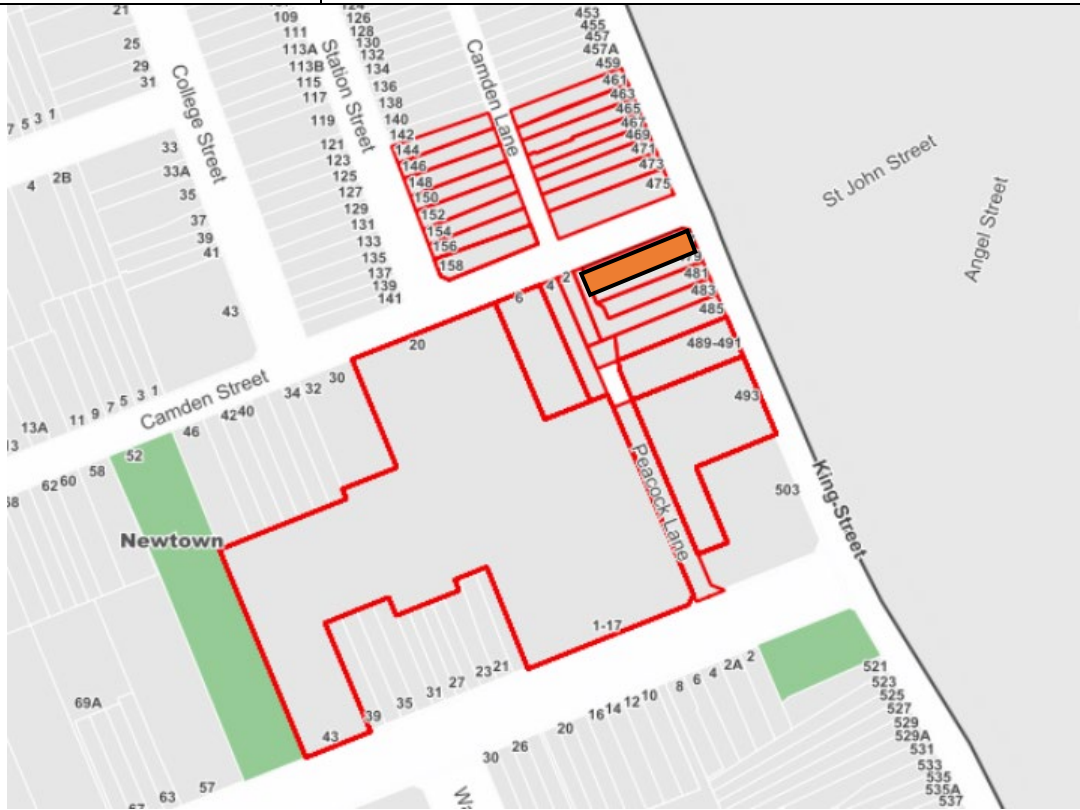



 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2021/0642
Address	477 King Street NEWTOWN NSW 2042
Proposal	Alterations and additions to existing building, including additional dwelling. Strata Subdivision of existing lot into three (3) Strata lots.
Date of Lodgement	27 July 2021
Applicant	Brooks Projects Architects
Owner	Mr Joseph Buda
Number of Submissions	Nil
Value of works	\$799,095.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Permissibility/existing use rights Floor space ratio SEPP 65/ADG non-compliances
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Without prejudice conditions of consent
Attachment C	Plans of proposed development
Attachment D	Clause 4.6 Exception to Development Standards
Attachment E	Statement of Heritage Significance
Attachment F	Architectural Excellence Panel Minutes
	
LOCALITY MAP	
Subject Site 	Notified Area 
 N	

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing building, including an additional dwelling, and strata subdivision of the existing lot into three (3) strata lots at 477 King Street NEWTOWN NSW 2042.

The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Permissibility and existing use rights claim;
- Variation to floor space ratio development standard; and,
- Non-compliance with SEPP 65 and ADG.

In addition to the matters noted above, the proposal is not considered to satisfy the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Marrickville Local Environmental Plan 2011 (MLEP 2011)*, and Marrickville Development Control Plan 2011 (MDCP 2011).

The application is considered unsupportable and in view of the circumstances, it is recommended that the application be refused.

2. Proposal

This development application seeks consent for alterations and additions to the existing building, including an additional dwelling. The application also includes strata subdivision of the existing lot into three (3) strata lots. Specifically, the proposal involves the following works/use:

Ground floor

- Relocation of the entry to the upper floor residential dwellings from King Street to Camden Street;
- Enlargement of the commercial tenancy to extend across the full length of the King Street frontage;
- New accessible toilet within the commercial tenancy;
- Changes to the internal layout of the dwelling to incorporate the new entry and stairs;
- New rear POS area to the rear ground floor dwelling; and,
- New waste storage facilities.

First floor

- Modifications to the rear-most dwelling to incorporate new layouts for proposed dwellings 3 and 4;
- Lower levels of dwellings 3 and 4 (cross over apartments); and,
- POS in the form of a balcony for proposed dwelling 4.

Second floor

- Upper levels of dwellings 3 and 4 (cross over apartments); and,
- POS in the form of a balcony for proposed dwelling 3.

Land dedication

The area adjacent to the rear boundary has been identified as being required for local road purposes on the Land Reservation Acquisition Map associated with *MLEP 2011* to facilitate the extension of Peacock Lane to connect Alice Street to Camden Street. The information provided in the SEE states that this portion of land will be dedicated to Council, free of cost, as a condition of approval.

3. Site Description

The site is legally described as Lot B in DP 18991 and commonly known as 477 King Street, Newtown. It is a corner site with a primary frontage to King Street of 6.31m and a secondary frontage to Camden Street of 33.26m. The total site area is 208.7sqm. There is a slight cross fall of approximately 900mm from the front boundary towards the rear boundary. There is no on-site car parking or vehicular access.

The site currently accommodates an existing two (2) storey mixed use building. The ground floor incorporates a café fronting King Street and a residential dwelling fronting Camden Street. The first floor includes two (2) residential dwellings, which are accessed from the King Street frontage. There is an existing Right of Way immediately adjacent to the rear of the site.

The area adjacent to the rear boundary has been identified as being required for local road purposes on the Land Reservation Acquisition Map associated with *MLEP 2011* to facilitate the extension of Peacock Lane to connect Alice Street to Camden Street.

The site is identified as being within the King Street and Enmore Road Heritage Conservation Area. Surrounding development along King Street are typically two storey mixed use developments. Ground floor retail fronting King Street is typically throughout. The land immediately to the west of the site comprises part of the property associated with 483 King Street. Further to the west, at No.2 Camden Street is an existing terrace house.



Figure 1: Zoning map



Figure 2: Aerial map

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Outcome
DA200100827	To carry out alterations and additions to the premises containing a ground floor shop and three dwellings	Approved 26/03/2002
DA200600435	To carry out alterations and additions to the premises and use the ground floor shop as a café	Approved 11/10/2006
DA201900250	For alterations and additions to the existing building and change of use to a boarding house and commercial tenancy	Approved 03/12/2019
PDA/2020/0267	Alterations and additions to a mixed use development	Advice issued 09/10/2020

Surrounding properties

Property	Application	Proposal	Outcome
475 King Street	DA/2021/0024	To carry out alterations and additions to create a 3 storey shop top housing development and construct a new office space at the rear of the site	Approved 03/06/2021

4(b) Application history

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

Date	Discussion / Letter / Additional Information
13 January 2022	Council issued a request for information to address the following matters: <ul style="list-style-type: none"> Proposed use and demonstration of existing use rights; FSR non-compliance and clause 4.6; Heritage, streetscape, and design; Non-compliances with SEPP 65/ADG; Waste management; Amended architectural plans and shadow diagrams; Draft strata plan subdivision plan; and, Architectural Excellence and Design Review Panel comments.
17 February 2022	Amended plans and additions information was lodged by the applicant.
30 March 2022	Further amended plans were submitted by the applicant. The information submitted on 17 February and 30 March 2022 forms the basis of the following assessment.

5. Assessment

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

5(a) Environmental Planning Instruments

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

5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

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

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

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

5(a)(ii) *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*

Clause 28 of SEPP 65 requires the consent authority to consider:

- a) the advice (if any) obtained from the design review panel, and*
- b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- c) the Apartment Design Guide*

Design Review Panel & Design Quality Principles

The application was reviewed by Council's Architectural Excellence and Design Review Panel (AEDRP) on 16 November 2021. Accompanying the AEDRP review was an analysis of the proposal against the design quality principles within Schedule 1 of the SEPP.

The Panel raised various concerns with the performance of the development against SEPP 65 and provided some design recommendations. The applicant subsequently amended the proposal to address the issues raised. The proposal, in its amended form, is not considered to be an acceptable response to the Design Quality Principles. Having regard to the ADG issues identified below and as well as the FSR breach, the proposal is unsatisfactory with respect to the following Design Quality Principles:

- Principle 2: Built form and scale as the proposal exceeds the allowable FSR creating a building that is larger than what the LEP provisions anticipate.
- Principle 3: Density as the proposal exceeds the allowable FSR.
- Principle 6: Amenity as various ADG non-compliances have been identified with respect to the design of unit 4 and solar access is not properly made out.

Note: A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

In accordance with Clause 6A of the SEPP, certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (mid-winter).

Comment: The proposal does not incorporate any communal open space and therefore does not comply with Part 3D of the ADG. The applicant has addressed this and justifies it on the basis that the rear of the site could ordinarily be used as COS, however, it is within the laneway acquisition area. It is further suggested that suitable POS areas are provided. However, this is not agreed with as discussed under Part 4E – Private Open Space of the ADG.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Deep Soil Zone (% of site area)
Less than 650sqm	7% (14.6m ²)

Comment: The application does not include any deep soil landscaping. This is consistent with the current site arrangements and is reflective of the built form outcomes on other nearby sites which front King Street. There is limited capacity to incorporate deep soil landscaping given that the rear of the site is identified as laneway acquisition. On this basis, the variation is justifiable in the site circumstances.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Room Types	Minimum Separation
<i>Up to 12 metres (4 storeys)</i>	
Habitable rooms and balconies	6 metres
Non-habitable rooms	3 metres

Comment: The building separation provided is generally satisfactory.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: The applicant has provided insufficient information to demonstrate that at least 3 out of 4 units will receive a minimum of 2 hours direct sunlight to living room and POS between 9am and 3pm on June 21st. In this regard, the applicant has provided a generic document which provides sun angles on a floor plan drawing and claims that all units will receive a compliant amount of solar access. However, it appears as though this material fails to consider the overshadowing impacts of surrounding development on the subject proposal. Proper sun's eye view diagrams would be required to accurately demonstrate that appropriate solar access is achieved in accordance with the ADG guidelines.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: All units have natural cross ventilation.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres

Comment: All units have a minimum ceiling height of 2.7m for habitable living areas. The applicant has indicated that a 2.6m floor to ceiling height is proposed in some of the bedrooms. There is no justification presented by the applicant to address this. Accordingly, the non-compliance is unable to be supported.

Apartment Size and Layout

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
1 bedroom	50m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

Comment: The amended proposal provides 3 x 1 bedroom apartments and 1 studio. The following concerns have been raised:

- The applicant has nominated unit 4 as a studio. However, it is a crossover apartment across two (2) levels and would essentially function as a 1 bedroom apartment (for reference, unit 3 functions in a similar manner and is correctly identified as a 1 bedroom unit on the plans). The design and layout of unit 4 is similar to the 1 bedroom diagram provided in Figure 4D.4 within the ADG. On the basis that it is properly characterised as a 1 bedroom apartment, its internal area (48sqm) does not comply with the 50sqm minimum which is unsatisfactory; and
- The width of cross-over or cross-through apartments are required to be at least 4 metres internally to avoid deep narrow apartment layouts. The width of unit 4 (studio) which is designed as a cross-over apartment is 3.5m which does not comply and result in a poor spatial layout with unsatisfactory residential amenity. Further, given that the proposal exceeds the FSR, this non-compliance cannot be supported.
- Unit 4 does not achieve the objectives of the control which states that the layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
1 bedroom apartments	8m ²	2 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metre.

Comment: As identified above, unit 4 is considered to be a 1 bedroom apartment and is assessed accordingly. The proposed balcony/POS area for this unit is approximately 7.6sqm in area and has a width of 1.8m. It therefore does not meet the minimum ADG requirements. Given that the unit is also undersized and contains a non-compliant width, the deficient POS area is unsupportable. It is noted that there is no POS for the existing unit (Unit 2). However, this is consistent with the current arrangement on site.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Storage size volume
1 bedroom apartments	6m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment: The plans indicate the following provision of storage to each unit:

- Unit 1 (1 bed) – 4m³.
- Unit 2 (1 bed) – not identified.
- Unit 3 (1 bed) – 2m³.
- Unit 4 (1 bed) – 4m³.

In considering the above, the proposal is unacceptable having regards to the Schedule 1 design quality principals and the applicable objectives and controls of the ADG as each unit is not provided with sufficient storage.

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

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

5(a)(iv) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development with frontage to classified road

The site has a frontage to a classified road, being King Street. In considering section 2.118 of SEPP (Transport and Infrastructure) 2021:

- There is no vehicular access proposed to the site;
- The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development;
- The development involves residential land uses which are sensitive to traffic noise. The Acoustic report has addressed this as follows:

The proposed residential development is located adjacent to King St, carrying approximately 17,000 AADT. Given the threshold for an acoustic assessment of the façade under the SEPP (Infrastructure) 2007 is 20,000 AADT and over, an assessment of noise impacts from King St is not required.

It should be noted the design of the glazing, solid façade and roof components will likely comply with the SEPP (Infrastructure) 2007 noise levels in this instance because these elements are required to be designed to accommodate aircraft noise levels within the area.

5(a)(v) Marrickville Local Environmental Plan 2011

The application was assessed against the following relevant clauses of *MLEP 2011*.

Part 1 – Preliminary

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is inconsistent with the relevant aims of the plan in that the design of the proposal is not considered to be of a high standard and has an unsatisfactory impact on the private and public domain.	No

Part 2 – Permitted of prohibited development

Zone	Proposed Use	Permitted with consent
Clause 2.3 Zone objectives and Land Use Table <i>B2 Local Centre</i> <i>SP2 Local Road</i>	<p>The majority of the site is zoned B2 Local Centre. The rear portion of the site is zoned SP2 Local Road. No development is proposed on the SP2 zoned area.</p> <p>The proposed development involves alterations and additions to an existing <i>food and drink premises</i>, which is a permissible form of development within the B2 Local Centre zone pursuant to <i>MLEP 2011</i>. However, the proposal also involves development for the purposes of a <i>residential flat building</i>, which is not a permissible use in the zone. The proposal therefore relies on existing use rights for this component of the development, which is addressed below.</p>	No – relies on existing use rights. See discussion below.

Existing Use Rights

As noted above, the application proposes development for the purposes of a *residential flat building*, which is not a permissible use in the B2 zone. The proposal therefore relies on existing use rights for this component of the development which is addressed below:

(i) Environmental Planning and Assessment Act 1979

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

Firstly, Part 4.65 of the *EPA Act 1979* provides a definition of an existing use. In plain terms, an existing use is defined in the following manner:

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

The applicant has provided the following information (in summary) within their existing use rights submission:

- *The statement of heritage impact (SoHI) submitted with the application indicates that the building was originally constructed circa 1881 when it was used as the International Hotel.*
- *A Court Order required the hotel to be closed within 2 years of 16 September 1907.*
- *The allotment on which the building currently stands, namely Lot B, DP 18991, was created in a subdivision of land in January 1940 and Certificate of Title Volume 5190 Folio 198 for it was issued to Catherine Shannon on 27 November 1940.*
- *The building’s form in terms of its Victorian architecture is indicative of it significantly pre-*

dated the subdivision, dating back to the early 1900's following the closure of the hotel.

- The symmetrical form of the fenestration, fireplaces and chimney in the rear section of its ground and 1st floor levels, the 2 doorways to Camden Street and its internal fabric and configuration attest to the longstanding residential use of this section of the building in the form it is shown on Plan No. 3/10 submitted to Council on 7 November 2001 in connection with Development Application No. 200100827.*
- Development Application No. 200100827, prepared and submitted by Gutnik Design Group, was approved by Council under delegated authority on 26 March 2002 under MLEP 2001. The approval related to the carrying out of alterations and additions to the premises containing the ground floor shop and 3 dwellings, 1 at the ground floor level and 2 at the first floor level. The building continues to be used in this manner.*

It is noted that when Development Consent No. 200100827 was issued in 2002, the land was zoned General Business 3(A) under *MLEP 2001* and in this zone, development for the purposes of "residential flat buildings" that were attached to a permissible use were permissible with consent. Accordingly, *MLEP 2011* was the planning instrument which caused the development (or a portion of it) to become a prohibited use.

Noting that the onus is on the applicant to demonstrate that the site benefits from existing use rights, the submission made is considered to be insufficient in that:

- Evidence of stamped plans and/or consents have not been provided;
- The copy of the Construction Certificate (CC) documentation which was provided was not approved by Council. Additionally, a review of Council's records indicates that this CC was cancelled and not approved. There does not appear to be any evidence of a CC being approved in relation to the works approved under DA200100827; and,
- Clause 4.66 of the *EPA Act 1979* states that unless the contrary is established, a use is presumed to have been abandoned if it ceases to be used for a continuous period of 12 months. There is inadequate information provided to demonstrate that the residential use has not been abandoned since the time that it became a prohibited use. Rather, a general statement stipulating that "the building continues to be used in this manner" is provided which is insufficient.

In light of the above, the application fails to satisfy the requirements of Part 4.65 of the *EPA Act 1979*. It has not been established that the site benefits from existing use rights having regard to the relevant legal tests.

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

"An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force".

In the event that existing use rights is sufficiently established, the provisions contained in *MLEP 2011* do not apply to the development to the extent that it relates to the residential flat building use. Rather, Division 4.11 of the *EPA Act 1979* services to enable the continuation of an existing use and refers to the relevant regulations (*Environmental Planning and Assessment Regulation 2021*) with respect to the premises being enlarged, expanded or intensified; or being altered or extended for the existing use.

Note: Notwithstanding the above, in accordance with the NSW Land and Environment Court's judgement in *Made Property Group Pty Limited v North Sydney Council*, any variation from a development standard by development associated with an "existing use" needs to be justified under Clause 4.6 in *MLEP 2011*. Refer to discussion later in this report.

(ii) *Environmental Planning and Assessment Regulation 2021*

Part 7 of the EP&A Regulation 2021 is relevant to the development as it sets out the matters for consideration for enlargement, expansion or intensification of existing uses and the consent requirements for alterations and additions to an existing use. However, it is considered that existing use rights have not been established by the applicant.

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

An assessment of the proposed alterations and additions has been carried out in accordance with the NSW Land and Environment Court planning principles in relation to the assessment of development applications based on existing use rights which were stated by Senior Commissioner Roseth in *Fodor Investments V Hornsby Shire Council (2005)*.

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

Height

A maximum building height of 14 metres applies to the land and immediately adjoining sites along King Street. The proposal has a maximum height of approximately 10.2 metres, therefore complying with the building height limit. The proposed building is consistent with the height anticipated under the planning controls within *MLEP 2011*.

FSR

The site is afforded an FSR of 1.5:1 in accordance with Clause 4.4 of *MLEP 2011*. The proposed FSR is 1.83:1 (344sqm), which exceeds the maximum allowable FSR. However, the applicant's calculation of the FSR is incorrect in that the site area utilised incorporates the SP2 zoned land at the rear of the site. In accordance with clause 4.5(4)(a) of *MLEP 2011*, this area cannot be included in the site area. As a result, the clause 4.6 provided is erroneous. In addition, there are insufficient environmental planning grounds identified to justify the non-compliance. The FSR exceedance is unable to be supported in the circumstances. Refer to clause 4.6 discussion later in this report.

Setbacks

The setbacks are generally acceptable, however there have been various issues identified with other component of the building.

- (b) *Principle 2 – What is the relevance of the building in which the existing use takes place?*

The development would continue to be used as a food and drink premises and a residential flat building.

- (c) *Principle 3 – What are the impacts of the development on adjoining land?*

The impacts of the proposed alterations and additions are examined elsewhere within this report.

- (d) *Principle 4 – What is the internal amenity?*

The internal amenity of the new apartments is unsatisfactory and does not conform to the SEPP 65/ADG requirements.

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 of the *EPA Act 1979*.

Control	Proposed	Compliance
Clause 2.7 Demolition requires development consent	The proposal satisfies the clause as follows: <ul style="list-style-type: none"> Demolition works are proposed, which are 	Yes

	<p>permissible with consent; and</p> <ul style="list-style-type: none"> Standard conditions could be imposed to manage impacts which may arise during demolition, however, the application is not supported for other reasons. 	
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Part 4 – Principal development standards

Control	Proposed		Compliance
Clause 4.3 Height of building	Maximum	14m	Yes
	Proposed	10.2m	
Clause 4.4 Floor space ratio	Maximum	1.5:1 (281.25sqm)	No
		Based on site area of 187.5sqm in accordance with cl. 4.5 of <i>MLEP 2011</i> .	
	Proposed	1.83:1 (344sqm)	
	Variation	22.3% (62.75sqm)	
Clause 4.5 Calculation of floor space ratio and site area	<p>The site area and floor space ratio for the proposal has not been calculated in accordance with the requirements of this clause which states that the following land must be excluded from the site area –</p> <p><i>(a) Land on which the proposed development is prohibited, whether under this Plan or any other law</i></p> <p>The applicant's calculation of the FSR is incorrect in that the site area utilised incorporates the SP2 zoned land at the rear of the site. Development for the purposes of a residential flat building is prohibited on land zoned SP2. Accordingly, it must be excluded from the site area for the purposes of determining the FSR.</p> <p>As a result, the clause 4.6 provided is erroneous, inaccurate and cannot be supported.</p>		No
Clause 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Clause 4.6 to vary the FSR development standard.		No – see below

Clause 4.6 – Exceptions to Development Standards

FSR development standard

The site is afforded an FSR of 1.5:1 in accordance with Clause 4.4 in *MLEP 2011*. The information provided by the applicant states that the proposed FSR is 1.55:1 and the breach is therefore 11.2sqm or 3.6%. However, as previously discussed, the applicant's calculation of the FSR is incorrect in that the site area utilised incorporates the SP2 zoned land at the rear of the site. In accordance with clause 4.5(4)(a) of *MLEP 2011*, this area cannot be included in the site area. The clause 4.6 exception provided is therefore incorrect. Once the FSR is calculated correctly, the extent of the breach would increase.

