significance of the former St. Bede's Convent at No. 26 Oxford Street, Newtown. The site has local historic and aesthetic significance, as well as historic links to the adjoining Athena School at No. 36 Oxford Street, which forms part of the same heritage listing.

The HIS has assessed a proposal to construct a garage on the site. The garage is required because the former convent is now a private residence. Facilitating this use, which is an appropriate use for the site, provides incentive for its long term conservation. The proposed works will not impact upon significant fabric, landscape elements or planting.

The proposed works will not be visible within the most significant view corridors towards the site, which are obtained from Oxford Street. The proposed works will be visible in view corridors from Fitzroy Lane. These view corridors are primarily of the upper floors and roof forms of the dwelling. The proposed garage will be substantially concealed by the existing high boundary fence and will thus maintain view corridors towards the first floor elevations and roof forms. The proposed roof top planting will help integrate it into these view corridors and mimics existing vegetation visible above the fence line.

The proposed garage will not block significant view corridors out of the site which exist only at first floor level. View corridors within the site towards the western side of the former Convent are already limited because of the size of the site. The garage is separated and screened from the western end of the southern wing by the existing planting. It is further removed from other parts of the former convent.

The proposed works will not impact upon the existing visual connections that exist between this site and Athena School. There will be no impact on the ability to understand their historic and aesthetic relationships.

The proposed works will have no impact on the ability to understand the significance of heritage items and conservation areas in the vicinity of the site.

## Attachment D – Draft conditions in the event of approval by Panel

### CONDITIONS OF CONSENT IF APPROVED

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A01 Rev C	Ground Floor / Site Plan	14/4/2021	Seeman Rush Architects
A02 Rev C	First Floor plan , Garage Roof	14/4/2021	Seeman Rush Architects
A03 Rev C	Roof Plan /Site Plan	14/4/2021	Seeman Rush Architects
A04 Rev C	Elevation /Section1	14/4/2021	Seeman Rush Architects
A05 Rev C	-	14/4/2021	Seeman Rush Architects
A06 Rev C	Schedule of Materials and Finishes	14/4/2021	Seeman Rush Architects

As amended by the conditions of consent.

#### FEES

##### 2. Security Deposit - Custom

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

<b>Security Deposit:</b>	\$2254.00
<b>Inspection Fee:</b>	\$241.50

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

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

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

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

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

**3. Long Service Levy**

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

**GENERAL CONDITIONS**

**4. Boundary Alignment Levels**

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

#### **5. Tree Protection**

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

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the erection of a privacy screen on the eastern and western sides of the rear balcony and screens shown on windows having a minimum block out density of 75% and a height of 1.8metres above the finished floor level of the balcony.

#### **6. Waste Management Plan**

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

#### **7. Erosion and Sediment Control**

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

#### **8. Works Outside the Property Boundary**

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

### **PRIOR TO ANY DEMOLITION**

#### **9. Hoardings**

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

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

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



**10. Advising Neighbors Prior to Excavation**

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

**11. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****12. Dilapidation Report – Pre-Development – Minor**

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

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

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

- a. The Stormwater Drainage Concept plan on Drawing Nos H01 to H06 prepared by Abel & Brown Pty Ltd and dated May 2021 shall be revised using the latest architectural plans dated 2 August 2021 to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from the 5000 L rainwater tank, by gravity to the kerb and gutter of a public road;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm event. Major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank;

- f. 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;
- g. An overland flowpath must be provided within the setback to the side boundary;
- h. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- i. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- j. The design must make provision for the natural flow of stormwater runoff from adjacent properties;
- k. No nuisance or concentration of flows to other properties;
- l. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- m. A silt arrestor pit must be installed inside the property, adjacent to the boundary, for the stormwater outlet;
- n. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- o. 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;
- p. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; and
- q. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

#### **14. Public Domain Works – Prior to Construction Certificate**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The construction of light duty vehicular crossing and removal of redundant vehicular crossing from Crescent Street to the site;
- b. New concrete footpath and kerb and gutter along the frontage of the site (Dobroyd Lane) and in front of the redundant vehicle crossing at Crescent Street. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer;

- c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary; and
  - d. Installation of a stormwater outlet to the kerb and gutter.
- All works must be completed prior to the issue of an Occupation Certificate.

#### **15. Structural Certificate for retained elements of the building**

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

#### **16. Sydney Water – Tap In**

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

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

### **DURING DEMOLITION AND CONSTRUCTION**

#### **17. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

#### **18. Survey Prior to Footings**

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

**PRIOR TO OCCUPATION CERTIFICATE**

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**19. No Encroachments**

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

**ADVISORY NOTES****Permits**

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

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

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

**Insurances**

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

**Consent of Adjoining property owners**

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

**Prescribed Conditions**

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

**Notification of commencement of works**

At least 7 days before any demolition work commences:

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

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones

respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

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

**Disability Discrimination Access to Premises Code**

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

**National Construction Code (Building Code of Australia)**

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

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

#### **Noise**

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

#### **Amenity Impacts General**

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

#### **Construction of Vehicular Crossing**

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

#### **Lead-based Paint**

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



children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Dial before you dig**

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

**Useful Contacts**

BASIX Information 1300 650 908 weekdays 2:00pm - 5:00pm  
[www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Department of Fair Trading 13 32 20  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig 1100  
[www.dialprior toyoudig.com.au](http://www.dialprior toyoudig.com.au)

Landcom 9841 8660  
 To purchase copies of Volume One of "Soils and Construction"

Long Service Corporation Payments 131441  
[www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au)

NSW Food Authority 1300 552 406  
[www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

NSW Government  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.diysafe.nsw.gov.au](http://www.diysafe.nsw.gov.au)

Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Sydney Water 13 20 92  
[www.sydneywater.com.au](http://www.sydneywater.com.au)

Waste Service - SITA 1300 651 116  
[www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

**Street Numbering**

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