The objectives of the FSR development standard are as follows:

- *To establish the maximum floor space ratio*
- *To control building density and bulk in relation to the site area in order to achieve the desired future character for different areas*
- *To minimise adverse environmental impacts on adjoining properties and the public domain*

The objectives of the B2 – Local Centre zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide housing attached to permissible non-residential uses which is of a type and scale commensurate with the accessibility and function of the centre or area.*
- *To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts.*
- *To constrain parking and reduce car use.*

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *MLEP 2011* justifying the proposed contravention of the development standard which is reproduced as follows:

- *The FSR in excess of the standard will not result in any increase in the density of the development on the land or any increase in the demands placed on the existing infrastructure serving the area.*
- *The extent of non-compliance from the standard is:*
 - *minor;*
 - *imperceptible in the context of existing development in the locality; and*
 - *will not result in any adverse effect on the amenity enjoyed on surrounding properties or in the public domain.*
- *The FSR of the building in excess of the FSR standard will result in a building with a development density and bulk which is consistent with:*
 - *other existing and contemporary buildings in this locality;*
 - *the contribution the building makes to the character of the heritage conservation area within which it is located; and*
 - *the existing and desired future character of the area as envisaged by the objectives of the zoning and development standards applying to the land.*
- *The building, as added to and altered, is to be contained within the profile and built form of the building works approved on this land by Council in Development Consent DA201900250 issued under MLEP 2011 on 28/11/2019.*

- *The FSR of the building in excess of the FSR standard will not have any adverse effects on the amenity enjoyed by residents of surrounding buildings or on people in the public domain in terms of the bulk, scale or density of the building as added to and altered.*
- *The proposal will not result in any adverse effects on the amenity enjoyed by occupiers or residents of surrounding properties in terms of:*
 - o *privacy;*
 - o *overshadowing; view loss; or*
 - o *visual impact.*
- *The proposal is consistent with the objectives for development in the B2 Local Centre zone.*

The applicant's written rationale does not adequately demonstrate that compliance with the development standard is unreasonable/unnecessary in the circumstances of the case. The central argument seems to revolve around a lack or absence of environmental impact. This is an inadequate argument to justify the breach. Furthermore, the claims that the proposed FSR is consistent with other buildings in the locality has not been accompanied by supporting evidence to validate this claim. Accordingly, objective (c) in clause 4.4 is not satisfied.

The clause 4.6 offers various environmental planning grounds to justify contravening the development standard.

In accordance with *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole.

Many of the environmental planning grounds proffered promote the benefits of the development (i.e. – enabling the establishment of an additional dwelling, facilitate renewal of the building, create an increased level of vitality etc). Accordingly, these reasons offered are not considered to be sufficient.

It is considered the development is not in the public interest because it has not been demonstrated to be consistent with the relevant objectives of the development standard, contrary to Clause 4.6(4)(a)(ii) of *MLEP 2011*.

Consistency with the zone objectives is demonstrated below in the extract and considered satisfactory.

Zone Objective	Proposal's Response
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area	The proposal will retain and improve the existing active commercial tenancy at the corner of King and Camden Streets operating as a café
To encourage employment opportunities in accessible locations	The proposal will retain the employment opportunities offered by the existing café at the corner of King and Camden Streets located adjacent to existing public transport services using King Street
To maximise public transport patronage and encourage walking and cycling	This area is well served by public transport services using King Street and the proposed development will foster and promote the use of those services
To provide housing attached to permissible non-residential uses which is of a type and scale commensurate with the accessibility and function of the centre or area	The proposal will intensify the extent of residential accommodation at the upper levels of the building of a scale and type that is commensurate with the high level of accessibility enjoyed in this area and the functioning of commercial facilities in this centre
To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts	The proposal will not affect spaces at street level which have active street frontages to King or Camden Streets
To constrain parking and reduce car use	The proposal does not involve the provision of any car parking and will foster and promote public transport use, walking and cycling as the primary mode of private transport

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of *MLEP 2011*.

The proposal does not accord with the objective of Clause 4.6(1)(b) or the requirements of Clause 4.6(3)(b) of *MLEP 2011*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the FSR development standard and it is recommended the application is refused.

Part 5 – Miscellaneous provisions

Control	Proposed	Compliance
Clause 5.1 Relevant acquisition authority	The rear portion of the site is zoned SP2 Local Road. No development is proposed on the portion of land within zone. The application states that this land is intended to be dedicated to council, free of cost, as a condition of consent. However, the NSWLEC has recently confirmed that there is no power for a consent authority to require dedication of land free of cost, even if the proponent volunteers to do so, absent a voluntary planning agreement or such land being identified in a contribution's plans. In light of this, the proposed transfer of the land via a condition of consent cannot be supported.	No

Clause 5.1A Development on land intended to be acquired for public purposes	No development is proposed on the portion of land within the SP2 zone.	Yes
Clause 5.10 Heritage conservation	<p>The subject site is a contributory building within the King Street and Enmore Road Heritage Conservation Area (HCA).</p> <p>The following advice was provided from Council's Heritage Advisor who advised that:</p> <ul style="list-style-type: none"> The proposed works, in part, are sympathetic to the character of the building. There is a need however to further refine the new second floor, clarify the colour scheme and delete the front balcony. <p>The applicant amended the proposal in response to the concerns raised by Council's Heritage Advisor. In this regard, the front balcony has been deleted, the new second floor adopts a parapet and the external materials/colours have been sufficiently detailed. The selection of external materials/colours are an appropriate response to the existing building as well as the HCA.</p> <p>Given the above, the amended development preserves the environmental heritage of the Inner West.</p>	Yes

Part 6 – Additional local provisions

Control	Proposed	Compliance
Clause 6.2 Earthworks	The proposal does not result in any earthworks likely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Clause 6.5 Aircraft noise	The site is located within the ANEF 20-25 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this clause with a condition of consent, however, the application is not supported for other reasons.	Yes (subject to condition)

5(b) Draft Environmental Planning Instruments

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

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 *EPA Act 1979*.

The proposed development does not satisfy the following provisions of Draft IWLEP 2020:

- Clause 1.2 Aims of Plan
- Clause 2.3 Zone objectives and Land Use Table
- Clause 4.4 Floor space ratio
- Clause 4.5 Calculation of floor space ratio and site area
- Clause 4.6 Exceptions to development standards
- Clause 5.1 Relevant acquisition authority
- Clause 6.19 Design Excellence

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

5(d) Development Control Plans

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

Part 2 – Generic Provisions

Control	Proposed	Compliance
Part 2.1 – Urban Design	The proposal is inappropriate for the site given the unsatisfactory residential amenity and FSR exceedance.	No
Part 2.5 – Equity of Access and Mobility	The proposal satisfies the relevant provisions of this Part as follows: <ul style="list-style-type: none"> • Appropriate access is provided for all persons through the principal entrance to the premises; • A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provide which allows a person with a disability to gain access to all areas within the shop; and • Suitable accessible sanitary facilities are provided. 	Yes
Part 2.6 – Acoustic and Visual Privacy	The proposed development ensures that there will be no adverse privacy impacts for surrounding properties. The new windows on the northern side elevation would overlook the public domain (Camden St). There is a new balcony proposed at the rear of the first floor, however, it is sufficiently separated from the adjacent residential property in Camden Street. Subject to implementation of the required acoustic measures (as per the submitted report), the proposed apartments themselves will achieve acceptable acoustic privacy outcomes. Notwithstanding the above, the application cannot be supported for other reasons.	Yes
Part 2.7 – Solar Access and Overshadowing	Refer to ADG discussion regarding solar access to the apartments which remains unresolved. In terms of overshadowing, the applicant provided shadow diagrams which demonstrates that whilst the proposal will generate some additional overshadowing, it will not result in any unreasonable loss of residential amenity to surrounding properties.	No
Part 2.9 – Community Safety	The principal entrances to the building are visible from each of the street frontages. The residential entry is along Camden Street and is clearly delineated from the commercial tenancy entry which is on King Street.	Yes
Part 2.10 – Parking	The site is located in Parking Area 1 under Marrickville Development Control Plan 2011, an area which is described as a	No – however, acceptable

	<p>highly accessible area within which car parking rates are most constrained in the LGA. 1 space is required for the ground floor commercial tenancy and 1 space is required for the residential component. The non-compliance is supported on the basis of the following:</p> <ul style="list-style-type: none"> • There is currently no on-site parking available for the existing commercial tenancy or 3 residential units in the building. • The site is located adjacent to bus stops of trunk bus routes using King Street which connect the area to the Sydney CBD and intervening areas and is conveniently located to Newtown Railway Station. • The proposed acquisition of the rearward section of the land for the extension of Peacock Lane to Camden Street will preclude the practicality of providing any off-street, car parking facilities on the land. • One of the B2 Local Centre zone objectives is to constrain parking and reduce car use. 	
Part 2.18 – Landscaping and Open Spaces	These provisions, insofar as they relate to residential flat buildings, are superseded by the ADG requirements. Refer to previous discussion.	N/A
Part 2.21 – Site Facilities and Waste Management	<p>The proposal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The application was accompanied by a waste management plan in accordance with the Part; and • The plans were amended to ensure that suitable, separate waste facilities are provided for the residential and non-residential components of the building. 	Yes
Part 2.25 – Stormwater Management	Standard conditions could be imposed to ensure the appropriate management of stormwater. However, the application is unable to be supported for other reasons.	Yes, subject to conditions

Part 3 – Subdivision, Amalgamation and Movement Networks

Control	Assessment	Compliance
Part 3.3 – Strata and stratum title subdivision	The draft subdivision plan satisfies the relevant provisions of this Part.	Yes

Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings

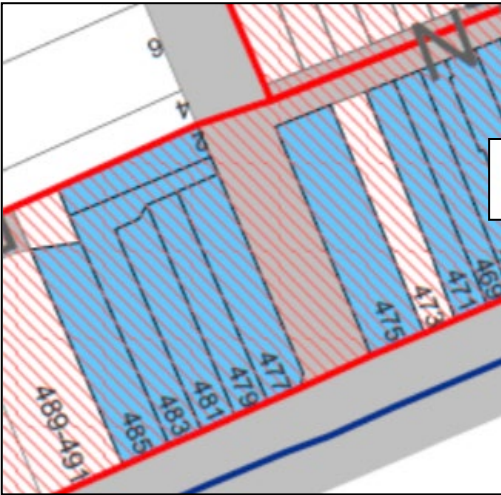
The residential flat building controls within MDCP 2011 are acknowledged and the application has been assessed against these provisions. However, it is considered that the Part 5 Mixed Use controls are of more relevance to the assessment of the application which is examined below.

Part 5 – Commercial and Mixed-Use Development

Control	Assessment	Compliance
Part 5.1.4 – Building Form	<p><u>Floor Space Ratio</u> Refer to previous MLEP 2011 discussion.</p> <p><u>Height</u> Refer to previous MLEP 2011 discussion.</p> <p><u>Massing and Setbacks</u> The existing building is identified as a Contributory building. Controls C3 and C4 therefore apply. The proposal involves a third storey addition, and it is considered that whilst it would be visible from Camden Street, its visibility from King Street would be minimal given its setback from the front boundary and relatively small footprint. Further, the overall height of the development is well below the 14m building height development standard.</p> <p><u>Depth</u> The depth of the building is generally consistent with the existing development. The depth of the proposed additional storey (residential) does not exceed the building envelope depth control of a maximum of 22 metres.</p> <p><u>Building separation</u> The ADG provisions supersede these controls. Refer to previous SEPP 65 discussion.</p> <p><u>Corners, landmarks and gateways</u> The site is a corner site (King Street/Camden Street). The general corner presentation is not proposed to be materially altered. The proposed additional storey is well setback rearward into the site, away from the corner.</p>	No
Part 5.1.5 – Building Detail	The front portion of the existing Contributory building is proposed to be retained. There is no private open space proposed to be located at the front portion of the existing building. The proposed restoration works (new windows and the like) are considered to be appropriate to the Contributory building. An active frontage is retained and enhanced through the provision of a wider retail/commercial tenancy along the full length of the King Street frontage.	Yes
Part 5.1.6 – Building Use	The development will contribute to function as a mixed-use development which is generally an appropriate outcome in the context. However, various ADG design concerns are raised in addition to the FSR breach which is unsubstantiated.	No
5.1.7 – Vehicle access, parking, loading and services	There is no on-site car parking and/or loading facilities. This is consistent with the current site conditions. Refer to Part 2.10 discussion. Loading would be required to occur from the street.	Yes – existing scenario

5.3 – Commercial/Light Industrial/Residential Interface	The site adjoins residential properties at the rear in Camden Street. However, the proposal does not unduly alter that existing interface. It is noted that the land acquisition area separates the subject site from the adjacent residential receiver in Camden Street. No further concerns are raised in this respect.	Yes
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Part 8 – Heritage

Control	Assessment	Compliance
Part 8.2.4 – King Street and Enmore Road Heritage Conservation Area (HCA 2)	<p>The subject site is a contributory building within the King Street and Enmore Road Heritage Conservation Area (HCA). The existing building is mapped as a Contributory building – see extract below.</p>  <p>The application was reviewed by</p> <p>Council's Heritage Advisor who advised that the proposed works, in part, are sympathetic to the character of the building. There is a need however to further refine the new second floor, clarify the colour scheme and delete the front balcony.</p> <p>The applicant amended the proposal in response to the concerns raised by Council's Heritage Advisor. In this regard, the front balcony has been deleted, the new second floor adopts a parapet and the external materials/colours have been sufficiently detailed. The selection of external materials/colours are an appropriate response to the existing building as well as the HCA.</p> <p>The development maintains the existing building and elements on the site which were constructed during the period of significance of the conservation area.</p> <p>On the basis of the above, the proposed development is considered to satisfy the relevant controls and objectives within Part 8.2.4 of MDCP 2011.</p>	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.37 – King Street and Enmore Road (Commercial) (Precinct 37)	The property is located in the King Street and Enmore Road Commercial Precinct (Precinct 37) under Marrickville Development Control Plan 2011. The proposed development is inconsistent with the desired future character of this precinct in that the proposal fails to <i>demonstrate good urban design and environmental sustainability and provides suitable amenity for occupants of those development.</i>	No

5(e) The Likely Impacts

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

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

The application fails to establish that the site is suitable for the development noting that the claimed existing use rights for the residential component of the building have not been properly substantiated by the applicant.

5(g) Any submissions

The application was notified in accordance with the *Community Engagement Framework* for a period of 21 days to surrounding properties. No submissions were received.

5(h) 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

Referrals	Summary of Response
Engineer	Conditions provided.
Heritage	Acceptable subject to changes recommended – refer to discussion under Clause 5.10 of <i>MLEP 2011</i> .
Waste	Conditions provided.
Building Certification	Some issues identified with respect to the necessary building upgrades required. Further assessment will occur at CC stage; however the application is not supported for other reasons.

7. Section 7.11 Contributions/7.12 Levy

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

The proposal fails to 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 on the amenity of the adjoining premises/properties and the streetscape 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*, refuse Development Application No. DA/2021/0642 for alterations and additions to existing building, including additional dwelling. Strata Subdivision of existing lot into three (3) Strata lots at 477 King Street, Newtown for the reasons outlined in Attachment A below.

Attachment A – Reasons for refusal

Attachment A – Reasons for refusal

1. The information provided with the application fails to demonstrate that the site benefits from existing use rights. The application does not satisfy Division 4.11 of the *Environmental Planning and Assessment Act 1979* in that evidence of lawful consents have not been provided and there is inadequate information to demonstrate that the residential use has not been abandoned since the time that it became a prohibited use.
2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development exceeds the maximum allowable Floor Space Ratio under clause 4.4 of *Marrickville Local Environmental Plan 2011*. The clause 4.6 exception provided does not adequately establish that compliance with the FSR development standard is unreasonable or unnecessary. Further, the environmental planning grounds identified are insufficient to justify the contravention as they merely promote the benefits of the development.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the application incorrectly identifies the applicable site area for the purposes of determining the allowable floor space ratio. The SP2 zoned land has been included in the site area, contrary to clause 4.5(4)(a) of *Marrickville Local Environmental Plan 2011*. The clause 4.6 exception is therefore erroneous as it is predicated on an incorrect site area.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not demonstrate that adequate regard has been given to the Design Quality Principles and the objectives specified in the Apartment Design Guide contrary to clause 30(2) of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*. The proposed development is inconsistent with Part 4A Solar and daylight access, 4C Ceiling heights, 4D Apartment size and layout, and 4G Storage of the Apartment Design Guide and does not accord with the following Design Quality Principles: Built form and scale, Density, and Amenity. The resultant development contains unsatisfactory residential amenity for future occupants.
5. The required land dedication of the SP2 zoned land at the rear of the site has not been appropriately dealt with having regard to the relevant NSW Land and Environment Court case law concerning land dedication in such circumstances.
6. Pursuant to the provisions of Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, the development does not satisfy the following provisions of Draft Inner West Local Environmental Plan 2020: Clause 1.2 Aims of Plan; Clause 2.3 Zone objectives and Land Use Table; Clause 4.4 Floor space ratio; Clause 4.5 Calculation of floor space ratio and site area; Clause 4.6 Exceptions to development standards; Clause 5.1 Relevant acquisition authority; and, Clause 6.19 Design Excellence.
7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy Part 5.1.4 Building Form of Marrickville Development Control Plan 2011 as the proposal breaches the FSR and results in an unsatisfactory building form.
8. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the desired future character of the King Street and Enmore Road Commercial Precinct within Part 9.37 of Marrickville Development Control Plan 2011 as it fails to demonstrate good urban design

and environmental sustainability and provides suitable amenity for occupants of those development.

9. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not considered to be suitable for the development as proposed.

Attachment B – Without prejudice conditions of consent

Attachment B – Without prejudice conditions of consent

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
BPA2006 Sk0b Rev B	Roof Plan	16/02/2022	Brooks Projects Architects
BPA2006 Sk1k Rev K	Floor Plans	16/02/2022	Brooks Projects Architects
BPA2006 Sk2h Rev H	Floor Plans	16/02/2022	Brooks Projects Architects
BPA2006 Sk3g Rev F	Elevations + Streetscape	12/07/2021	Brooks Projects Architects
BPA2006 Sk4f Rev F	Elevations + Streetscape	16/02/2022	Brooks Projects Architects
BPA2206 Sk5b Rev B	Sections	16/02/2022	Brooks Projects Architects
BPA2006 Sk06	Demolition Plan	10/06/2020	Brooks Projects Architects
50260 SP Sheets 1-2 Issue A	Draft Strata	23/02/2022	Christopher Thomas Norton
02425_201 Rev 01	Stormwater Drainage Plan	08/02/2021	C&M Consulting Engineers
02425_202 Rev 01	Stormwater Drainage Plan	08/02/2021	C&M Consulting Engineers
1220010S	BASIX Certificate	19/07/2021	Gradwell Consulting

190501 Rev 001	Acoustic Report	14/02/2021	Acoustic Building Services
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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.

Security Deposit:	\$8,432.00
Inspection Fee:	\$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. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution of \$12,816.61 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 21 April 2022.

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

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

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

Public Amenities Type:	Contribution \$
Recreation Facilities	10,923.91
Community Facilities	1,283.77
Traffic Facilities	357.62
Plan Administration	251.31
TOTAL	12,816.61

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

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

Payment methods:

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

minimum of 2 business days for the invoice to be issued before payment can be accepted.

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

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% 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

5. 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.

6. Separation of Commercial and Residential Waste and Recycling

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

7. Works Outside the Property Boundary

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

8. Residential Flat Buildings – Hot Water Systems

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

9. Residential Flat Buildings – Air Conditioning Systems

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

PRIOR TO ANY DEMOLITION**10. 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.

11. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);

- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

12. Resource Recovery and Waste Management Plan - Demolition and Construction

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

13. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of no. 479 King Street, Newtown, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining property to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of

the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

14. 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

15. 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.

16. 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. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road; Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the street may be drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);
- e. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a

system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;

- 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. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- h. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- i. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- j. No nuisance or concentration of flows to other properties;
- k. 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;
- l. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- m. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- n. 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;
- o. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;

17. Bin Storage Area - Residential

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

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

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

18. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

19. Each Residential Level is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

20. Party Walls

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

21. 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.

22. 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

23. Acoustic Report – Aircraft Noise

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

24. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

DURING DEMOLITION AND CONSTRUCTION

25. Documentation of Demolition and Construction Waste

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

26. Construction Hours – Class 2-9

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

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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

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

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

27. 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

28. No Encroachments

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

29. Aircraft Noise –Alterations and Additions

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report

must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

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

30. Smoke Alarms - Certification of upgrade to NCC requirements

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

31. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

PRIOR TO SUBDIVISION CERTIFICATE

32. Section 73 Certificate

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

33. Strata Subdivision Plan to Show Easements and Right of Ways

Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with evidence that all instruments under Section 88B of the *Conveyancing Act 1919* used to create easements or right-of-ways are shown.

34. Release of Subdivision Certificate

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.

ON-GOING

35. Bin and bulky waste storage

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

Unwanted bulky household items are to be booked in for collection by Council. Items are to be presented no earlier than the evening before the given collection date.

36. Documentation of Businesses Waste Services

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

37. Commercial Bin and Re-usable Item Storage

All commercial bins and re-usable items such as milk crates and bread trays are to be stored within the site.

ADVISORY NOTES**Permits**

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

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

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

Insurances

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

Notice to Council to deliver Residential Bins

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

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

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

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.

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.

Permits from Council under Other Acts

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

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

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

Noise

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

Amenity Impacts General

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

Fire Safety Certificate

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

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

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

Lead-based Paint

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

Useful Contacts

BASIX Information

1300 650 908 weekdays 2:00pm - 5:00pm

	www.basix.nsw.gov.au
Department of Fair Trading	13 32 20
	www.fairtrading.nsw.gov.au
	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100
	www.dialprior toyou dig.com.au
Landcom	9841 8660
	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441
	www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406
	www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro
	www.diysafe.nsw.gov.au
	Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555
	www.environment.nsw.gov.au
Sydney Water	13 20 92
	www.sydneywater.com.au
Waste Service - SITA	Environmental Solutions 1300 651 116
	www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

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

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.

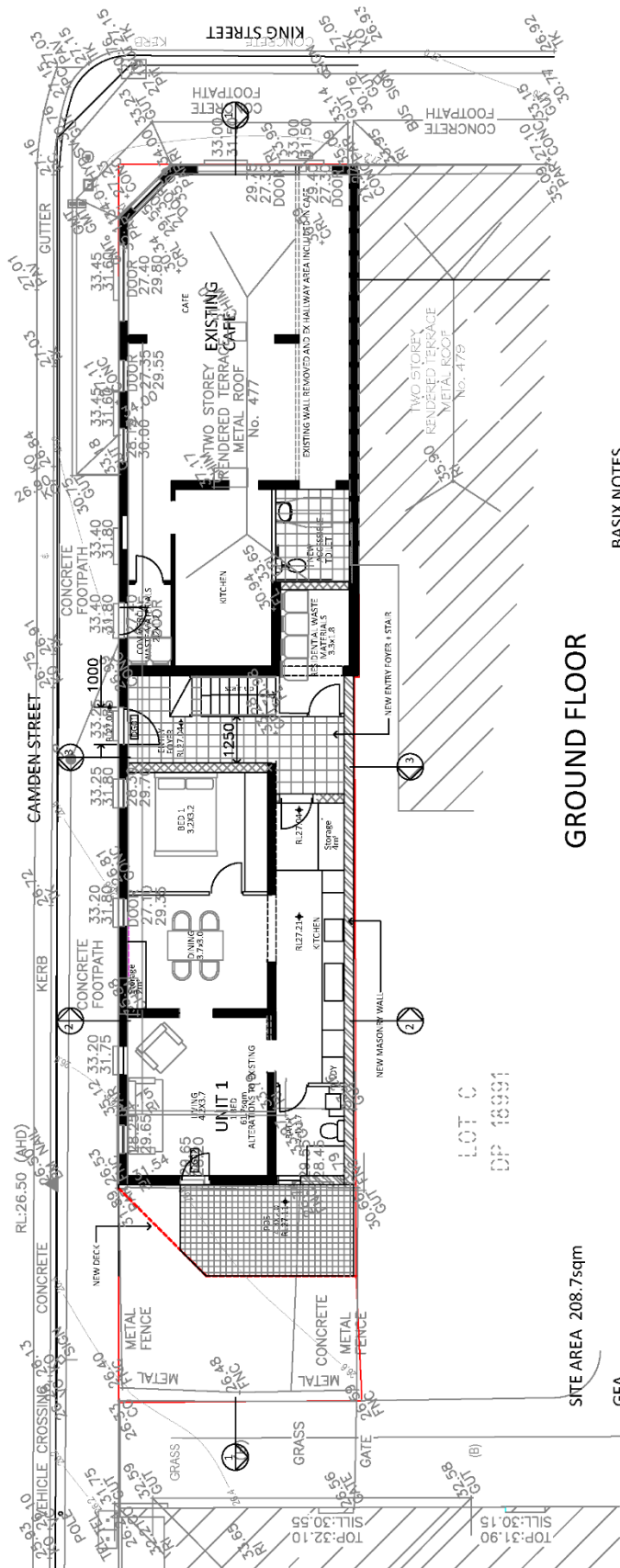
Dividing Fences Act

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.

Dial before you dig

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

[illegible]



GROUND FLOOR

BASIC NOTES

Minimum of 40% of new or altered Light fixtures fluorescent, compact fluorescent or LED lamps
new or altered Showers needs 3 star no greater than 9/10min
new or altered Taps needs 3 star no greater than 9/10min
new or altered taps 3 star no greater than 9/10min
new or altered external masonry walls insulation R1.18 (or R1.70 including construction)
new or altered external framed walls insulation R1.30 (or R1.70 including construction)
flat ceiling insulation R1.45 (up)
roof insulation R1.45 (up)
roof sheet solar absorbance 0.75-0.70
foiled blanket
foiled blanket
WG01 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
WG01 Standard Aluminium, single clear U-value: 7.63, SHGC 0.75
WG01 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
D101 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
D101 Standard Aluminium, single clear U-value: 7.63, SHGC 0.75
Window 201 Standard Aluminium, single clear U-value: 7.63, SHGC 0.75
Window 201 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
Window 202 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
Window W202 Standard Aluminium, single plyrvtic Low E U-value: 5.7, SHGC 0.47
Window W202 Standard Aluminium, single clear U-value: 7.63, SHGC 0.75

- Showers very low flow 4.5 to 6 gpm in
- Toilets 4 star
- Taps 4 star
- No rainwater tank required by BASIX

- 5 star instantaneous gas hot water
- Gas fired heater in living area 2.5 star
- Gas cook top & electric oven
- 0.6 kW solar electric (PV) system

GROUND FLOOR	145.5sqm	
FIRST FLOOR	128.6sqm	
SECOND FLOOR	50.2sqm	
TOTAL	<u>324.3qm</u>	
FSR		1.55:1

LINE OF PROPOSED LAND RESUMPTION

K	16.02.22	REVISED FOR DA
J	15.07.21	DA ISSUE
I	15.04.21	DA ISSUE
H	07.04.21	DA ISSUE
G	04.03.21	DRAFT DA ISSUE
F	05.02.21	CONSULTANT ISSUE
E	14.12.20	ISSUED FOR COMMENT
D		AMENDMENT

PROJECT
PROPOSED ALTERATIONS + ADDITIONS
477 KING STREET
NEWTOWN

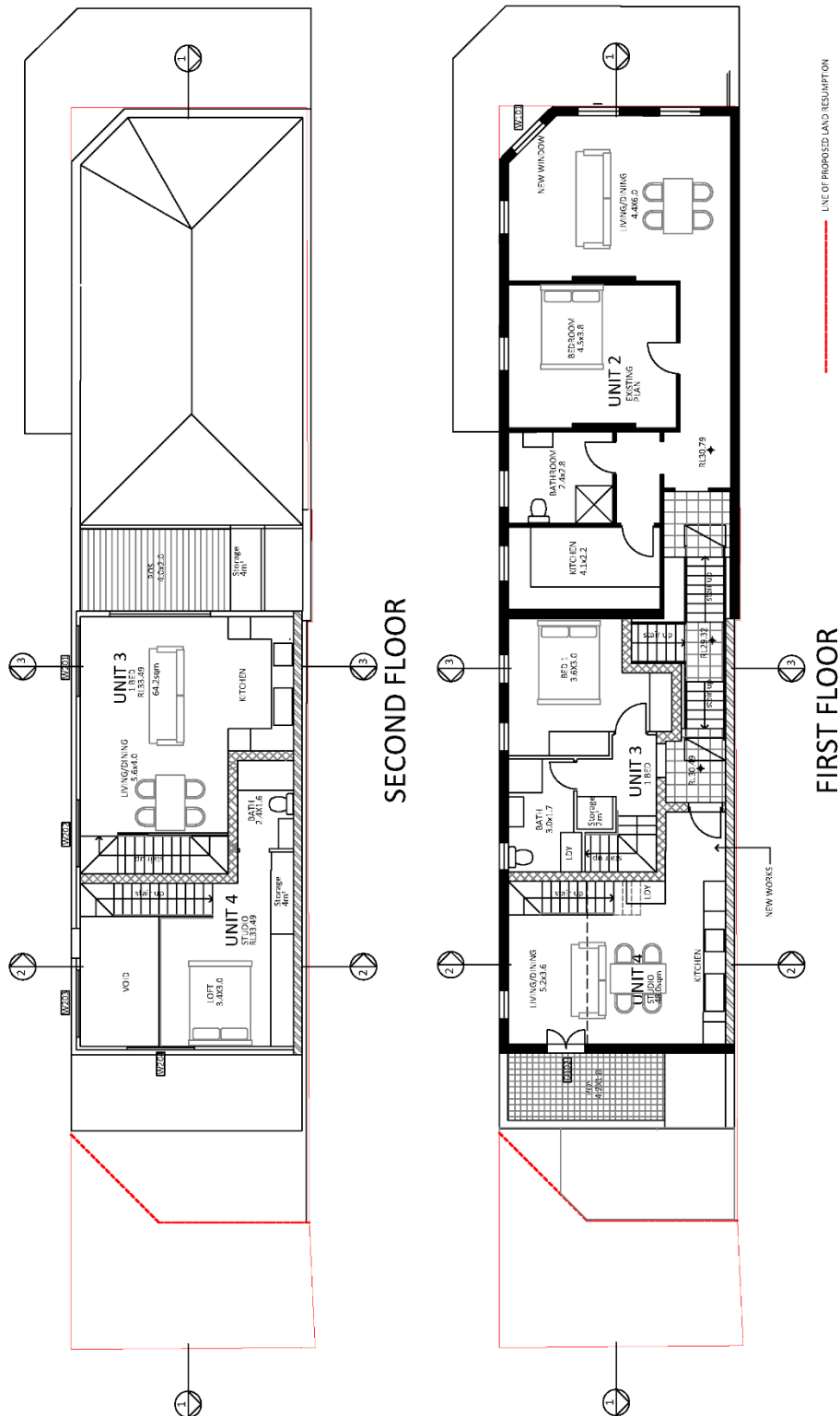
CLIENT
J.BUDA

BROOKS PROJECTS
architects

PO Box 248 West Pennant Hills NSW 2125
E: b.brooksprojects@bigpond.com
P: (02) 94847611 F: (02) 94847611
A/B/N: 82 306 483 112

TITLE	FLOOR PLANS
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5.00	5.00
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Sk1k



ISSUE	DATE	REVISION	FOR	DA
H	16.02.22	REVISION	FOR	DA
F	15.04.21	DA	ISSUE	
E	07.04.21	CONSULTANT	ISSUE	
D	04.03.21	CONSULTANT	ISSUE	
C	05.02.21	CONSULTANT	ISSUE	
B	14.12.20	ISSUED FOR COMMENT		
A	07.07.20	ISSUED FOR PRELIMINARY		
ISSUE	DATE	REVISION	FOR	DA

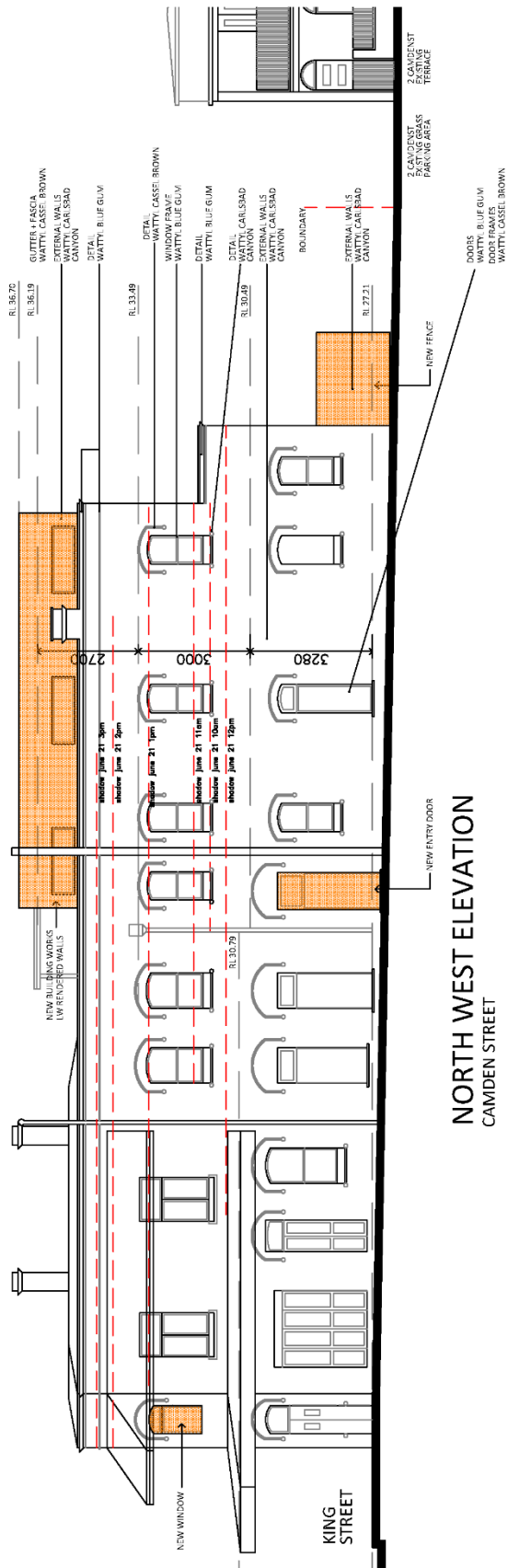
PROJECT
RENOVATIONS & ADDITIONS
477 KINGS STREET
NEWTOWN

CLIENT
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TITLE
FLOOR PLANS

sk2h



ISSUE	DATE	AMENDMENT
A	07.07.20	ISSUED FOR PRELIMINARY
B	06.08.21	CONSULTANT ISSUE
C	04.03.21	DRAFT DA ISSUE
D	31.03.21	DRAFT DA ISSUE
E	07.04.21	DRAFT DA ISSUE
F	12.07.21	DA ISSUE

PROJECT	CLIENT
PROPOSED ALTERATIONS + ADDITIONS 2200 W. 10TH STREET NEWTOWN	J. & M.A.

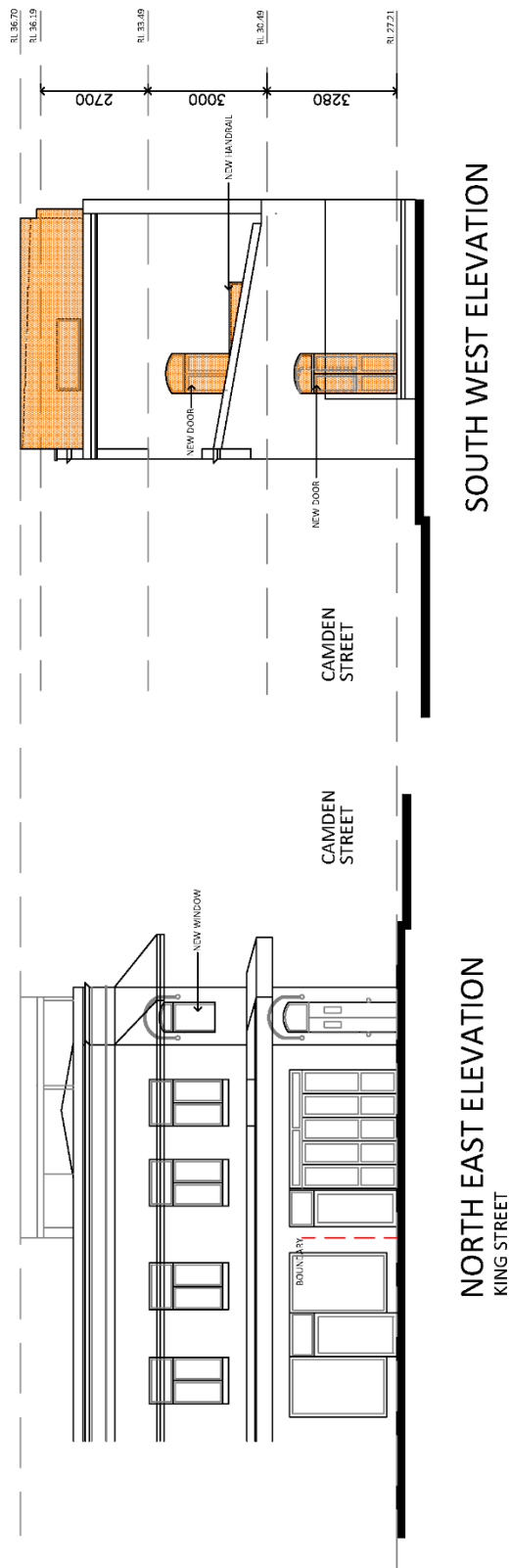
TITLE ELEVATIONS + STREETScape

OWNER LINDSEY

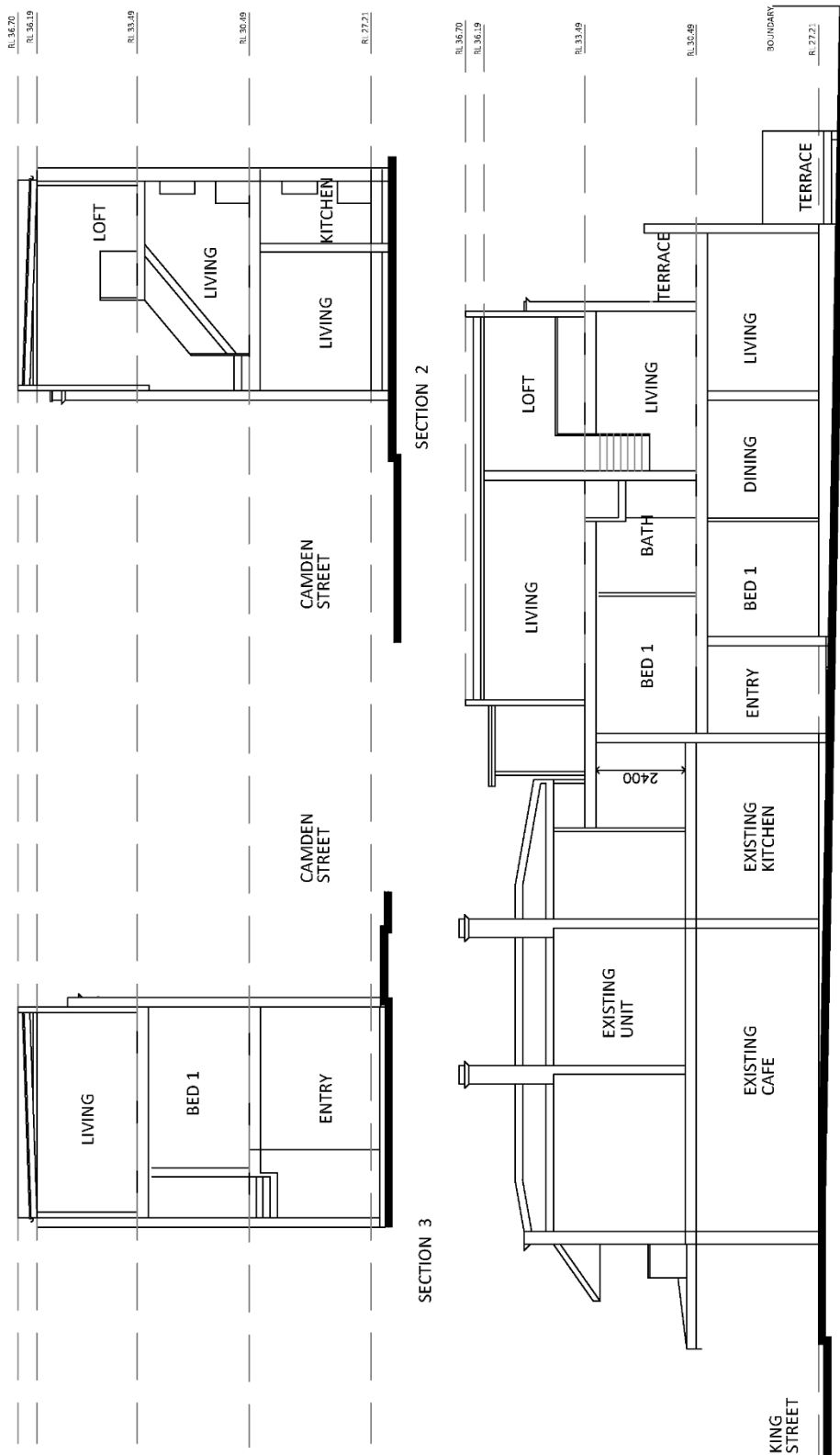
DATE 12.10.10

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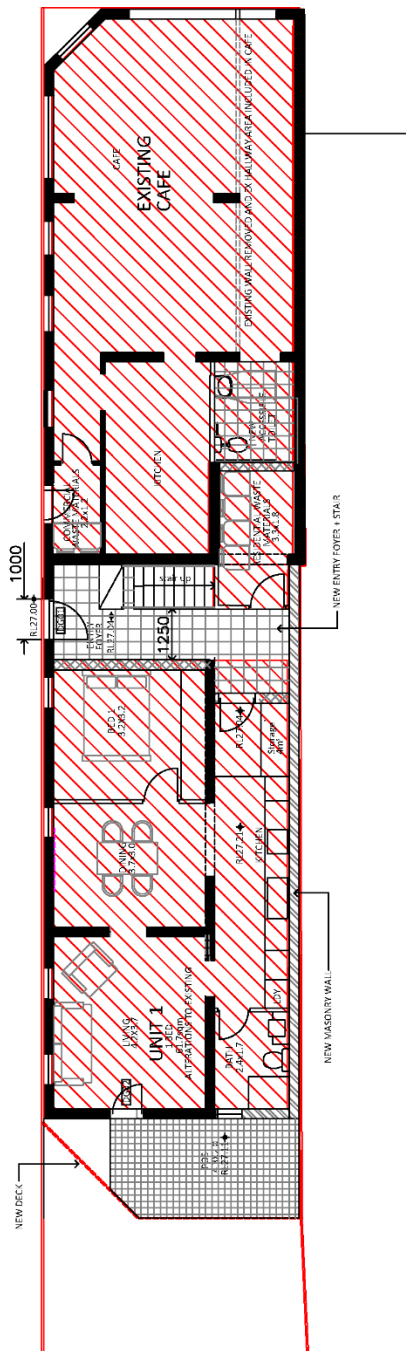
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<div><div>16.02.22</div><div>DA ISSUE</div></div>		<div><div>PROJECT</div><div>RENOVATION, ALTERATIONS + ADDITIONS</div><div>477 KING STREET</div><div>NEWTOWN</div></div> <div><div>CLIENT</div><div>J.B. DA</div></div>	<div><div>TITLE</div><div>ELEVATIONS +</div><div>STREETSCAPE</div></div> <div><div>BROOKS PROJECTS</div><div>architects</div></div> <div><div>PO Box 248 West Pymble NSW 2235</div><div>E brooksprojects@brooksprojects.com</div><div>P 020 88487011 F 020 88487011</div><div>ABN 16 62 585 493 111</div></div> <div><div>sk4f</div></div>
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<div><div>07.07.20</div><div>ISSUED FOR PRELIMINARY</div></div>			
<div><div>30.06.20</div><div>ISSUED FOR COMMENT</div></div>			
<div><div>ISSUE</div><div>DATE</div><div>REVISION</div></div>			

[illegible]

[illegible]



GROUND FLOOR

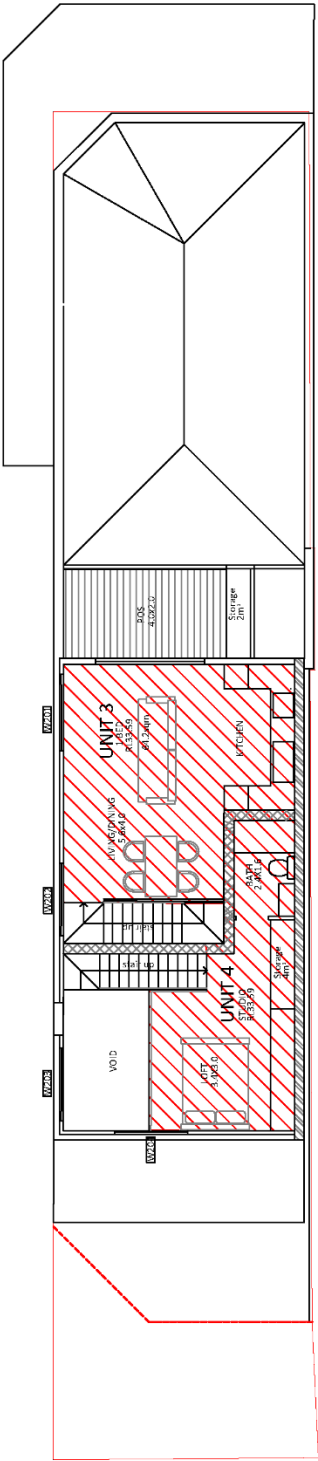
SITE AREA 208.7sqm

GFA

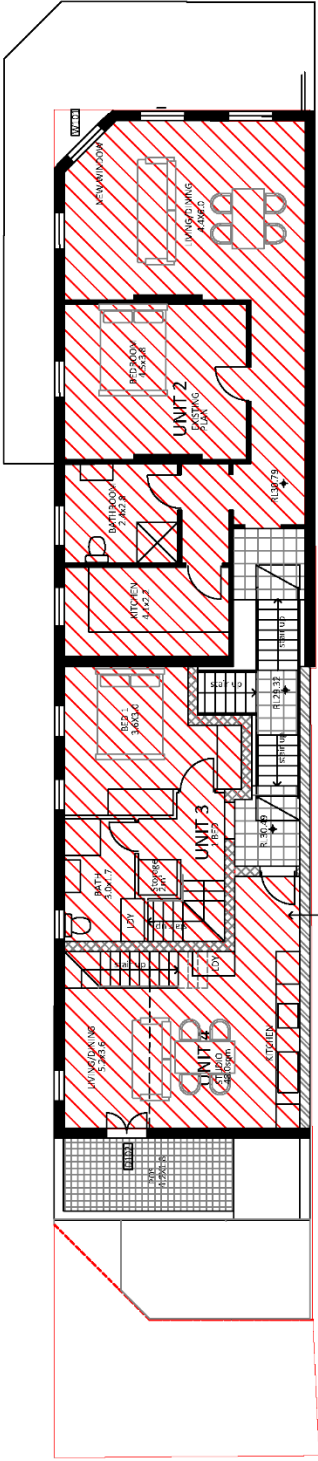
GROUND FLOOR	145.5sqm	
FIRST FLOOR	128.6sqm	
SECOND FLOOR	50.2sqm	
TOTAL	<u>324.3sqm</u>	
FSR		1.55:1

LINE OF PROPOSED LAND RESUMPTION

[illegible]



SECOND FLOOR



FIRST FLOOR



TITLE
FLOOR PLANS GFA

BROOKS PROJECTS
architects

PO Box 248 West Pymble NSW 2125
E brooks@brooksprojects.com
P (02) 9449 8111 F (02) 9449 8111
JAN 11 12:30 PM 2012

SCALE: 1:1000
DATE: 12/02/12
REP: 1: MAIN

B 14/03/12 REVISION FOR DA
A 07/04/12 DA ISSUE
ISSUE DATE AMENDMENT

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CLIENT

18/DA

NEW TOWN

ADDITIONS

REVISIONS

PROJECT

477 KINGS STREET

NEW TOWN

ADDITIONS

REVISIONS

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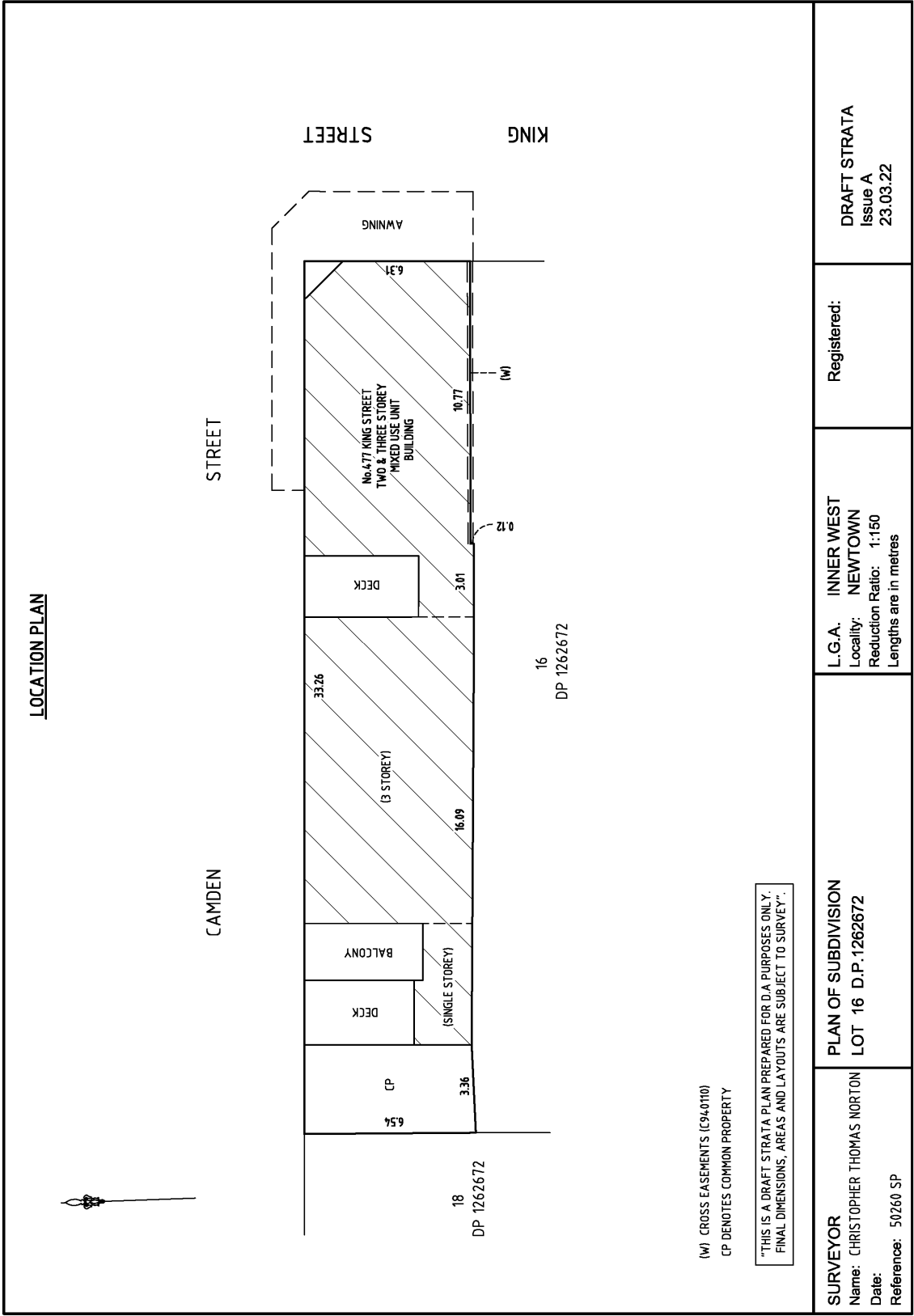
ADDITIONS

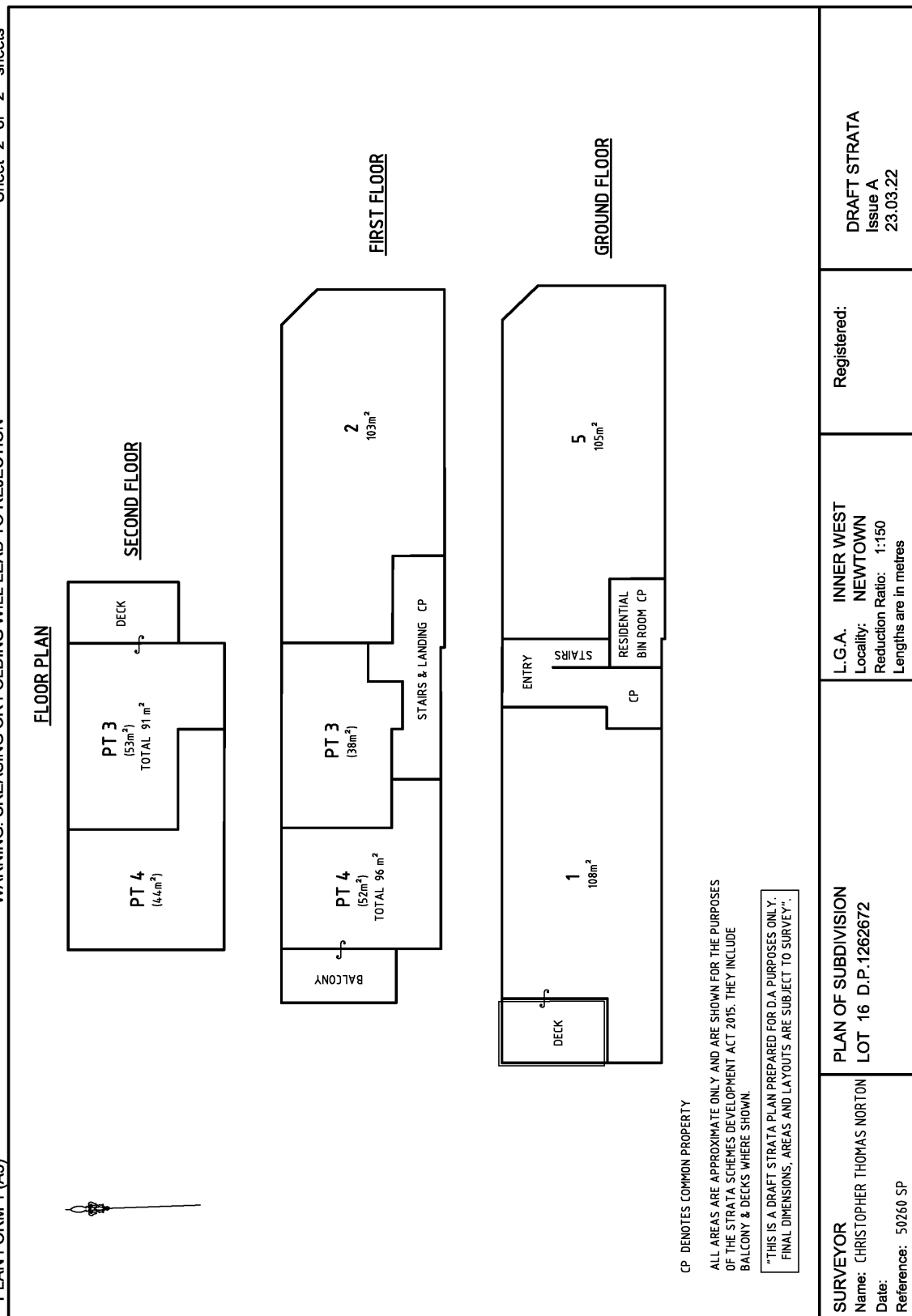
SP FORM 3.01	STRATA PLAN ADMINISTRATION SHEET		Sheet 1 of 3 sheet(s)
Office Use Only		Office Use Only	
Registered:		THIS IS A DRAFT STRATA PLAN ONLY. ALL STRATA BOUNDARIES, AREAS & LAYOUTS ARE SUBJECT TO FINAL SURVEY.	
PLAN OF SUBDIVISION LOT 15 D.P.1262672		LGA: INNER WEST Locality: NEWTOWN Parish: PETERSHAM County: CUMBERLAND	
This is a *FREEHOLD/ LEASEHOLD Strata Scheme			
Address for Service of Documents No.477 KING STREET, NEWTOWN NSW 2042 Provide an Australian postal address including a postcode		The by-laws adopted for the scheme are: * Model by-laws for residential strata schemes together with: Keeping of animals: Option *A*B Smoke penetration: Option *A/B (see Schedule 3 <i>Strata Schemes Management Regulation 2016</i>) * The strata by-laws lodged with the plan.	
Surveyor's Certificate I, CHRISTOPHER THOMAS NORTON of NORTON SURVEY PARTNERS P/L P.O. BOX 289 ROZELLE NSW 2039 being a land surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> , certify that the information shown in the accompanying plan is accurate and each applicable requirement of Schedule 1 of the <i>Strata Schemes Development Act 2015</i> has been met. *The building encroaches on: *(a) a public place *(b) land other than a public place and an appropriate easement to permit the encroachment has been created by ^ Signature: Date: Surveyor ID: 1761 Surveyor's Reference: 50260 SP <p style="text-align: right;">Draft Issue A Date: 23.03.22</p> ^ Insert the deposited plan number or dealing number of the instrument that created the easement		Strata Certificate (Registered Certifier) I being a Registered Certifier, registration number, certify that in regards to the strata plan with this certificate, I have made the required inspections and I am satisfied the plan complies with clause 17 <i>Strata Schemes Development Regulation 2016</i> and the relevant parts of Section 58 <i>Strata Schemes Development Act 2015</i> . *(a) This plan is part of a development scheme. *(b) The building encroaches on a public place and in accordance with section 62(3) <i>Strata Schemes Development Act 2015</i> the local council has granted a relevant planning approval that is in force for the building with the encroachment or for the subdivision specifying the existence of the encroachment. *(c) This certificate is given on the condition contained in the relevant planning approval that lot(s) ^..... will be created as utility lots and restricted in accordance with section 63 <i>Strata Schemes Development Act 2015</i> . Certificate Reference: Relevant Planning Approval No.: issued by: Signature: Date: ^ Insert lot numbers of proposed utility lots.	
* Strike through if inapplicable			

SP FORM 3.07 (2019)	STRATA PLAN ADMINISTRATION SHEET	Sheet 2 of 3 sheet(s)														
Registered:	Office Use Only	Office Use Only														
<p style="text-align: center;">VALUER'S CERTIFICATE</p> <p>I, of being a qualified valuer, as defined in the <i>Strata Schemes Development Act 2015</i> by virtue of having membership with: Professional Body: Class of membership: Membership number:</p> <p>certify that the unit entitlements shown in the schedule herewith were apportioned on (being the valuation day) in accordance with Schedule 2 Strata Schemes Development Act 2015</p> <p>Signature: Date</p>																
<p style="text-align: center;">SCHEDULE OF UNIT ENTITLEMENT</p> <table border="1" style="margin: auto; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="padding: 5px;">LOT</th> <th style="padding: 5px;">UE</th> </tr> </thead> <tbody> <tr><td style="padding: 5px;">1</td><td style="padding: 5px;"></td></tr> <tr><td style="padding: 5px;">2</td><td style="padding: 5px;"></td></tr> <tr><td style="padding: 5px;">3</td><td style="padding: 5px;"></td></tr> <tr><td style="padding: 5px;">4</td><td style="padding: 5px;"></td></tr> <tr><td style="padding: 5px;">5</td><td style="padding: 5px;"></td></tr> <tr> <td style="padding: 5px;">TOTAL</td> <td style="padding: 5px;">100</td> </tr> </tbody> </table>			LOT	UE	1		2		3		4		5		TOTAL	100
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Surveyor's Reference: 50260 SP <i>Issue A 23.03.22</i>																

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WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION





Attachment D – Clause 4.6 Exception to Development Standards

Statement of Environmental Effects

1.0 INTRODUCTION

This is a written request that has been prepared in accordance with Clause 4.6 of *MLEP 2011* to justify a variation from the floor space ratio (FSR) standard contained in Clause 4.4(2) of the *Plan*.

Clause 4.6(2) of *MLEP 2011* provides that development consent may be granted for development even though it would contravene a development standard imposed by the *Plan* or any other environmental planning instrument.

The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

The FSR standard is not excluded from the operation of Clause 4.6 by Clause 4.6(8).

This request:

- has been prepared having regard to the Department of Planning & Environment's *Varying Development Standards: A Guide, August 2011*, and relevant decisions in the Land and Environment Court of NSW and the NSW Court of Appeal; and
- demonstrates that exercising the flexibility afforded by Clause 4.6, in the particular circumstances of this application, is not only in the public interest because the proposal satisfies the relevant objectives of both the B2 Local Centre zoning applying to the land and the FSR standard, but also it results in a better planning outcome for the development.

2.0 FSR STANDARD

2.1 The Standard

Clause 4.4(2) in *MLEP 2011* provides that any building on this land is not to exceed a FSR of 1.5:1.

2.2 Extent of Variation

The proposed addition and alterations to the building will increase its gross floor area to 324.3m² and a FSR of 1.55:1, exceeding the maximum permissible gross floor area by some 11.2m² or 3.6%.

Ludvik & Associates Pty. Ltd.

Statement of Environmental Effects

3.0 CLAUSE 4.6(3) CONSIDERATIONS**3.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

One of the ways of establishing that a development standard is unreasonable or unnecessary in the circumstances of the case identified by Preston CJ in *Wehbe v Pittwater Council* is to establish that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The FSR permitted for development on this land under the terms of Clause 4.4(2) in *MLEP 2011* is 1.5:1, which equates to a gross floor area of 313.1m².

The additions and alterations proposed in the application will increase the gross floor area of the building to 324.3, representing a FSR of 1.55:1 and a variation of 11.2m² or 3.6% from the standard.

An assessment of the non-compliance in terms of the objectives of the FSR standard expressed in Clause 4.4(1) is as follows.

Objective of Standard	Proposal's Response	Consistency
To establish the maximum floor space ratio	<p>The proposed building works will increase the gross floor area of the building to 324.3m², representing a FSR of 1.55:1.</p> <p>The variation from the 1.5:1 FSR standard represents a gross floor area of some 11.2m², a variation of some 3.6% from the standard.</p> <p>The FSR in excess of the standard will not result in any increase in the density of the development on the land or any increase in the demands placed on the existing infrastructure serving the area.</p> <p>The extent of non-compliance from the standard is:</p> <ul style="list-style-type: none"> • minor; • imperceptible in the context of existing development in the locality; and • will not result in any adverse effect on the amenity enjoyed on surrounding properties or in the public domain. 	✓

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Statement of Environmental Effects

Objective of Standard	Proposal's Response	Consistency
To control building density and bulk in relation to the site area in order to achieve the desired future character for different areas	<p>The FSR of the building in excess of the FSR standard will result in a building with a development density and bulk which is consistent with:</p> <ul style="list-style-type: none"> • other existing and contemporary buildings in this locality; • the contribution the building makes to the character of the heritage conservation area within which it is located; and • the existing and desired future character of the area as envisaged by the objectives of the zoning and development standards applying to the land. <p>The building, as added to and altered, is to be contained within the profile and built form of the building works approved on this land by Council in Development Consent DA201900250 issued under <i>MLEP 2011</i> on 28/11/2019</p>	✓
To minimise adverse environmental impacts on adjoining properties and the public domain	<p>The FSR of the building in excess of the FSR standard will not have any adverse effects on the amenity enjoyed by residents of surrounding buildings or on people in the public domain in terms of the bulk, scale or density of the building as added to and altered.</p> <p>The proposal will not result in any adverse effects on the amenity enjoyed by occupiers or residents of surrounding properties in terms of:</p> <ul style="list-style-type: none"> • privacy; • overshadowing; • view loss; or • visual impact. 	✓

The proposal is consistent with the objectives of the FSR standard.

The standard is, therefore, unreasonable and unnecessary because its objectives are achieved notwithstanding non-compliance with its numerical value in the circumstances of this case.

3.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

The underlying purpose of contemporary town planning practice to encourage housing in business centres is to achieve a desirable urban design outcome which:

- creates an increased level of vitality and activity in centres;
- reinforces demand and viability of shops and commercial services and facilities in centres; and
- fosters and promotes the use of public transport, walking and cycling as the principal modes of private transport.

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Statement of Environmental Effects

Non-compliance with the FSR standard is a result of the 2nd floor addition which enables the establishment of an additional dwelling on the land and alterations to the internal layout of the building to improve the standard of the accommodation in the existing building, both in its commercial and residential components.

These additions and alterations will facilitate the renewal of the building and the contribution it makes to the built form and character of the heritage conservation area in which it is located.

The 2nd floor addition and alterations will increase housing opportunities in a highly accessible location:

- adjacent to major public transport services using King Street to accommodate trunk bus routes; and
- in proximity to Newtown Station.

Future residents of the building will be able to walk or cycle to the extensive array of shops and services available in the King Street commercial precinct or use the convenient public transport services to access other areas, thereby reducing the use of cars as the primary mode of private transport.

The development standards in *MLEP 2011* applying to the land and land in this part of the King Street precinct are predicated on increasing the gross floor area and height of buildings.

The proposal has been designed to achieve this in a form which:

- maintains the footprint and facades of the existing building; and
- increases gross floor area with a 2nd floor addition and internal alterations,

to establish a recessive built form with an overall building height of 10.2m, well below the 14m building height standard applying to this land.

The 2nd floor addition and alterations facilitate the establishment of an additional dwelling and, as such, are consistent with the objective for development in the B2 Local Centre zone of providing housing attached to permissible non-residential uses, of a type and scale commensurate with the accessibility and function of the King Street commercial area.

The proposal is also consistent with other zone objectives relating to:

- maximising public transport patronage and encouraging walking and cycling; and
- constraining parking and reduce car use.

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Statement of Environmental Effects

The proposed alterations and additions have been designed to:

- maintain an appropriate streetscape in King Street and to maintain the contribution the building makes to the character of the heritage conservation area in which it is located;
- ensure they do not have any adverse environmental effects on the amenity enjoyed by the occupiers of surrounding buildings or people in the public domain; and
- be consistent with the existing and desired future character of development in this locality.

The proposal:

- represents an appropriate and satisfactory design response to the opportunities and constraints offered by the site and its setting; and
- will result in the orderly and economic use and development of the land in accordance with Section 1.3(c) of the *Environmental Planning & Assessment Act 1979 (EP&A Act)*.

Accordingly,

- there are sufficient environmental planning grounds to justify non-compliance with the FSR standard; and
- the application is suitable for approval by exercising an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development, the objective of Clause 4.6 in *MLEP2011*.

4.0 OBJECTIVES OF STANDARD

A detailed assessment of the proposal in terms of the objectives of the FSR standard contained in Clause 4.4(2) of *MLEP 2011* is contained in Section 3.1.

The proposal is consistent with the objectives of the standard.

5

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*Statement of Environmental Effects***.0 OBJECTIVES OF ZONE**

A summary assessment of the proposal in terms of the objectives for development in the B2 Local Centre zone is as follows.

Zone Objective	Proposal's Response	Consistency
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area	The proposal will retain and improve the existing active commercial tenancy at the corner of King and Camden Streets operating as a café	✓
To encourage employment opportunities in accessible locations	The proposal will retain the employment opportunities offered by the existing café at the corner of King and Camden Streets located adjacent to existing public transport services using King Street	✓
To maximise public transport patronage and encourage walking and cycling	This area is well served by public transport services using King Street and the proposed development will foster and promote the use of those services	✓
To provide housing attached to permissible non-residential uses which is of a type and scale commensurate with the accessibility and function of the centre or area	The proposal will intensify the extent of residential accommodation at the upper levels of the building of a scale and type that is commensurate with the high level of accessibility enjoyed in this area and the functioning of commercial facilities in this centre	✓
To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts	The proposal will not affect spaces at street level which have active street frontages to King or Camden Streets	✓
To constrain parking and reduce car use	The proposal does not involve the provision of any car parking and will foster and promote public transport use, walking and cycling as the primary mode of private transport	✓

The proposal is consistent with the objectives for development in the B2 Local Centre zone.

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Statement of Environmental Effects

6.0 OTHER MATTERS**6.1 Concurrence of the Secretary of the Department of Planning & Environment**

The Secretary's concurrence to a variation of a standard by less than 10% may be assumed by Council in accordance with the Department's Circular PS 18-003, issued on 21 February 2018. The variation from the FSR standard is 3.6%.

6.2 Does the contravention of the development standard raise any matter of significance for State or regional environmental planning?

The variation from the FSR standard for the development does not raise any matter of State or regional environmental planning significance.

6.3 The public benefit of maintaining the development standard

There is no identifiable public benefit in maintaining the standard as the proposal is consistent with the objectives of the standard and the existing and desired future character of development in this locality.

6.4 Any other matters required to be taken into consideration by the Secretary before granting concurrence

There are no other relevant matters required to be taken into consideration relating to the Secretary's concurrence.

7.0 CONCLUSION

The FSR standard is both unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify variations from it.

The proposal is in the public interest because it is consistent with:

- the objectives of the standard; and
- the objectives for development in the B2 Local Centre zone.

The development, with the variation from the standard as proposed:

- will not result in any adverse environmental impacts;
- will not have any adverse effect on the amenity enjoyed by occupiers or residents of surrounding properties in terms of privacy, solar access, visual impact or view loss; and
- will promote the orderly and economic use and development of the land in accordance with Section 1.3(c) of the *EP&A Act*.

The proposal is, therefore, suitable for approval under the terms of Clause 4.6(2) of *MLEP 2011*, despite its variation from the numerical value of the FSR standard contained in Clause 4.4(2) of the *Plan*.

Ludvik & Associates Pty. Ltd.

Attachment E – Statement of Heritage Significance

Statement of Heritage Impact

477 King Street Newtown

for

Mr J Buda



*477 King Street from
diagonally opposite*

Prepared by:

Archnex Designs

Wentech Pty Ltd (ABN 310 735 41803) trading as Archnex Designs.

April 2021

Email: archnex@bigpond.net.au

14 Winchcombe Ave, Haberfield N S W 2043

Phone: 0425 228176

**477 King Street Newtown
Statement of Heritage Impact
Table of Contents**

Statement:

A.	Purpose of Statement	Page 1.
B.	Grounds of Statement	Page 1.
C.	Limits of Statement	Page 1.
D.	Location	Page 1.
E.	Context	Page 2.
F.	Proposed Development	Page 10.
G.	Heritage Impacts	Page 12.
H.	Conclusion	Page 18.

Appendix:

Documents

- (i) HCA 02 King Street and Enmore Road-DCP
Extract
- (ii) Primary Application 3520
- (iii) CT 179-5
- (iv) CT 262-50
- (v) CT 4318-228
- (vi) CT 5190-198
- (vii) CTRH B/18991
- (viii) DP 128
- (ix) DP 18991
- (x) Victorian Colour Scheme "E"

Archnexus Designs

Wentech Pty Ltd (ABN 310 735 41803) trading as Archnexus Designs.
Heritage Building Consultants, Interior Designers

STATEMENT OF HERITAGE IMPACT [SoHI]:

Start Date: 12 February 2021
Premises: 477 King Street Newtown
Property Description: Lot B DP 18991
Prepared By: Greg Patch
B Sc Arch, B ARCH (Hons), M Herit Cons (Hons),
14 Winchcombe Ave,
Haberfield NSW 2045
For: JLST Pty Ltd

A. PURPOSE OF STATEMENT

This statement has been prepared to assess potential heritage impacts of proposed alterations and additions to the above premises.

B. GROUNDS OF STATEMENT

The subject property is within Heritage Conservation Area [HCA] C2. This has been established through examination of map HER003 of Marrickville LEP 2011.

C. LIMITS OF STATEMENT

This statement is based on SHI data sheet 2030501, and an inspection of the place in February 2021.

D. LOCATION



1. Location of 477 King Street Newtown (Source: SIX Maps © NSW Lands 2021).

Email: archnexus@bigpond.net.au

14 Winchcombe Ave, Haberfield N S W 2045

Phone: 0425 228176

477 King St Newtown- SoHI

Issue: (14/04/21)

Page: 1

E. CONTEXT

E1. DOCUMENTARY

King St & Enmore Rd HCA2 (SHI 2030501)

The HCA is described as:

Construction years:

1870-1930

Physical description:

LOCATION: Enmore Road and the section of King Street which lies within Marrickville LGA, both extend southwest from Newtown Bridge.

DESCRIPTION:

King Street and Enmore Road are dominated by two and occasionally three storey commercial/retail buildings of the late 19th and early 20th centuries, built to the street alignment, with awnings over the footpaths. Facades above awnings are largely intact and highly detailed, particularly to parapets. The continuous 2 and 3 storey facades and the general uniformity of scale in these streetscapes create outstanding townscape qualities. Art Deco style buildings (eg. Enmore Theatre, Enmore Road) and inter war period hotels (eg. Sandringham Hotel in King Street)) also contribute to the mix of buildings. The townscape qualities are enhanced by closed vistas created by street curves. Mixed retail uses including delicatessens [sic] and post WW II changes to ground floor shopfronts reflect [sic] the strong influence of post WW II migration.

Precinct Three follows King Street from the Newtown Railway Bridge to its intersection with the Princes Highway at St Peters. The buildings are still predominantly late Victorian to early Federation.

VIEWS

Closed vistas along King Street and Enmore Road created by street curves. District views from some intersections due to King Street and Enmore Road following ridgelines.

The tall chimney stacks of the former Brickworks in Sydney Park remain a significant landmark at the southern end of King Street.

CONTRIBUTORY ELEMENTS

- intact first and second floor facades
- intricate façade detail to first and second floors including parapet decoration, statuary, stucco urns
- shopfronts with original splayed, setback entries
- trachyte kerb and guttering

NON CONTRIBUTORY ELEMENTS

- Late 20th century infill sites, including several on Enmore Road between Newtown Bridge and Reiby Street including a service station.
- modern shopfronts involving extensive use of glazing

A history is given as (in part):

The King Street/Enmore Road Heritage Conservation Area formed part of the land grants offered by Governor Phillip between 1793 and 1810. The largest owners of the lands that are part of the conservation area are Nicholas Devine and Thomas Rowley. Originally granted 100 acres in 1793, Rowley's grant, known as Kingston Farm, was enlarged twice, in 1800 and 1803, to 240 acres. By July 1841 Kingston Farm was being subdivided, when Samuel Lyons advertised a portion of the estate, the house "erected thereon, together with the several detached buildings, namely, Cooking-house, Servants' Rooms, Gig-house, Stables, & Co." (Sydney Gazette, 20 July 1841, p. 3). This area was north of Enmore Road. In 1854 a portion of Kingston Farm, south of the proposed railway line from Sydney to Parramatta and close to the site of Newtown Railway Station, was purchased by Thomas Holt, Thomas Ware Smart, Thomas Sutcliffe Mort and George Wigram Allen. The railway opened in September 1855 and in 1857 the land was subdivided into 370 allotments as the Kingston South Estate. The subdivision was not a great success and in 1861, after four years, only 16 lots had been sold and the unsold lots were distributed among the partners. It

was then resubdivided in 1863 and became the first subdivision under the provisions of the Real Property Act of 1862 (now known as Torrens Title) on 24 December 1863 as 'Holt, Smart and Mort's Subdivision of South Kingston', Deposited Plan 1.

The early surveyors used the ridgeline as the boundary between grants and their point of convergence is now the open space at Newtown Bridge.

From the 1830s onwards many wealthy families moved to the suburb of "New Town" to build large villas and estates.

Among those in this area were Mary Reiby's 1840s "Reiby House" and the 1835 John Verge-designed villa of Captain Sylvester Browne (best known as the father of novelist T.A. Browne, "Rolf Boldrewood") called "Enmore House". Both of these villas were just south of Enmore Road. A later owner of Enmore House estate, Isaac Simmons, subdivided part of the property as the "Beautiful Village of Enmore" in about 1841. In about 1847 "Stanmore House" (between Simmons Street and Reiby Street), probably designed by architect Henry Robertson, was also built for Mary Reiby.

Enmore Road was an Aboriginal walking track and was known as Josephson's Track in the 1850s. Enmore Ward was created in 1862; the name is taken from the estate owned by Captain Sylvester Brown from 1835 and the Josephsons from 1838 to 1883. Enmore is the name of a small millennium-old town in Somerset near Cornwall; Brown took the name of his employer's estate in British Guiana or Barbados in the West Indies. Following the renaming of a section of Cooks River Road as King Street in 1877, Alderman Melville proposed that Enmore Road be renamed Chelsea Street and Alderman Cozens recommended Queen Street instead. Queen Street was used from 1879 until after 1880." (Newtown Project website "Streets/Enmore Road notes:

[http://cityofsydney.nsw.gov.au/newtownproject/History of the Streets of Newt/history of the streets of newt.html](http://cityofsydney.nsw.gov.au/newtownproject/History%20of%20the%20Streets%20of%20Newt/history%20of%20the%20streets%20of%20newt.html))

"King Street (see Cooks River Road) was also called 'the Newtown Road' in the 1870s; the section between Bligh Street and Parramatta Road was named City Road in the 1920s. Cooks River Road extended from Parramatta Road to Cooks River. It was previously known as Bulanaming Road until the 1820s and informally known as Newtown Road in the latter half of the 19th century. The section between Bligh Street and St. Peters Station was renamed as King Street in October 1877." Newtown Project website "Streets/King Street notes:

[http://cityofsydney.nsw.gov.au/newtownproject/History of the Streets of Newt/history of the streets of newt.html](http://cityofsydney.nsw.gov.au/newtownproject/History%20of%20the%20Streets%20of%20Newt/history%20of%20the%20streets%20of%20newt.html))

The introduction of the railway line in 1855 with a railway station at Newtown led to increased urban development of the area. The King Street/Enmore Road area became a commercial and retail hub with increasing development from the 1860s. The 1879 Sand's Directory still shows vacant sites along Enmore Road, however by 1880 all sites are built on, generally with retail buildings but with some residences. The residences are gradually replaced after 1880 with new retail buildings.

Development continued into the 20th century with construction of a few interwar buildings such as the Enmore Theatre, and later infill development (particularly between Reiby Street and Newtown Bridge on Enmore Road).

Its significance is stated as:

The King Street and Enmore Road retail strip is of state historical, social and aesthetic significance as it provides an evocative physical record of significant historical phases which shaped the "New Town" from the late 19th to the early 20th century, and has high regard in the community. The retail strip provides evidence of the economic boom of the late 1870s/1880s, exemplified by the quality and quantity of late-Victorian period building stock.

Many of the buildings are impressive reminders of the area's role as a civic, retail and entertainment hub. The continuous 2 and 3 storey facades and the general uniformity of scale in King Street and Enmore Road create a distinct visual impression and outstanding townscape qualities. The consistency and relative intactness of the late 19th and early 20th century building stock is unique in the Sydney region and the State as a whole. A large number of Art Deco and Interwar period hotels demonstrate the highly populated, working class nature of the suburb in the early 20th century. The streetscapes of King Street and Enmore Road have high aesthetic value which is enhanced by the closed vistas created by street curves and by the views over the surrounding areas afforded by the alignment following the ridge line. Mixed retail uses, including delicatessens, and changes to shopfronts dating from the 1950s and 1960s reflect the strong influence of post-war migrants on the area. The area has social significance due its high regard in the community arising from its vibrant mix of retail and community uses.

Land Titles

The subject property is part of a 30-acre Crown Grant to James Caudell made on 8th January 1794.

Part was converted to Real Property under Primary Application 3560 made by Joshua Frey Josephson of Enmore, judge of the Western District Court on 29th October 1874, following which Certificate of Title Volume CLXXIX Folio 5 [CT 179-5] was issued to him on 20 April 1874.

Part of the land was subdivided under Deposited Plan [DP] 128 dated 12 April 1876. Lots 9 & 10 Section 1 were sold to Thomas Shannon of Newtown, licensed hawker, and CT 262-50 issued to him on 13 July 1876.

It appears Shannon had erected conjoined buildings on the land by March 1881, as part Lot 10 was leased to William James Rofe (see "International Hotel" in 1882 Sands) as of March 1882. There are 2 further leases relating to part Lot 10 endorsed on the subject title:

3 June 1887: James William Sharp of Newtown, publican.
4 October 1893: Tooth & Co. Ltd

The property was transmitted to Elizabeth Shannon, widow, Catherine Shannon and Margaret Shannon, both spinsters, of Stanmore in May 1912, with the Tooth & Co lease surrendered in June 1917, and the property then leased to Emmanuel [sp?] Bloom of Newtown, jeweller in October 1917. It was further leased to Abraham Rosen of Newtown, pawnbroker and jeweller in May 1921, and then to Martha May Magnus, wife of Philip Magnus of Newtown, salesman in July 1923, following which the title was cancelled and CT 4318-225 issued in August 1929. Elizabeth Shannon died in June/August 1929 and the property was transmitted to Catherine and Margaret Shannon.

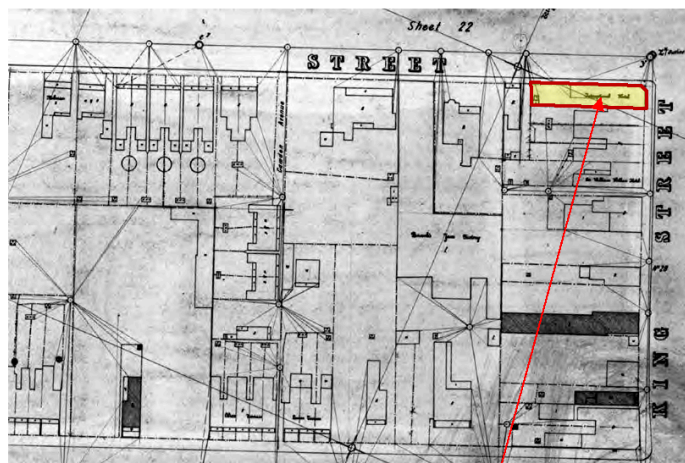
The two lots were subdivided into five lots (and a right of way) under DP 18991 dated January 1940, with the subject property becoming Lot B of that DP. The parcel was then divided, and portion transferred to Catherine and Margaret Shannon, with Lot B and the right of way [RoW] transferred to Catherine, and CT 5190-198 issued to her in November 1940. The lease to Abraham Rosen is endorsed on the title, establishing the chain of the above transactions to the subject property.

The property was transmitted to the Perpetual Trustee Company in February 1944, and there were 4 transfers up until 1982, following which the deed was cancelled and Computer Folio B/18991 created in May 1990.

There have been several leases, 2 changes of LGA and 2 transfers (2003 and 2010) since.

Sydney Water Archives

Electronic copies of Surveyor J D A Riddle's field book (June 6th [18]89) and PWD Sheet 25 for Newtown were provided by Sydney Water Archives and notes the subject property as the "International Hotel" at the time:



2. Extract PWD Sheet 22. Subject property noted "International Hotel".

Trove (<https://trove.nla.gov.au/>)

A search of Trove reveals that the "International Hotel" was one of two licensed premises in Newtown to be closed by the "Special Local Option Court" within 2 years of September 16, 1907. There was also a dispute over rectification of the condition of the hotel in Shannon-v-Tooth & Co Ltd:

NEWTOWN HOTELS.

TWO TO BE CLOSED.

WORK OF THE SPECIAL COURT.

The Special Local Option Court (Judge Backhouse, president, and Messrs. Smithers and Macfarlane, S.M.s.) gave its decision at Darlinghurst this morning in regard to the licensed houses in the Newtown electorate. The determination was that the number of hotels should be reduced by two, namely, the Somerset Hotel, Station-street, Newtown (Edward R. Davis, licensee), and the International Hotel, King-street, Newtown (Leon Chessher, licensee), which would cease to be in force after two years from the date of the taking of the vote (September 16, 1907).

The Court determined to reduce the colonial wine licences by one, and declared that the licence of Benjamin Rhodes, Wilson-street, Newtown, should cease to be in force at the end of three years from the date of the notification in the "Gazette."

The President said that the Court had great difficulty in coming to a decision with reference to the colonial wine licences, and had it not been for the fact that they were compelled to make a reduction of one, they would not have touched them at all.

DISTRICT COURT.

(Before Judge Murray.)

LEASE OF A HOTEL.

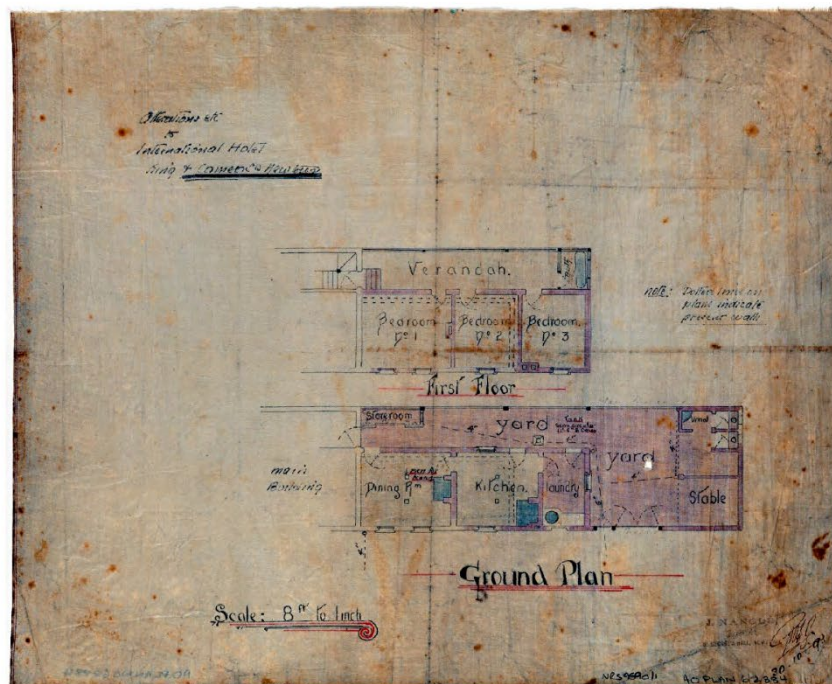
Shannon v Tooth and Co., Ltd.

Mr. D. G. Ferguson and Mr. Edwards, instructed by Messrs. Makinson and Plunkett, appeared for plaintiff; and Mr. Davies, instructed by Mr. A. B. Davies, for the defence. Plaintiff, Elizabeth Shannon, widow of Thomas Shannon, deceased, sued the defendant company to recover £100 damages for alleged breach of covenant. In her plaint she stated that her late husband died leaving, among other property, the International Hotel at Newtown. This he had leased to the defendants for 21 years, subject to certain provisions for determination of the lease in certain events which had happened. It was provided in the lease that the defendants were to keep the premises in good and tenantable repair, but when the lease was determined plaintiff said the place was not in good repair, and she had sustained losses in consequence. The defendants paid £15 into court in settlement of the claim.

His Honor reserved judgment, in order to allow of him visiting the premises.

Evening News Sydney, 26 March 1908, page 3

Sydney Morning Herald, Wednesday 15 December 1909, page 6



Alterations & Additions to the International Hotel drawn by James Nangle 1893.

E2. PHYSICAL

The place was inspected on 5 March 2021 when the following photographs were taken:



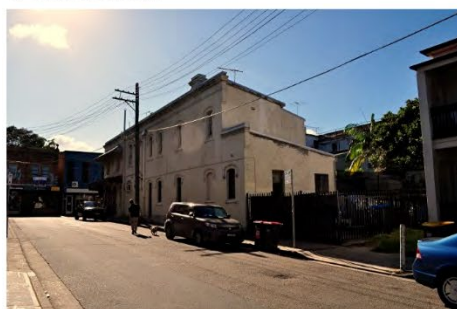
3. Subject building/adjoining shops-diagonally opposite.



4. King St frontage



5. Part Camden St. façade.



6. Rear and north-west wall from Camden street.



7. Rear wall and yard from RoW.



8. South wall from RoW- infilled former verandah.



9. 2 Camden St (part of original holding) & RoW.



10. Building to opposite corner of Camden Street.



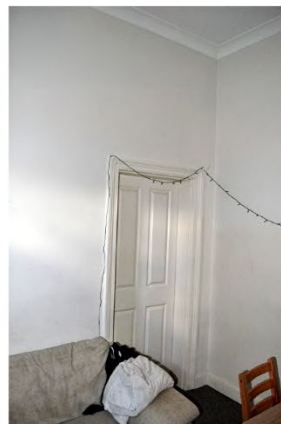
11. Interior of café- entry splay.



12. Timber flooring.



13. Fireplace- rear ground floor.



14. 4-panel reproduction door.



15. Kitchen.

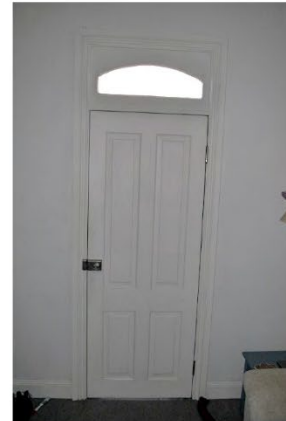
While there are remnant elements that appear to relate to the 19th century era of the building (e.g. the cast iron fireplace insert and timber chimney piece in image 13), most of the internal linings/fitments appear to be of relatively recent vintage.



15. Part kitchen & bathroom.



16. Fireplace- Interwar (?).



17. Entry door off Camden Street.

The internal fittings, joinery and plaster elements are from various eras of renovation of the interior.



18. Entry door to upstairs units.



19. Entry passage & stair.



20. Kitchen/ window to Camden St.



21. Bathroom.



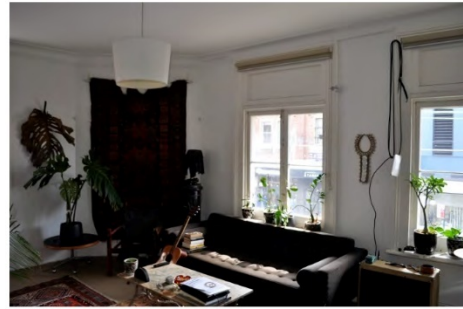
22. Blanked-off fireplace.



23. Fireplace to upper front room.



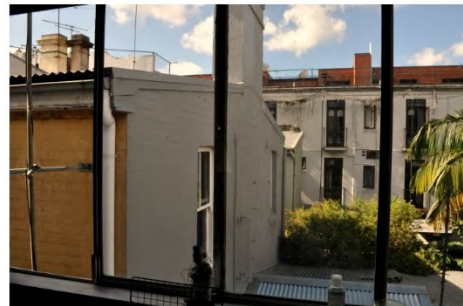
24. Window to Camden St- upper front unit.



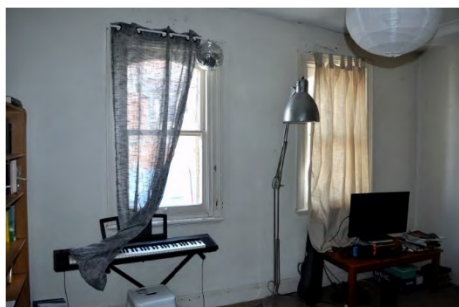
25. Corner splay and windows to King St.



26. Windows to King St.



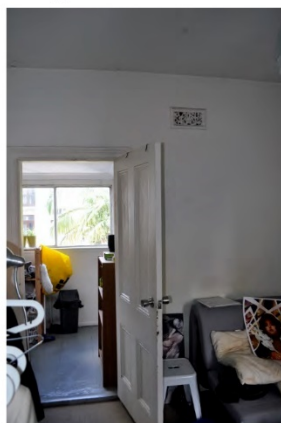
27. Upper rear unit- south wall window.



28. Upper rear unit- windows to Camden St.



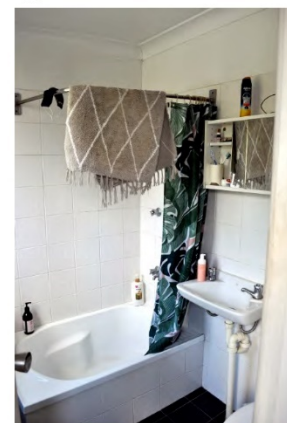
29. Plaster vent, ceiling modifications.



29. 4-panel door. Square-set ceiling.
477 King St Newtown- SoHI



30. Infilled upper verandah.
Issue: (14/04/21)

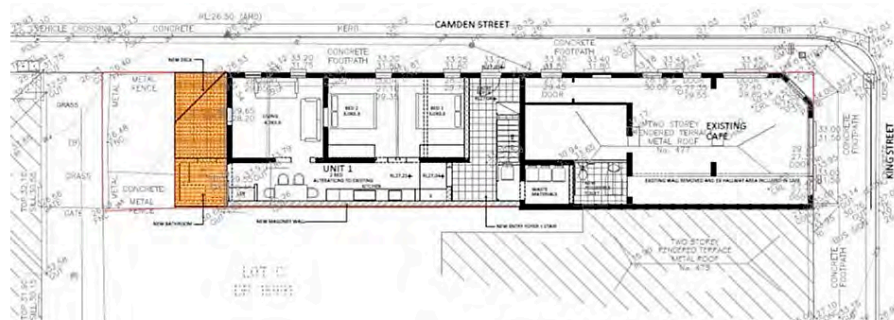


31. Bathroom- rear infilled verandah.
Page: 9

F. PROPOSED DEVELOPMENT

I have examined drawings N^os: BPA2006/Sk00; Sk1h; -/Sk2f; -/Sk3e; -/Sk4d & Sk05a prepared by Brooks Architects [BA] marked DA Issue and dated 07.04.21.

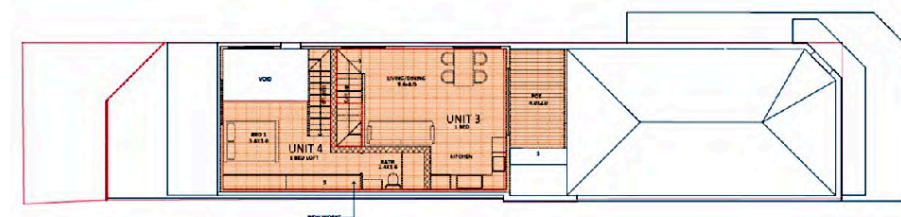
They depict proposed alterations and additions to the property:



32. Proposed Ground Floor Plan (BA dwg. -/Sk1h)



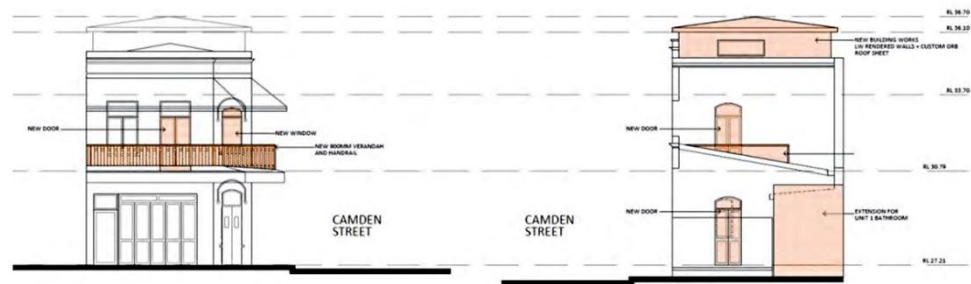
33. Proposed First Floor Plan (BA dwg. -/Sk2f)



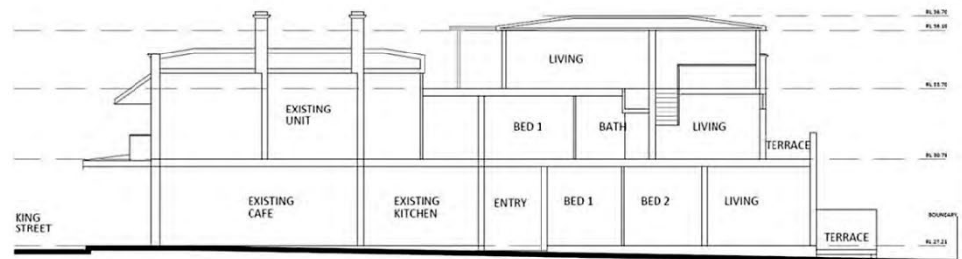
34. Proposed Second Floor Plan (BA dwg. -/Sk2f)



35. Proposed North-west Elevation (BA dwg. -/Sk3e).



36. Proposed North-east & South-west Elevations (BA dwg. -/Sk4d).



37. Longitudinal Section (BA dwg. -/Sk05a).

Proposed external paint colours include (see also notations to the North -west elevation):



38. Proposed external colour scheme (BA render 7 April 2021).

The above colour scheme is based on "Victorian Scheme E" as per the "King Street/ Enmore Road Main Street Study Heritage Paint Scheme 1991", by Rod Howard/ Neustein & Associates.

G. IMPACT OF THE PROPOSED DEVELOPMENT

The King St & Enmore Rd HCA2 is listed at:

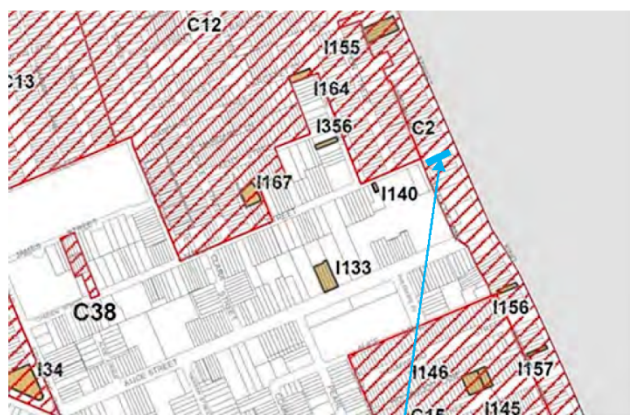
Marrickville Local Environmental Plan 2011

Schedule 5 Environmental heritage

Part 2 Heritage conservation areas

Locality	Name of heritage conservation area	Significance	Map reference
Newtown	King Street and Enmore Road	Local	C2

It is mapped as (in part):



39. Extract Map HER_003. Location of subject property.

The relevant provisions of Marrickville LEP 2011 are:

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.

Clause	Comment
(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,	
(c) to conserve archaeological sites,	
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	
(2) Requirement for consent	
Development consent is required for any of the following:	
(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):	
(i) a heritage item,	

- (ii) *an Aboriginal object,*
- (iii) *a building, work, relic or tree within a heritage conservation area,*
- (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) *disturbing or excavating an Aboriginal place of heritage significance,*
- (e) *erecting a building on land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) *subdividing land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

The proposed development entails altering the exterior of a building that is within an HCA.

(3) When consent not required

However, development consent under this clause is not required if:

Consent is required.

- (a) *the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:*
 - (i) *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*
 - (ii) *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*
- (b) *the development is in a cemetery or burial ground and the proposed development:*
 - (i) *is the creation of a new grave or monument, or excavation or disturbance of land for the purpose*

of conserving or repairing monuments or grave markers, and

(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(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).

The proposed development will have negligible physical impact on the King St/ Enmore Road HCA and will make a positive contribution to the character of the HCA through the adoption of the recommended "Victorian Colour Scheme 'E'" to the exterior.

(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 proposed development is to land that is within an HCA.

This document has been prepared having general regard to the guideline document "Statements of Heritage Impact" as published by Heritage NSW.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

The proposed development is to an ostensibly contributory building within a conservation area. The preparation of a Conservation Management Plan is not warranted by the nature of the existing building nor the proposed development.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies):

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

The subject place is not identified as being of archaeological significance.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

The subject place is not identified as being of Aboriginal significance.

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

The subject place is not identified as being of State significance.

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(10) Conservation incentives

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:

Conservation incentives are not sought.

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (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*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

Marrickville DCP

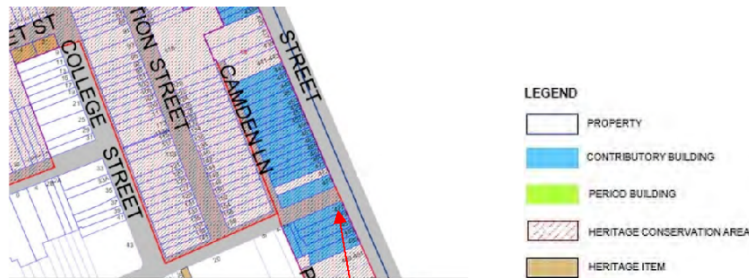
8.2.4 King Street and Enmore Road Heritage Conservation Area- HCA 2:

The DCP reiterates the identification of the extent of the HCA, and identifies contributory and "period" buildings, and heritage items:



40. King Street and Enmore Road Heritage Conservation Area - HCA 2. Location of subject property.

The property is identified as a “contributory” building:



41. Contributory Building mapping. Subject property. (Paul Davies Pty Ltd 2016).

8.2.4.2 Management policy

Having regard to the heritage significance of the King Street and Enmore Road HCA, the following policy statement encapsulates an agreed approach to the development and care of the area by Marrickville Council:

- In recognition of the heritage significance of the King Street and Enmore Road HCA and its heritage items and contributory buildings, the impact of proposed development on individual buildings as well as the character of the streetscape and the overall significance of the area must be considered as part of the assessment of all development applications in the area. A HIS must accompany all development applications involving changes to the external appearance of properties within the area, unless these are deemed to be of a minor nature and to not result in adverse heritage impacts.

Comment: this document has been prepared as a Statement of Heritage Impact.

- Evidence of the history of the area must be retained, including evidence of historical phases of development and historical uses. Former theatres, garages and hotels are of particular interest.

Comment: there is little by way of physical evidence that attests to the former hotel use of the premises.

- Development must respect the low scale and modest Victorian period character of the area.

Comment: the proposed development seeks to utilise the 13m Height of Building [HOB] control (in part only) to augment the level of accommodation through the addition of a part additional floor with a “lantern”-like element to the roof which is set behind the parapet to the rear of the building and will be of limited visibility from the streets.

- *Heritage items and buildings identified as 'contributory' must be retained and conserved.*

Comment: the subject property is identified as 'contributory' and is to be retained.

- *Significant and contributory shopfronts must be retained and conserved. Other shopfronts may either be retained or replaced unless identified as intrusive in which case, replacement is the preferred option.*

Comment: the existing timber-framed shopfront and access door to upstairs (see image 18, p8, above) appears to be of relatively recent installation (most probably mid-late 20th century) and is proposed to be replaced as a consequence of the re-planning of the café area, and relocation of the access stair to the upper levels.

- *Potential heritage items must be afforded protection pending detailed assessment of their heritage significance.*

Comment: the subject premises have been identified as "contributory" and are insufficiently intact to demonstrate the former hotel use and be elevated to heritage item status.

- *Heritage items and contributory buildings which have been structurally altered should be reconstructed to their original appearance, if possible.*

Comment: previous substantial structural alterations appear largely associated with the 1893 James Nangle works (see dwg. at page 5, above), and the previous appearance of the affected portion of the building is not known, as there are no available elevations.

- *The original form, scale and detail of existing and potential heritage items and contributory buildings must be retained and enhanced, where possible. Vertical additions to these buildings should generally not be visible from King Street or Enmore Road, unless in accordance with this DCP.*

Comment: the existing form of the building is retained largely as is, with minor changes resulting from the proposed upper rear addition, and the balcony to King Street.

- *Additions and alterations to existing buildings must be carefully controlled to retain the intactness and consistency of the streetscapes.*

Comment: the proposed addition of the cantilevered balcony under the existing upper level awning is sought to afford greater residential amenity and will not have substantive adverse impact of the contribution the building makes to the HCA.

- *Additions should generally be at the rear and have regard to their potential impact on the character of the rear lanes. Additions must not result in major changes in the scale, form or bulk of existing buildings, unless this does not affect the streetscape, including rear lanes.*

Comment: the proposed accommodation additions are to the rear and will not have adverse impacts on the character of the right-of-way and views from Camden Street.

- *Infill development must respond to and not obscure the topography of the area.*

Comment: not applicable.

- *Infill development must be fine-grained and fit its context.*

Comment: not applicable.

- *The characteristic palette of materials and colours must be used in additions and alterations and sympathetic materials and colours must be used in infill development.*

Comment: the proposed external materials will largely remain as they are, with the building painted in the colour scheme as per the "Victorian Scheme E" from the "Main Street Colour Scheme" prepared by Rod Howard/ Neustein Assoc. 1991 (see extract at the appendix).

- *Front fences (for residential dwellings) should generally be open palisade fences. Solid privacy fences shall not be permitted other than on rear lanes.*

Comment: not applicable.

- *Off-street car parking must only be provided at the rear of properties, accessed from rear lanes, unless already existing.*

Comment: not applicable.

- *Significant streetscape elements such as sandstone, trachyte and bluestone kerbs and gutters, must be retained and enhanced, where possible.*

Comment: not applicable- the kerbs and gutters are identified as “concrete”.

H. CONCLUSION

Historical research into the property has revealed that it was built as the “International Hotel” in c. 1881 and operated from 1882 up until its closure by the Special Local Option Court” in c. 1909. Substantial alterations were made to the building in c. 1893-4 to a design by architect James Nangle, and the fabric survey reveals that there have been piecemeal alterations in the ensuing years.

The proposed works seek to rationalise and improve the level and amenity of the residential accommodation, with a relatively modest “roof lantern” like addition to the upper rear of the building, and the current café use is proposed to be augmented and maintained to the footpath level at the King & Camden Street frontage, thereby keeping the interface with the street active.

In my opinion, the proposed works will not have a deleterious effect on the contribution the building makes to the character of the King Street/ Enmore Road HCA and are supportable in terms of potential heritage impacts.

Prepared by



Greg Patch
Heritage Consultant

Appendix: Documents

477 King St Newtown- SoHI

App.

Document Set ID: 35127542
Version: 1, Version Date: 23/07/2021

King Street/Enmore Road

Heritage Conservation Area HCA2

Boundary

The King Street/Enmore Road Heritage Conservation Area (HCA) in Newtown/Enmore, consists of all the properties along King Street and Enmore Road from the junction with Church Street in the north to Stanmore Road in the west and Illawarra Railway Road in the south.

Topography

The streets generally follow the ridge line slowly descending southwards to the Cooks River.

History

The area developed around the major transport routes to the south west of Sydney. Its success as a major retail area was due to its close walking proximity to Sydney, the early development of the surrounding area first by fine villa estates in the 1830's – 1860's and then by wealthy residents in the 1870's and early 1880's and latterly by the high density working class cottages and terraces of the late 1880's to the early 1900's, the arrival of the railway line and Newtown Station in 1855 and the construction of the tram lines in the 1880's all assisted in creating a convenient location for the development of a retail area.

By the end of the 19th century it was reputed to even rival Sydney centre. In 1981, Newtown was described as the great emporium for a large surrounding district.

Character of the Heritage Conservation Area

The curving retail streetscape includes some fine examples of late 19th century and early 20th century premises to both sides of the street. The central area has a group of fine civic buildings.

The building stock has a degree of integrity despite the removal of the original first and second, balconies and verandahs. Early photographs and etchings show the powerful impact that these features had on the streetscape, in creating an outstanding urban space.

The relatively unbroken rhythm of original buildings together with the streets curve and gradual slope make the area unique in Sydney and one of the few of such quality in the state.

Statement of Significance

1. The area consists of a late 19th century retail precinct which has a high degree of integrity, uniformity of scale and form.
2. The building stock represents a good collection of fine late Victorian commercial buildings which together with the streets curve and slopes makes it unique in the Sydney metropolitan area and of such quality in the NSW state.
3. The uniformity of scale and continuity of facades, awnings, articulated skyline created by elaborate parapet detailing and repetitive narrow allotments creates a fine urban space with enclosed views and vistas.
4. The continuous building pattern and rhythm to the street is only marred by a few intrusive elements and gaps to the street frontage.
5. The area has a high level of social significance for both the local area and the Sydney community. The first suburban tramway in NSW was opened between Newtown Railway Station and the corner of Illawarra Road and Marrickville Road.
6. The removal of the 1st and 2nd storey Victorian balconies to most of the buildings to comply with traffic regulations is the only major loss of original fabric and detailing in the area.



For further information and specific development controls applying to the King Street/Enmore Road HCA refer to Marrickville Development Control Plan No. 34

King Street/Enmore Road

Heritage Conservation Area HCA2



- Legend**
- HCA2 King Street / Enmore Road Heritage Conservation Area
 - ResA6, ResA7, ResA8, ResA9 Conservation Area
 - Property boundary
 - Land parcel boundary
 - Park
 - Roads
 - Council Boundary
 - + + Railway
 - Railway Station

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For further information and specific development controls applying to the King Street/Enmore Road HCA refer to Marrickville Development Control Plan No. 34

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New South Wales.



(A.)

APPLICATION TO BRING LANDS UNDER THE PROVISIONS OF THE
 REAL PROPERTY ACT (26 VICTORIA No. 9.)

CAUTION.—Applicants are reminded that by Section 132, the penalties of perjury are attached to a false declaration concerning any matter or procedure under the Act, and that the utmost care is therefore necessary in framing (or reading over, if the form be filled up by an attorney) every particular statement herein.
 It is further provided by Section 117, that any applicant procuring a Certificate through any fraud, error, omission, misrepresentation, or misdescription will, notwithstanding the issue of such Certificate, remain liable for damages to any person thereby prejudiced. And any person who fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any Certificate of Title, is declared guilty of a misdemeanor, and liable to a penalty not exceeding £500, or imprisonment not exceeding three years; and any Certificate thereby procured is rendered void as between all parties or privies to the fraud.

FEE SIMPLE.

Another form can be obtained for leaseholds.

a Here state Christian and Surname in full with residence and occupation.

b "I am," or "C.D. of" (as the case may be.)

c Here give description of the property in full. If the land consists of a Crown Grant, a diagram from the Survey Office must be procured—and on payment of a special fee of 2s. 6d. accompanying the application, this will be obtained through the Land Titles Department.

If the land comprises a portion only of a Grant, an accurate plan must accompany the application.

It is always desirable, and in many cases essential, that this plan be prepared and certified by one of the Surveyors licensed under the Act. If there be any rights of way, or other rights or easements affecting the premises, the particulars should be stated.

If the space for description be insufficient, it may be completed by annexure, which must, however, be identified as part of the declaration, by means of a memorandum signed by the declarant and attesting officer.

d If this relation be inadequate or doubtful, the applicant will be subjected to the expense of an official valuation under Section 27.

e State whether the whole or part.

f Insert Affidavit with reference to the value and extent of the land, or if the land is leased, state the terms of the lease.

g Name of Grantor.

h Name of Recipient.

i If there be any lease here state particulars; if none, strike out the words within brackets.

If any exception, here state particulars; if none, strike out the words of reference within brackets.

I, Joshua Frey Josephson of Inmore near Sydney Judge of the Western District Courts do solemnly and sincerely declare, that I am seized for an Estate in fee simple of ^{thirty three acres and fifty perches of land as shown in the diagram sent herewith signed by me and attested with the same, and was conveyed to me by Indentures of Release respectively, the one bearing date the 29 March 1852 made between Andrew Josephson of the one part and one of the other part; and the other bearing date 5 November 1850 made between Andrew Josephson of the one part and one of the other part}

which land (including all improvements) is of the value of ^{Five thousand pounds} and no more, and is ^{part of} ^{thirty three acres originally granted to John Candell by Crown grant, and is also a portion of twenty four acres originally granted to William Field by Crown grant, under the Hand of His Honor Francis Grose Esq. Lieutenant Governor of the Colony, dated the ^{ninth} day of December 1844.}

And I further declare, that I verily believe there does not exist any lease or agreement for lease of the said land for any term exceeding a tenancy for one year, or from year to year [except as follows—] ^{six acres or thereabouts portion of Candell's grant on the Edgewood road now occupied by William Wakeford under a lease for seven years about four years and a half of which is unexpired.} Also, that there does not exist any mortgage, lien, writ of execution, charge or encumbrance, will or settlement, or any deed or writing, contract, or dealing (other than such lease or tenancy as aforesaid) giving any right, claim, or interest in or to the said land, or any part thereof, to any other person than myself [except as follows—]

There never was a lease to Mr. Wakeford of the land mentioned in the above declaration.

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New South Wales.



(A.)

APPLICATION TO BRING LANDS UNDER THE PROVISIONS OF THE
 REAL PROPERTY ACT (26 VICTORIA No. 9.)

CERTAIN.—Applicants are reminded that, by Section 132, the penalties of perjury are attached to a false declaration concerning any matter or procedure under the Act, and that the utmost care is therefore necessary in framing (or reading over, if the form be filled up by an attorney) every particular statement herein.
 It is further provided by Section 117, that any applicant procuring a Certificate through any fraud, error, omission, misrepresentation, or misdescription will, notwithstanding the issue of such Certificate, remain liable for damages to any person thereby prejudiced. And any person who fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any Certificate of Title, is declared guilty of a misdemeanor, and liable to a penalty not exceeding £500, or imprisonment not exceeding three years; and any Certificate thereby procured is rendered void as between all parties or privies to the fraud.

FEE SIMPLE.*

Another form can be obtained for leaseholds.

a Here state Christian and Surname in full with residence and occupation.

b "I am," or "G.D. of," or "in" (as the case may be.)

c Here give description of the property in full. If the land consists of a Crown Grant, a diagram from the Survey Office must be procured—and on payment of a special fee of 2s. 6d. accompanying the application, this will be obtained through the Land Titles Department.

If the land comprise a portion only of a Grant, an accurate plan must accompany the application.

It is always desirable, and in many cases absolutely necessary,

that this plan be prepared and certified by one of the Surveyors licensed under the Act.

If there be any rights of way, or other rights or easements affecting the premises, the particulars should be stated.

If the space for description be insufficient, it may be completed by annexure, which must, however, be identified as part of the declaration, by memorandum signed by the Declarant and attesting Officer.

d If this valuation be inadequate or doubtful, the applicant will be subject to the expense of an official valuation under Section 277.

e State whether the whole or part.

f Insert Affidavit with reference to number and section on plan, if any, or if not, state the area granted.

g Name of Grantor.

h Name of Receiver.

i If there be any lease here state particulars; if none, strike out the words within brackets.

j If any exception, here state particulars; if none, strike out the words of reference within brackets.

I, *John Henry Stephenson of Enmore near Sydney Judge of the Western District Courts* do solemnly and sincerely declare, that "I am seized for an Estate in fee simple of *thirty three acres and fifty perches of land as shown in the diagram sent herewith signed by me and whose first therein, and was conveyed to me by indentures of Release respectively, the one bearing date the 29 March 1852 made between William Stephenson of the one part and one of the other part, and the other bearing date 5 November 1850 and between Richard Hurst of the one part and me of the other part*

which land (including all improvements) is of the value of *£1000 there and premises* and no more, and is *part of thirty acres originally granted to John Canfield by Crown grant, and is also of portion of twenty four acres*

originally granted to *William Field* by Crown grant, under the Hand of *His Honor James's Grace Bay, Lieutenant Governor of the Colony, dated the* *10th* day of *December* 1894.

And I further declare, that I verily believe there does not exist any lease or agreement for lease of the said land for any term exceeding a tenancy for one year, or from year to year [except as follows—] *six acres or thereabouts portion of Canfield's grant on the Edgewood road now occupied by William Stephenson under a lease for seven years about from 1850 and a half of which is unexpired.* Also, that there does not exist any mortgage, lien, writ of execution, charge or encumbrance, will or settlement, or any deed or writing, contract, or dealing (other than such lease or tenancy as aforesaid) giving any right, claim, or interest in or to the said land, or any part thereof, to any other person than myself [except as follows—]

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And I further declare, that there is no person in possession, or occupation of the said lands adversely to my Estate or interest therein, and that the said land is now ^{occupied by the} said ^{Mr. Matthews} of ^{Hedrair near Burwood}, by ^{the} ^{suppl. of Rose Cottage on the said land by Mr. Matthews} ^{also residing in a Cottage also on said land, by} ^{Mr. Matthews} ^{also residing in a small cottage also on the} said land -

and that the owners and occupiers of adjacent lands are as follows:—On the north by the owner or occupier mentioned in the said diagram,

and
 on the East by the Newtown road, on the South by Mrs. Agnes Vickson owner and occupier and also on the South and West by Patrick Martin owner, I believe out of the Colony.

And I further declare, that ^{I was married to my present} wife on the 18 April 1868

And I further declare, that the annexed Schedule, to which my signature is affixed, and which is to be taken as part of this Declaration, contains a full and correct list of all settlements, deeds, documents, or instruments, maps, plans, and papers relating to the land comprised in this application, so far as I have any means of ascertaining the same, distinguishing such as being in my possession or under my control, are herewith lodged, and indicating where or with whom, so far as known to me, any others thereof are deposited: Also, that there does not exist any fact or circumstance whatever material to the title, which is not hereby fully and fairly disclosed to the utmost extent of my knowledge, information, and belief: and that there is not, to my knowledge and belief, any action or suit pending affecting the said land, nor any person who has or claims any estate, right, title, or interest therein, or in any part thereof, otherwise than by virtue and to the extent of some lease or tenancy hereby fully disclosed [except as follows:—]

If any exception, state particulars; if none, strike out the words within brackets.

And I make this solemn Declaration, conscientiously believing the same to be true.

DATED at Sydney, this 29th day of October 1873

Made and subscribed by the abovenamed
 Arthur Frey Thompson
 this 29th day of Oct^r 1873,

Signature of Applicant.

in the presence of:

W. Ward. Registrar

To the Registrar General—

I, Arthur Frey Thompson the above declarant, do hereby apply to have the land described in the above declaration brought under the provisions of the Real Property Act, and request you to issue the Certificate of Title in the name of myself

DATED at Sydney, this 29th day of October 1873

Witness to Signature

W. Ward

(Signature of Applicant)

N.B.—The annexed Schedule, and the Certificate indorsed should both be also signed.

p. The declaration must be attested by the Registrar General or Deputy, or by a Notary Public, or by a Justice of the Peace.
 If the signature be by mark, the attestation must state that it was read over to the declarant, that he appeared fully to understand the contents. This applies also to the subjoined direction, particularly if a different person be nominated to receive the certificate.

applicant, say if to other name at address

07/2021

1 Here insert names and residences of adjacent owners and occupiers on each side.

iii Insert the like particulars as to the other sides of the property.

11 Here insert, "am
unmarried" or "was
married to my present
wife on the
day of 18
as the fact may be.

3 If any exception, state
particulars; if none,
strike out the words
within brackets.

DATED at Lyons this 29th day of October 1873

Asa Lewis Thompson
this 29th day of Oct^r 1873,

Signature of Applicant.

p. The declaration must be attested by the Registrar General or Deputy, or by a Notary Public, or by a Justice of the Peace.

If the signature be by mark, the attestation must state that it was read over to the declarant, that he appeared fully to understand the contents. This applies also to the subjoined direction, particularly if a different person be nominated to receive certificate.

If to Applicant, say "myself;" if to other person, write name at full length, with address and occupation.

If to two or more, state whether as joint tenants or tenants in common.

If to an infant, the name should be stated, and verified by Certificate of Baptism, or by Statutory Declaration.

If to a married woman, the name of the husband, together with his residence and occupation should be stated.

I, Wesley Fay Josephson the
above declarant, do hereby apply to have the land described in the above declaration
brought under the provisions of the Real Property Act, and request you to issue the
Certificate of Title in the name of myself

DATED at Sydney this 29th day of October 1873

Witness to Signature _____

Mark

(Signature of Applicant)

N.B.--The annexed Schedule, and the Certificate indorsed should both be also signed.

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SCHEDULE REFERRED TO.

(TO BE SIGNED BY APPLICANT.)

For the particulars which this Schedule must contain, see, concluding part of Declaration, to which particular attention is directed, as any omission or misstatement will render applicant liable to the penalty of false Declaration.

Such of the Deeds and Documents as are in applicant's possession or control, must be deposited with the application. Counterpart leases must be included, but these will be returned, if required.

If any deposited Deeds relate also to property not brought under the Act, they may be returned after partial cancellation; but of all these, abstracts or copies for retention should be furnished, and the date for the return of the originals noted.

If the only object be to comply with covenant to produce parties of record, that by specially depositing them under the 22nd Section of the 22nd Act No. 1, such covenant will be finally satisfied.

Excerpt from the will of Robert Campbell
 Senior - dated 11 Oct^r 1848
 Copy of said Will of Robt Campbell

2. Attested copy of Deed of Partition between John Campbell and others to James Norton - dated 15 April 1848

3. Attested copy conveyance of Real and personal Estate under the will of the said Robt Campbell between Charles Campbell and John Campbell and James Norton dated 16 February 1847

4. 1849. Aug 3^d original declaration of possession of land comprised in Certificate of title - made by John Campbell

5. 1849. May 28. Original declaration of possession of land comprised in Certificate of title - made by Patrick Moore

6. 1852 { original conveyance made between Mar: 29 } Arthur Jeffreys of the one part and Joshua Fry Josephson of the other part of land comprised in Certificate of title and annexed thereto a declaration by the executors of said Robt Campbell's will of payment by said A. Jeffreys of four thousand pounds

7. 1852. Mar 29 original Covenant to produce deeds made between said Arthur Jeffreys and J. F. Josephson

Josephson
 Applicant

SEE INDORSEMENT OVERLEAF

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N.B. - Section 104 requires that the following Certificate be signed by the Applicant or his Solicitor, and renders liable any person falsely so signing to a penalty of £50; also, to damages recoverable by parties injured thereby.

I certify that the within application is correct for the purposes of the Real Property Act.*

[Signature]

* If by Solicitor inserted:—“ And that I am the Solicitor of the within-named applicant;” and add his own address to his signature.

FEES.

PAYMENT OF THESE MUST ACCOMPANY THE APPLICATION.

1st.—Where the Applicant is the Original Grantee from the Crown.

Commissioners' Fee	...	...	...	...	...	...	...	...	...	£0 5 0
New Certificate	...	...	...	...	...	...	...	...	...	1 0 0
Sketch (unless furnished)	...	...	...	...	...	...	...	...	...	0 2 6
Add Assurance, ½d. in the pound on declared value	...	...	...	...	...	...	...	...	...	.....

2nd.—Where the Applicant is not the Grantee from the Crown, or being the Grantee, the Property has been dealt with by any Registered Instrument.

	Commissioners' Fee.	Advertisements.	New Certificate.	Total.
If property is of the value of £200 and under—	£0 10 0	£1 10 0	£1 0 0	£3 0 0
" " 300	1 0 0	1 10 0	1 0 0	3 10 0
" " 400	1 10 0	1 10 0	1 0 0	4 0 0
" " 500	2 0 0	1 10 0	1 0 0	4 10 0
Ditto above 500	2 10 0	1 10 0	1 0 0	5 0 0

In addition to the Assurance Fee of ½d. in the £ on the value; and 2s. 6d. for Sketch, if the whole of a Crown Grant.

☞ State to whom all correspondence relating to this Application should be sent, with address, as under, viz. :—

Name _____

Occupation _____

Full Name _____

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(C.)

New South Wales.

[CERTIF

CANCELLED

Register Book

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Appo No 3321

Joshua Gray Scrimgeour

of Emma, judge of the Western District Courts is now
 the purchaser of an estate in the County of Sydney, subject nevertheless to the reservations and conditions if any,
 contained in the grants hereinafter referred to, and also subject to such encumbrances, liens and interests as
 are notified herein in

That piece of land situated at Newtown in the Parish of Petersham and County of
 Cumberland containing thirty three acres or thereabouts commencing at the intersection of the Western Road
 and bounded on the North West by the said road running South West by three hundred and
 sixty links to land of W. Fowler; on the South West, again on the North West and on the North
 East by that land bearing South Easterly two hundred and forty links, South Easterly one hundred and fifty
 links and North Easterly two hundred and forty links to Camden Street, again on the North West by
 that street bearing South Easterly two hundred and fifty links to land of James Hall, again on the South West
 again on the North West, again on the North East by that land and land of John Jolly bearing South
 Easterly one hundred and ninety links, South Easterly one hundred links and North Easterly one hundred and
 ninety links to Camden Street, again on the North West by that street bearing South Easterly two hundred
 and fifty links to land of J. H. Linton, again on the South West and North West, by that land and
 a continued line bearing South Easterly one hundred and ninety links and South Easterly five hundred links, again
 on the North East by land of G. Hebborn bearing North Easterly one hundred and ninety links to Camden Street
 and fifty links to land of J. H. Linton, again on the South West and North West, by that land and a continued line
 bearing South Easterly one hundred and ninety links and South Easterly eight hundred and fifty links, again on the North East by
 land of L. M. bearing North Easterly one hundred and ninety links to Camden Street, again on the North West by
 that street bearing South Easterly one hundred links to land of J. Walker, again on the South West by that land
 bearing South Easterly one hundred and ninety links, again on the North West by that land and a continued line
 bearing South Easterly one hundred and fifty links, again on the North West by a line fifty links and bearing
 North Easterly one hundred and ninety links to Camden Street, again on the North West by that street
 bearing South Easterly seventy links to land of H. Farrell, again on the South West by that land bearing South
 Easterly one hundred and ninety links, again on the North West by the said land and a continued line bearing
 South Easterly one hundred and fifty links to Ridgeview Road, again on the South West by that road bearing
 South Easterly one thousand two hundred and fifty links to Wells Street, on the South East by that street
 bearing North Easterly one thousand and eighty six links to land of Patrick Macken, again on the North East
 by that land bearing North Easterly nine hundred and twenty five links, again on the South East by that
 land and land of J. A. Gibson bearing North Easterly one thousand nine hundred and two links
 to the Western Road, again on the North East by that road bearing North Easterly nine
 hundred and fifty five links to the point of commencement

As shown on the plan hereon and thereunto referred but being part of thirty acres originally
 granted to James Macdell by Crown Grant dated the eighth day of January one thousand seven
 hundred and ninety four and also part of twenty five acres, originally granted to William Field
 by Crown Grant dated the ninth day of January, one thousand seven hundred and ninety four
 which said grants are delineated in the public maps of the said Parish deposited in the
 Office of the Surveyor General.

In witness whereof I have hereunto signed my name and affixed my Seal this
 twentieth day of April 1874

Signed the 20th day of April 1874
 in the presence of

J. H. Edwards

L. M. Maxale
 Secy. Registrar General.



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N^o 12332. TRANSFER DATED 27th July 1874
 FROM THE within NAMED Joshua Gray Josephson To
 The Heirs of Joshua Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 27th July 1874 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 20377. TRANSFER DATED 30th Sept 1874
 FROM THE within NAMED Joshua Gray Josephson To
 Peter Gray Josephson and his Middleborn Son of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 30th Sept 1874 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 12367. TRANSFER DATED 22nd July 1874
 FROM THE within NAMED Joshua Gray Josephson To
 The Heirs of Joshua Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 22nd July 1874 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 20377. TRANSFER DATED 30th Sept 1874
 FROM THE within NAMED Joshua Gray Josephson To
 Peter Gray Josephson and his Middleborn Son of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 30th Sept 1874 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 12332
 see Certificate of Title No 188 Fol 169
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 20377
 see Certificate of Title No 268 Fol 34
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 12367
 see Certificate of Title No 188 Fol 170
 W. M. M. DEP REC^y GEN.

N^o 21379. TRANSFER DATED 5th July 1876
 FROM THE within NAMED Joshua Gray Josephson To Peter Gray
 Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 5th July 1876 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 1642. TRANSFER DATED 12th Oct 1874
 FROM THE within NAMED Joshua Gray Josephson To
 William Gray of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 12th Oct 1874 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 21608. TRANSFER DATED 11th Jan 1877
 FROM THE within NAMED Joshua Gray Josephson To Peter Gray
 Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 11th Jan 1877 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 1642
 see Certificate of Title No 240 Fol 37
 W. M. M. DEP REC^y GEN.

N^o 21610. TRANSFER DATED 13th Dec 1876
 FROM THE within NAMED Joshua Gray Josephson To Peter Gray
 Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 13th Dec 1876 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 18667. TRANSFER DATED 22nd Jan 1876
 FROM THE within NAMED Joshua Gray Josephson To
 Sarah Ann Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 22nd Jan 1876 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 21734. TRANSFER DATED 19th Jan 1877
 FROM THE within NAMED Joshua Gray Josephson To Peter Gray
 Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 19th Jan 1877 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

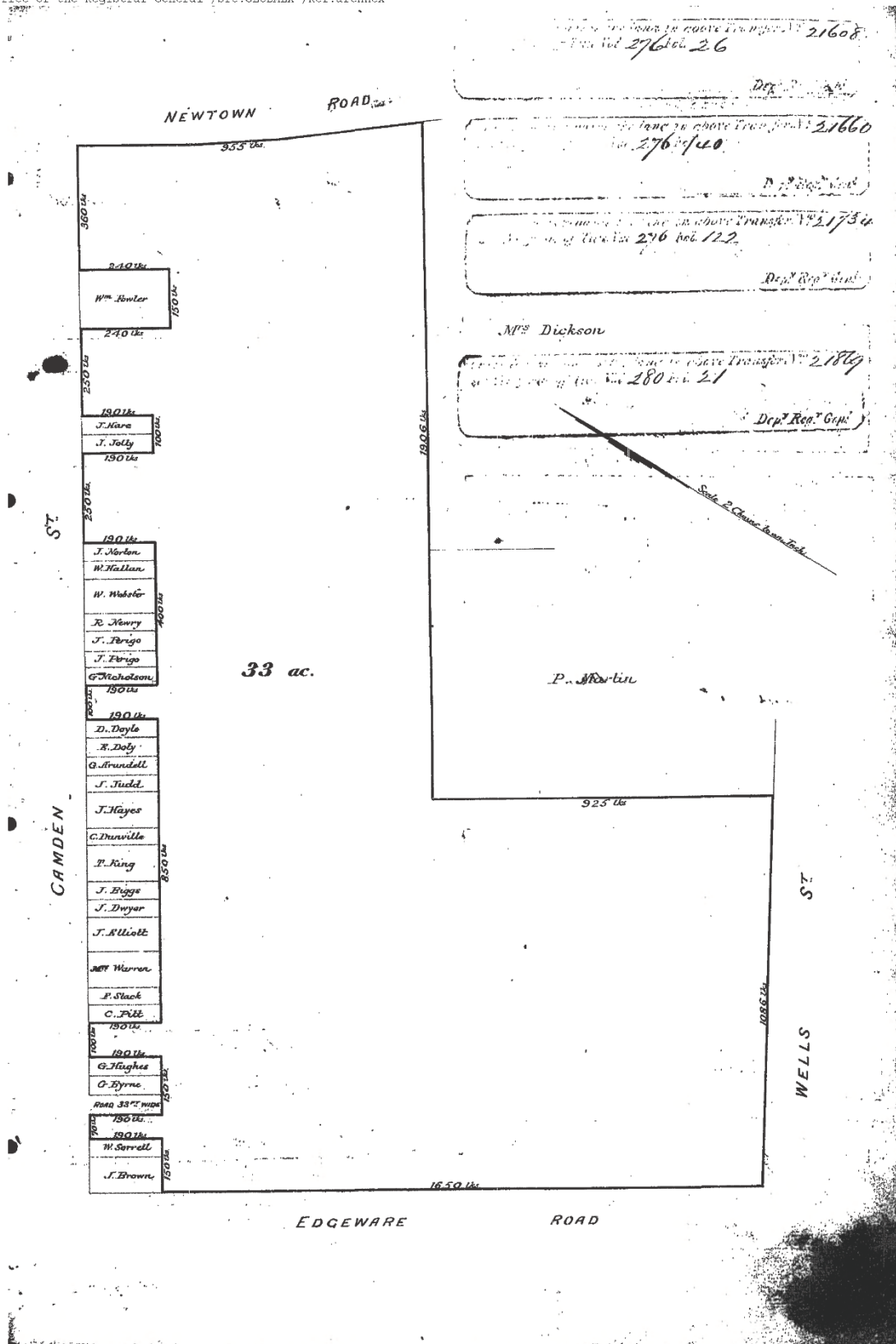
N^o 19004. TRANSFER DATED 16 June 1876
 FROM THE within NAMED Joshua Gray Josephson To
 Thomas Gray of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 16 June 1876 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

N^o 21669. TRANSFER DATED 22nd Jan 1877
 FROM THE within NAMED Joshua Gray Josephson To Peter Gray
 Josephson of the land within described
 as Parcel No 123 OF THE LAND within DESCRIBED
 PRODUCED & ENTERED 22nd Jan 1877 AT
 11 O'CLOCK IN THE fore NOON
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 18667
 see Certificate of Title No 262 Fol 18
 W. M. M. DEP REC^y GEN.

Carried as regards the land in above Transfer N^o 21577
 see Certificate of Title No 276 Fol 165
 W. M. M. DEP REC^y GEN.

Reg:R406493 /Doc:CT 00179-005 CT /Rev:17-Oct-2012 /NSW LRS /Prt:24-Feb-2021 14:13 /Seq:7 of 8
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Reg:R403690 /Doc:CT 00262-050 CT /Rev:28-Jul-2012 /NSW LRS /Prt:24-Feb-2021 10:55 /Seq:1 of 2
 © Office of the Registrar-General /Src:GLOBALX /Ref:archnex

CERTIFICATE OF TITLE

New South Wales.

(c.) *Transferee to last certificate*
Thomas SHANNON folio 5- }

REGISTER BOOK,
 VOL. 262 FOLIO 50
 CANCELLED 130

Thomas Shannon of New South Wales, Master Transferee under Instrument of Transfer from *John Joseph Thompson* (landed 1907) is now the Proprietor of an Estate in the name of *Subject nevertheless* to the provisions and conditions of any instrument in the grant hereinafter referred to, and also subject to such encumbrances, liens and interests as are depicted herein in *That piece of land situated at New South Wales in the Parish of Ashurst and County of Cumberland containing Forty five and a half acres or thereabouts as shown on the plan hereon and therein referred to being Lots 9 and 10 of Section 1 on a plan deposited in the Land Titles Office Sydney (landed 1888) and part of thirty acres delineated in the public map of the said plan deposited in the office of the Surveyor General originally granted to James Handell by Crown grant dated the Eighth day of July one thousand seven hundred and ninety five of*

In witness whereof, I have hereunto signed my name and affixed my Seal, this *thirteenth* day of *July* One thousand eight hundred and *seventy six*.

Signed the *13th* day of *July* 1876.
 in the presence of

J. W. Chyander

W. M. Munn
 Dep. Registrar General.

NOTIFICATION REFERRED TO:

N^o 32948 MORTGAGE DATED *8th March* 1879
 FROM THE above NAMED *Thomas Shannon*
 TO *The Ashurst Investment and Building Society*
 PRODUCED & ENTERED *13th March* 1879 AT
 11th 3rd O'CLOCK IN THE *Afternoon*
W. M. Munn Dep. Reg. Gen.

N^o 36506 Lease 1 DATED *31 March* 1882
 FROM THE above NAMED *Thomas Shannon*
 TO *William James Hope of part of lot 10*
 OF THE LAND *above* DESCRIBED
 PRODUCED & ENTERED *12th April* 1882 AT
 3rd O'CLOCK IN THE *Afternoon*
W. M. Munn Dep. Reg. Gen.

N^o 37005 Lease dated *17th August* 1884
 FROM THE above NAMED *Thomas Shannon*
 TO *James Moffatt of part of lot 10*
 OF THE LAND *above* DESCRIBED
 PRODUCED & ENTERED *24th August* 1884 AT
 11th O'CLOCK IN THE *Afternoon*
W. M. Munn Dep. Reg. Gen.

GA-M-DEN 11 153rd 10 35th 9 18th 8
 COOKS RIVER 12
 Sec:1
 Scale 60 Feet to an Inch

Document Set ID: 35127542
 Version: 1, Version Date: 23/07/2021

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NO 91758 MORTGAGE DATED 11th April 1885
 FROM THE WITHIN NAMED Thomas Shannon
 TO St Joseph's Investment and Building Society
 PRODUCED & ENTERED 11th April 1885
 AT 2 o'clock IN THE Afternoon
Dep. Reg. Genl.

Surrender of the within Lease No 553-23
 dated 30th March 1887 Produced and entered
3rd June 1887 at 12 o'clock noon
Dep. Reg. Genl.

NO 121890 Lease dated 31st March 1887
 FROM THE WITHIN NAMED Thomas Shannon, with consent
 of Mortgagees James William Sharp of McKinnon
Publican, of the land within described
 PRODUCED & ENTERED 3rd June 1887
 AT 12 o'clock IN THE Afternoon
Dep. Reg. Genl.

DISCHARGE OF THE WITHIN MORTGAGE NO 32971
 DATED 8 June 1888 PRODUCED & ENTERED
13 June 1888 AT 10 o'clock IN THE Afternoon
Dep. Reg. Genl.

DISCHARGE OF THE WITHIN MORTGAGE NO 91028
 DATED 8 June 1888 PRODUCED & ENTERED
13 June 1888 AT 10 o'clock IN THE Afternoon
Dep. Reg. Genl.

Surrender of the above Lease 121890 dated
21st August 1889 Produced and entered 5th
October 1889 at 2 o'clock IN THE Afternoon
Dep. Reg. Genl.

NO 216907 Lease dated 4th October 1889
 FROM THE WITHIN NAMED Thomas Shannon
 TO Andrew Johnson of McKinnon Publican
 of Part of Lot 10
 PRODUCED & ENTERED 5th October 1889
 AT 2 o'clock IN THE Afternoon
Dep. Reg. Genl.

SURRENDER OF THE WITHIN LEASE NO 216907
 Dated 22nd October 1902 Produced and
 Entered 10th November 1902 at 10 o'clock IN THE Afternoon
Dep. Reg. Genl.

NO 352080 Lease dated 22nd October 1902
 FROM THE SAID Thomas Shannon to
Booth & Co. Limited of Part of
Lot 10 in the above description
 PRODUCED & ENTERED 5th November 1902
 AT 10 o'clock IN THE Afternoon
Dep. Reg. Genl.

APPLICATION BY TRANSMISSION
 No. 17552
Elizabeth Shannon Widow, Catherine Shannon and
Margaret Shannon Joint Proprietors of the Land within described in pursuance of the above
 Application. Produced 23rd May 1912
 entered 23rd May 1912 at 10 o'clock IN THE Afternoon
Dep. Reg. Genl.

SURRENDER of the within Lease
 No. 17552 dated 15th September 1912
 Produced 23rd May 1912 and entered
12th October 1912 at 12 o'clock IN THE Afternoon
Dep. Reg. Genl.

NO 17552 Lease dated 15th September 1912
 FROM THE SAID Elizabeth Shannon, Catherine Shannon
Shannon and Margaret Shannon to
James William Sharp of McKinnon Publican
 of Part of Lot 10 in the above description
 Produced and entered 16th October 1912
 at 12 o'clock IN THE Afternoon
Dep. Reg. Genl.

NO 1687645 Lease dated 22nd March 1921
 FROM THE SAID Elizabeth Shannon, Catherine Shannon
Shannon and Margaret Shannon to Abraham Rosen of
McKinnon Publican of Part of Lot 10 in the above description
 Produced and entered 25th May 1921
 at 9 o'clock IN THE Afternoon
Dep. Reg. Genl.

NO 17552 Lease dated 15th September 1912
 FROM THE SAID Elizabeth Shannon, Catherine Shannon
Shannon and Margaret Shannon to
James William Sharp of McKinnon Publican
 of Part of Lot 10 in the above description
 Produced and entered 16th October 1912
 at 12 o'clock IN THE Afternoon
Dep. Reg. Genl.

The within Lease No. A 705700 has expired
 by effluxion of time
 Dated 15th January 1925
 Vides B 176333
Dep. Reg. Genl.

NO 176334 Lease dated 12th July 1925
 FROM THE SAID Elizabeth Shannon, Catherine Shannon
Shannon and Margaret Shannon to
Martha May Magnius wife of Philip Magnus of McKinnon
Publican of Part of Lot 10 in the above description
 Produced and entered 15th January 1925
 at 12 o'clock IN THE Afternoon
Dep. Reg. Genl.

Document Set ID: 35127542
 Version: 1, Version Date: 23/07/2021

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Appl. No. 3520
 Reference to last Certificate,
 Vol. 262 Fol. 50

New South Wales.

CERTIFICATE OF TITLE.
JOINT TENANCY.
ORDER NO. B 853160.

REGISTER BOOK.
 Vol. 4318 Fol. 228

CANCELLED

ELIZABETH SHANNON of Stanmore, Widow, and CATHERINE SHANNON and MARGARET SHANNON both of Lewisham, Spin-
 sters, by virtue of Certificate of Title Volume 262 Folio 50 now surrendered, are now the proprietors of
 an Estate in Fee Simple as Joint Tenants,
 subject nevertheless to the reservations and conditions, if any, contained in the Grant hereinafter referred to, and also subject to such
 encumbrances, liens, and interests as are notified hereon, in that piece of land situated
 in the Municipality of Newtown Parish of Petersham, and County of Cumberland
 containing Thirty five and one half perches
 as shown in the Plan hereon and therein edged red, being lots 9 and 10 of Section 1
 in Deposited Plan No. 125 and being part of 30 acres
 delineated in the Public Map of the said Parish in the Department of Lands originally granted to James Caudell by Crown
 Grant dated the 8th day of January 1794.

In witness whereof, I have hereunto signed my name and affixed my Seal, this twenty ninth day of August 1929

Signed in the presence of J. McEggar

W. H. Layton
 Registrar General

Camden St
 11
 35 1/2 perches
 9
 8
 Sec 1
 King St

Scale: 20 ft. to one inch.

NOTIFICATION REFERRED TO.

No. 56806 Lease dated the 31st day of March 1882 from
 Thomas Shannon to William James Rife of part of lot
 10 of Section 1 above described. Produced and entered
 the 12th day of April 1882 at 3 o'clock in the after-
 noon.

W. H. Layton
 Registrar General

No. A 113889 Lease dated the 1st day of April 1914 from
 Elizabeth Shannon Catherine Shannon and Margaret Shan-
 non to Emanuel Bloom of Newtown Jeweller of part of
 the land above described. Produced the 25th day of
 June 1914 and entered the 16th day of October 1917 at
 12 o'clock noon.

W. H. Layton
 Registrar General

No. A 689645 Lease dated the 22nd day of March 1921
 from Elizabeth Shannon Catherine Shannon and Margaret
 Shannon to Abraham Rosen of Newtown Pawnbroker and
 Jeweller of part of the land above described. Produc-
 ed the 2nd day of May 1921 and entered the 25th day of
 May 1921 at 3 o'clock in the afternoon.

W. H. Layton
 Registrar General

No. B 170334 Lease dated the 12th day of July 1923
 from Elizabeth Shannon Catherine Shannon and Margaret
 Shannon to Martha May Magnus wife of Philip Magnus
 of Newtown Salesman of part of lot 10 of Section 1
 above described. Produced and entered the 15th day
 of January 1925 at 51 minutes past 2 o'clock in the
 afternoon.

W. H. Layton
 Registrar General

No. B 853159 NOTICE of DEATH. Proof having been furnished
 to me of the death of the said Elizabeth Shannon
 the surviving joint Tenants of the land above described
 as now registered sole proprietors of the land within described.
 Produced and entered the 2nd day of September 1929
 at 12 o'clock in the afternoon.

W. H. Layton
 REGISTRAR GENERAL

The within mentioned LEASE No. 56806
 has expired by effluxion of time
 Dated 12th August 1929 Vind. B 863356

W. H. Layton
 REGISTRAR GENERAL

The within mentioned LEASE No. A 113889
 has expired by effluxion of time
 Dated 12th August 1929 Vind. B 863356

W. H. Layton
 REGISTRAR GENERAL

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Document Set ID: 35127542
 Version: 1, Version Date: 23/07/2021

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The within mentioned LEASE No. B864858
 has expired by effluxion of time
 Dated 18 August 1929 File B863556

W. H. Clayton
 REGISTRAR GENERAL

No. B864858 SURRENDER of the within Lease
 No. B170334 dated 29 July 1929
 Produced 15th August 1929 and entered
2nd September 1929
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. B864859 Lease dated 15th July 1929
 from the said Catherine Shannon and Margaret Shannon to Seamus William Donald of part lot 10 of the land within described
 Produced 11th January 1930 and entered
2nd September 1929
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. B864860 Lease dated 29th July 1929
 from the said Catherine Shannon and Margaret Shannon to Seamus William Donald of part lot 10 of the land within described
 Produced 11th January 1930 and entered
2nd September 1929
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. C229032 Lease dated 7th January 1930
 from the said Catherine Shannon and Margaret Shannon to Abraham Rosen of part lot 10 of the land within described
 Produced 11th January 1930 and entered
7th February 1930
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. C586396 Lease dated 7th July 1937
 from the said Catherine Shannon and Margaret Shannon to Abraham Rosen of part lot 10 of the land within described
 Produced 15th July 1937 and entered
15th August 1937
 at 12 o'clock in the afternoon.

W. H. Clayton
 REGISTRAR GENERAL

The within mentioned Leases Nos B864859, B864860 and C229032 have expired by effluxion of time
 Dated 22nd November 1940 File C942688

W. H. Clayton
 REGISTRAR GENERAL

No. C940110 TRANSFER dated 20th December 1939
 from the said Catherine Shannon and Margaret Shannon to Margaret Shannon of part lot 10 of the land within described
 Produced 11th January 1940 and entered 22nd November 1940
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. C940110 TRANSFER dated 20th December 1939
 from the said Catherine Shannon and Margaret Shannon to Margaret Shannon of part lot 10 of the land within described
 Produced 11th January 1940 and entered 22nd November 1940
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

No. C940110 TRANSFER dated 20th December 1939
 from the said Catherine Shannon and Margaret Shannon to Margaret Shannon of part lot 10 of the land within described
 Produced 11th January 1940 and entered 22nd November 1940
 at 12 o'clock in the noon.

W. H. Clayton
 REGISTRAR GENERAL

Reg:R403601 /Doc:CT 05190-198 CT /Rev:07-Aug-2012 /NSW LRS /Prt:24-Feb-2021 10:50 /Seq:1 of 2
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201. Appn. No. 3520
Reference to last certificate
Vol. 4318 Fol. 228

New South Wales.

[CERTIFICATE OF TITLE]

REGISTER BOOK.
Vol. 5190 Fol. 198

CANCELLED ☒
ON ISSUE OF NEW FOLIO 6/18991

4 S GRY

CATHERINE SHANNON, of Petersham, Spinster, Transferee under Instrument of Transfer No. C940110 is now the proprietor of an Estate in Fee Simple, subject nevertheless to the reservations and conditions, if any, contained in the Grant hereinafter referred to, and also subject to such encumbrances, liens, and interests as are notified hereon, in that piece of land situated in the Municipality of Newtown Parish of Petersham and County of Cumberland containing Eight and one quarter perches or thereabouts as shown in the plan hereon and therein edged red being lot B in Deposited Plan No. 18991, and being part of 30 acres originally granted to James Caudell by Crown Grant dated the 8th day of January 1794.

In witness whereof I have hereunto signed my name and affixed my Seal, this Twenty seventh day of November 1910.

Signed in the presence of *M. H. G. G. G.*

King St.
Camden St.

Scale: 40 feet to one inch

NOTIFICATION REFERRED TO

No. C556396 Lease dated the 7th day of July 1937 from Catherine Shannon and Margaret Shannon to Abraham Rosen of Newtown, Pawnbroker and Jeweller Produced the 18th day of July 1937 and entered the 4th day of August 1937 at 3 o'clock in the afternoon.

Registrar General.

Cross easements created by the abovementioned Instrument of Transfer No. C940110 by reason of the operation of Section 181B of the Conveyancing Act 1919-1938 in respect of the areas colored blue in plan hereon.

Registrar General.

No. 262679 APPLICATION BY TRANSMISSION
Proprietors of the land within described in pursuance of the above Application Produced the 18th day of February 1914 and entered the 18th day of February 1914 at 12 o'clock in the noon.

Registrar General.

No. 262679 CAVEAT
Produced the 18th day of February 1914 and entered the 18th day of February 1914 at 12 o'clock in the noon.

Registrar General.

No. 262679 Joint of right of conveyance
The within mentioned LEASE i.e. C556396 has expired by effluxion of time. Dated 24th April 1918. Vido.

Registrar General.

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262679 1910/11/17 262679 1910/11/17 262679 1910/11/17

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NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

SEARCH DATE

24/2/2021 10:49AM

FOLIO: B/18991

First Title(s): SEE PRIOR TITLE(S)
Prior Title(s): VOL 5193 FOL 198

Recorded	Number	Type of Instrument	C.T. Issue
2/9/1989		TITLE AUTOMATION PROJECT	LOT RECORDED FOLIO NOT CREATED
25/5/1990		CONVERTED TO COMPUTER FOLIO	FOLIO CREATED CT NOT ISSUED
21/6/1994	J369611	LEASE	EDITION 1
16/5/1997	2965473	SURRENDER OF LEASE	
16/5/1997	2965474	LEASE	EDITION 2
5/9/1997		AMENDMENT: LOCAL GOVT AREA	
26/11/1997		AMENDMENT: LOCAL GOVT AREA	
31/8/1999	6149263	DEPARTMENTAL DEALING	
23/2/2000	6588400	DEPARTMENTAL DEALING	
11/11/2002	9117771	MORTGAGE	EDITION 3
25/2/2003	9396033	DISCHARGE OF MORTGAGE	
25/2/2003	9396034	TRANSFER	
25/2/2003	9396035	MORTGAGE	EDITION 4
16/4/2003	9538988	LEASE	EDITION 5
10/4/2007	AD39935	LEASE	EDITION 6
19/5/2010	AF503482	DISCHARGE OF MORTGAGE	
19/5/2010	AF503483	TRANSFER	
19/5/2010	AF503485	MORTGAGE	EDITION 7
17/12/2011	AG669547	LEASE	EDITION 8
20/5/2014	AI591121	TRANSFER OF LEASE	
9/9/2018	AN695392	DEPARTMENTAL DEALING	EDITION 9 CORD ISSUED

END OF PAGE 1 - CONTINUED OVER

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PRINTED ON 24/2/2021

NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

SEARCH DATE

24/2/2021 10:49AM

FOLIO: B/18991

PAGE 2

Recorded	Number	Type of Instrument	C.T. Issue
1/4/2020	DP1262672	DEPOSITED PLAN	
11/7/2020	AQ190665	REQUEST	
19/1/2021	AQ729830	DEPARTMENTAL DEALING	

*** END OF SEARCH ***

archnex

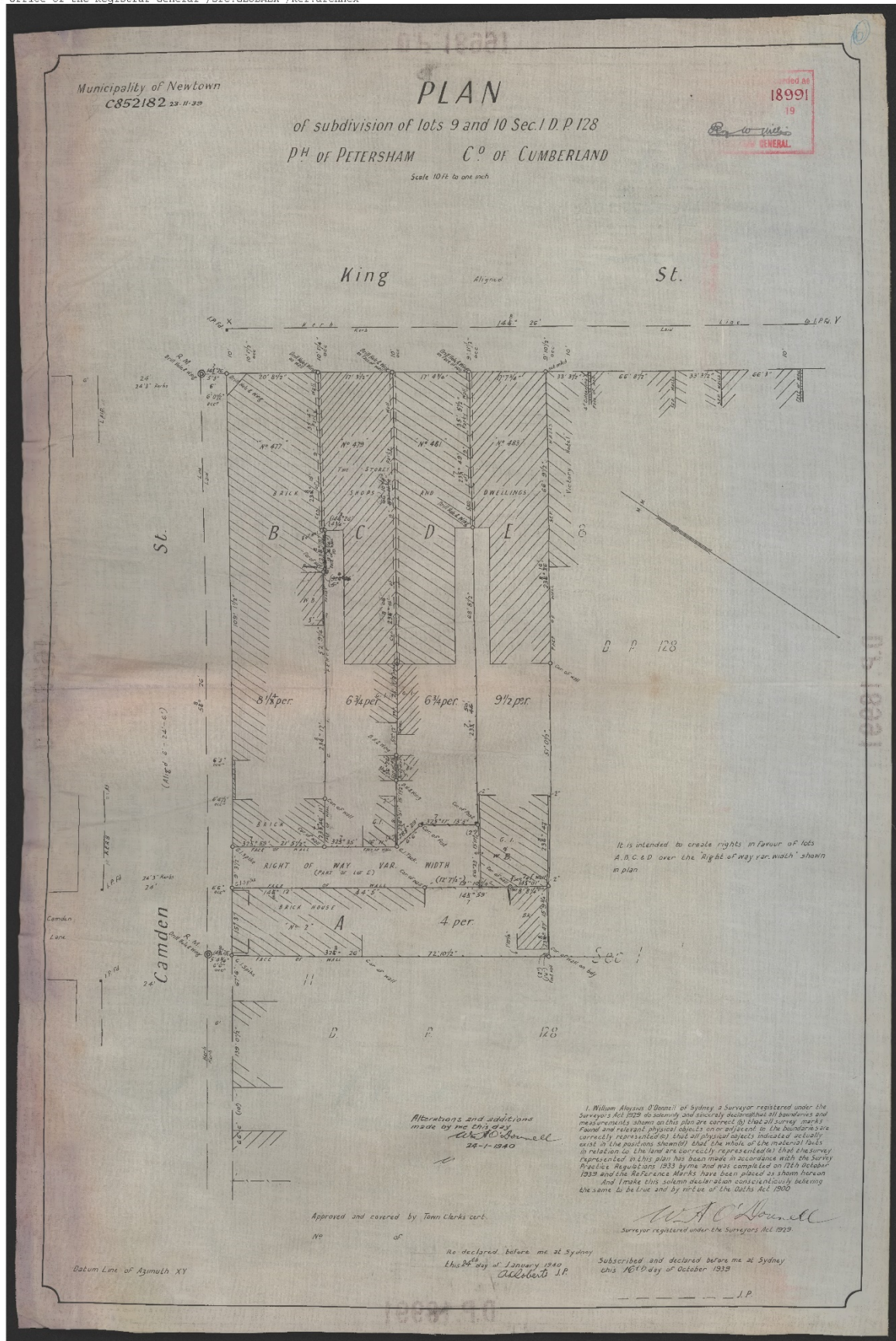
PRINTED ON 24/2/2021

Obtained from NSW LRS on 24 February 2021 09:49 AM AEST

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Req:R671141 /Doc:DP 0018991 P /Rev:15-Mar-2019 /NSW LRS /Prt:17-Sep-2020 16:10 /Seq:1 of 2
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PLAN 18991
Vector 1, Vector Table 23822031



	1 Wattyl Solagard Carlsbad Canyon 36C-1T	<p>King Street / Enmore Road Main Street Study Heritage Paint Scheme 1991 VICTORIAN SCHEME E</p> <p>Prepared by Rod Howard/Neustein & Associates for the Councils of South Sydney and Marrickville</p>
	2 Wattyl Cassel Brown 36C - 3D	
	3 Wattyl Solagard Blue Gum	
	4 Wattyl Solagard Deep Brunswick Green	

Document Set ID: 35127542
Version: 1, Version Date: 23/07/2021

Attachment F – Architectural Excellence Panel Minutes



Architectural Excellence & Design Review Panel

Meeting Minutes & Recommendations

Site Address:	477 King Street, Newtown
Proposal:	Alterations and additions to existing building including additional dwelling. Strata subdivision of existing lot into three (3) strata lots.
Application No.:	DA/2021/0642
Meeting Date:	16 November 2021
Previous Meeting Date:	None
Panel Members:	Dr Michael Zanardo – chair Jean Rice Michael Harrison
Apologies:	-
Council staff:	Niall Macken Keeley Samways
Guests:	-
Declarations of Interest:	None
Applicant or applicant's representatives to address the panel:	Peter Brooks – Architect

Background:

1. The Architectural Excellence & Design Review Panel reviewed the architectural drawings, were briefed by the Council planning officer, and discussed the proposal with the applicant through an online conference.
2. As a proposal subject to the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), the Panel's comments have been structured against the nine Design Quality Principles as set out in SEPP 65 Schedule 1 and the NSW Apartment Design Guide (ADG).
3. The Panel understands that the application relies upon existing use rights to enable the proposal of a residential flat building on this site (a prohibited use in the B2 zone under MLEP), however the appropriateness of this was yet to be confirmed by the Council planning officers. The Panel notes that its recommendations below are made 'on merit' in accordance with the relevant NSW L&EC case law (Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 58). However the Panel would also note that the planning principle on existing use rights (Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71) asks specific questions in the assessment of existing use rights developments including relating to bulk and scale and to internal amenity.



Discussion & Recommendations:

Principle 1 – Context and Neighbourhood Character

"Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions."

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change."

1. The Panel notes that the documentation is unclear. The Panel recommends that separate drawings documenting the existing building should be provided as well as clearly and completely identifying the demolition proposed in order to properly understand the application. This should include (but not be limited to) the internal layout of Unit 2, the existing layout of Unit 1, the shop stair to be removed and should identify original and early fabric. The Panel generally supports the apparent level of retention of the existing building subject to clear documentation.
2. The Panel notes that the site is a contributory item in a heritage conservation area. The Panel considers that Heritage Impact Statement does not adequately analyse the documentary and physical evidence of the existing building and its neighbours. The Panel recommends that further evidence be provided regarding the previous historic form of the building and the group it is part of. An upper-level verandah is proposed and the HIS should discuss any former verandah (if there was one), or suitable precedents for such a verandah (if there was not) to inform the design of the proposed verandah. It is noted that the two properties to the south, that were part of the same group, appear to have originally had verandahs and similarly for the building on the opposite corner on Camden St. The Panel is concerned that the verandah will be a prominent element in the streetscape and its detail is important to the outcome. Confirmation should also be provided of whether or not there is a cellar, whether or not the upper-level corner window was originally blind and had painted signage, and whether or not the café stair is original. Further heritage justification should be provided for the design approach.
3. The Panel notes that the application lacks contextual analysis. The Panel recommends that a site analysis be provided in line with objective ADG 3A-1 to demonstrate that design decisions are based on the relationship to the surrounding context, in particular to the King Street streetscape and any impacts on properties to the south. The Panel also notes the development application submission requirements of EP&A Regulations Schedule 1 (2)(5).

Principle 2 – Built Form and Scale

"Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings."

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook."

1. The Panel notes that MDCP 8.2.4.23 suggests that the built form should step down towards the rear of the property and illustrates this particular site as an example. The Panel understands that the volume of the rooftop top addition is contained within the envelope of a previous approval for the site. The Panel considers the rooftop addition to be relatively recessive in the context, including the higher building on the opposite corner on Camden St. However, the Panel notes that the documentation provided does not demonstrate the extent of any overshadowing on properties to the south. The Panel recommends that shadow diagrams be provided to aid assessment.

Principle 3 – Density

"Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context."

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment."



1. The Panel notes that the application seeks to vary the permissible floor space ratio. The Panel notes that the floor space ratio appears to be calculated based on the size of the whole lot, however the MLEP FSR Map indicates that the floor space ratio only applies to the front portion of the land and not to the rear portion where a land reservation acquisition is mapped. This may alter the proposed floor space ratio calculation and the percentage non-compliance.

Principle 4 – Sustainability

"Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation."

1. The Panel encourages that ceiling fans and natural ventilation should be provided to all habitable rooms.
2. The Panel encourages the inclusion of an appropriate rooftop photovoltaic system.
3. The Panel encourages the inclusion of a rainwater tank to allow collection, storage and reuse within the subject site.
4. The Panel recommends the inclusion of well-located screened outdoor areas for clothes drying in line with ADG 4U-1 2.

Principle 5 – Landscape

"Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks.

Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management."

1. The Panel notes that no communal open space has been provided and that the majority of private open spaces are below minimum area or dimension. The Panel notes that the space to the rear is zoned SP2 Local Road and is subject to future land acquisition. The Panel recommends further justification be provided to support this approach. The Panel considers that the ground floor café alone does not provide a suitable substitute for communal open space.

Principle 6 – Amenity

"Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility."

1. The Panel notes that King Street is mapped by TfNSW as a busy road having a traffic volume of between >20,000 and < 40,000 vehicles per day. The site is also located within an ANEF contour of 20. The Panel notes that SEPP Infrastructure 102 requires that certain sound levels must not be exceeded in residential accommodation. The Panel also notes that objective ADG 4B-1 requires that all habitable rooms are naturally ventilated. The Panel recommends that consideration be given to appropriate noise shielding or attenuation techniques as suggested by objective ADG 4J-2.
2. The Panel recommends that a skylight, if possible ventilated, be incorporated over the communal stair.
3. The Panel notes that the amenity of Unit 1 is highly compromised. The dwelling is undersized for a 2 bedroom apartment, has the kitchen and dining space within the hallway (former external side passage) with only borrowed light, one bedroom has a window with a low sill directly onto the footpath, and one bedroom is provided with only a small fanlight for light and air. The Panel



recommends amendment to this unit to improve amenity, perhaps as a 1 bedroom apartment which would not necessitate the need to extend for the bathroom. The Panel also encourages that this unit be designed to Silver Level LHDG in line with objective ADG 4Q-1. It is noted that this unit would not be permissible were the application for shop top housing.

4. The Panel notes that the Unit 3 living room floor-to-ceiling is 2.4m. The Panel recommends that the living room floor-to-ceiling be 2.7m in line with objective ADG 4C-1, particularly to allow for the use of a ceiling fan.
5. The Panel recommends that adequate storage volume be provided within each unit in line with objective ADG 4G-1.

Principle 7 – Safety

"Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety."

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose."

1. The Panel notes the waste enclosure under the stairs. The Panel recommends that this enclosure be fire rated in line with the NCC requirements and that it be appropriately ventilated. The Panel encourages that an external location may be more appropriate for both residential and commercial waste areas.

Principle 8 – Housing Diversity and Social Interaction

"Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets."

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix."

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents."

1. The Panel supports the provision of no vehicular parking on this tight urban site located close to a train station and bus routes. The Panel recommends however the inclusion of bike parking to the satisfaction of MDCP

Principle 9 – Aesthetics

"Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures."

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape."

1. The Panel notes that the materials proposed for the rooftop addition are unclear. The Panel encourages that this modest addition could be of a more contemporary design (if well detailed). The Panel also recommends that the pergola detail be reconsidered to be of a more sympathetic material and integrated with the form of the rooftop addition.

Conclusion:

The Architectural Excellence & Design Review Panel notes the applicant seeks to utilise existing use rights and seeks a variation to the permissible floor space ratio control.

The Panel recommends the proposal should only be supported once it satisfactorily demonstrates improved design quality in line with the recommendations provided in this AEDRP Report.

Note:

The SEPP 65 statement needs to be amended to apply to this property. It refers to another building with reference to 115 Victoria Rd Gladesville, side setbacks, landscaped areas and Sunnyside St. The FSR and height limits noted in the SEE differ from other documents submitted.