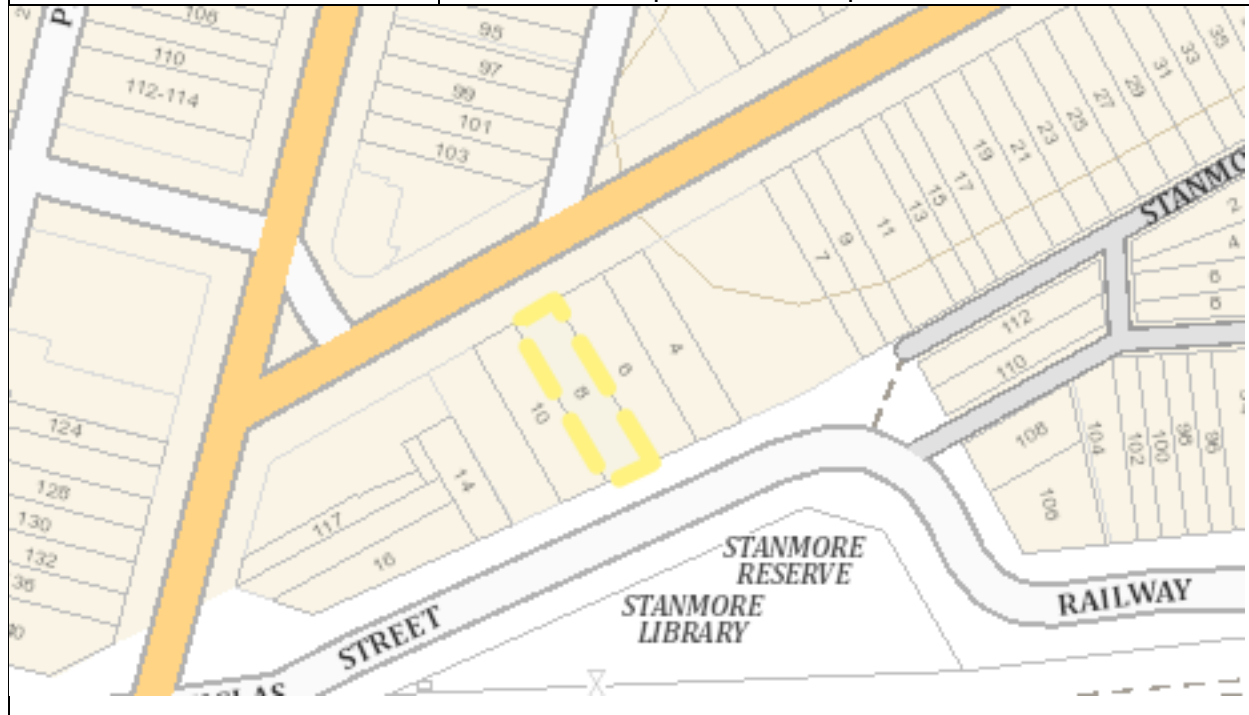




 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2021/1222
<b>Address</b>	8 Douglas Street STANMORE NSW 2048
<b>Proposal</b>	Demolition of the existing rear outbuilding. Construction of a new detached two storey outbuilding fronting Salisbury Road, to contain a studio and garage at ground level and a secondary dwelling at first floor level.
<b>Date of Lodgement</b>	9 December 2021
<b>Applicant</b>	McGregor Westlake Architecture
<b>Owner</b>	Mr George Dovas
<b>Number of Submissions</b>	Initial: 1
<b>Value of works</b>	\$245,000.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10%
<b>Main Issues</b>	Built form Heritage
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards



**LOCALITY MAP**

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of the existing rear outbuilding, construction of a new detached two storey outbuilding fronting Salisbury Road, to contain a studio and garage at ground level and a secondary dwelling at first floor level at 8 Douglas Street Stanmore.

The application was notified to surrounding properties and 1 submission was received in response to the initial notification.

The main issues that have arisen from the application include:

- Clause 4.6 request to vary the minimum site area under the Housing SEPP;
- Built form and design; and
- Impacts on heritage conservation area.

The non-compliances are acceptable subject to a condition requiring deletion of the pop out containing the w/c and relocation of the w/c to under the stairwell. Therefore, the application is recommended for approval.

## 2. Proposal

The proposal involves:

- Demolition of the existing garage;
- Construction of a two storey outbuilding containing a single car space and studio on the ground floor accessed via Salisbury Road;
- A secondary dwelling on the first floor accessed via Douglas Street;
- Removal of a palm tree in the rear yard; and
- Associated landscaping works.

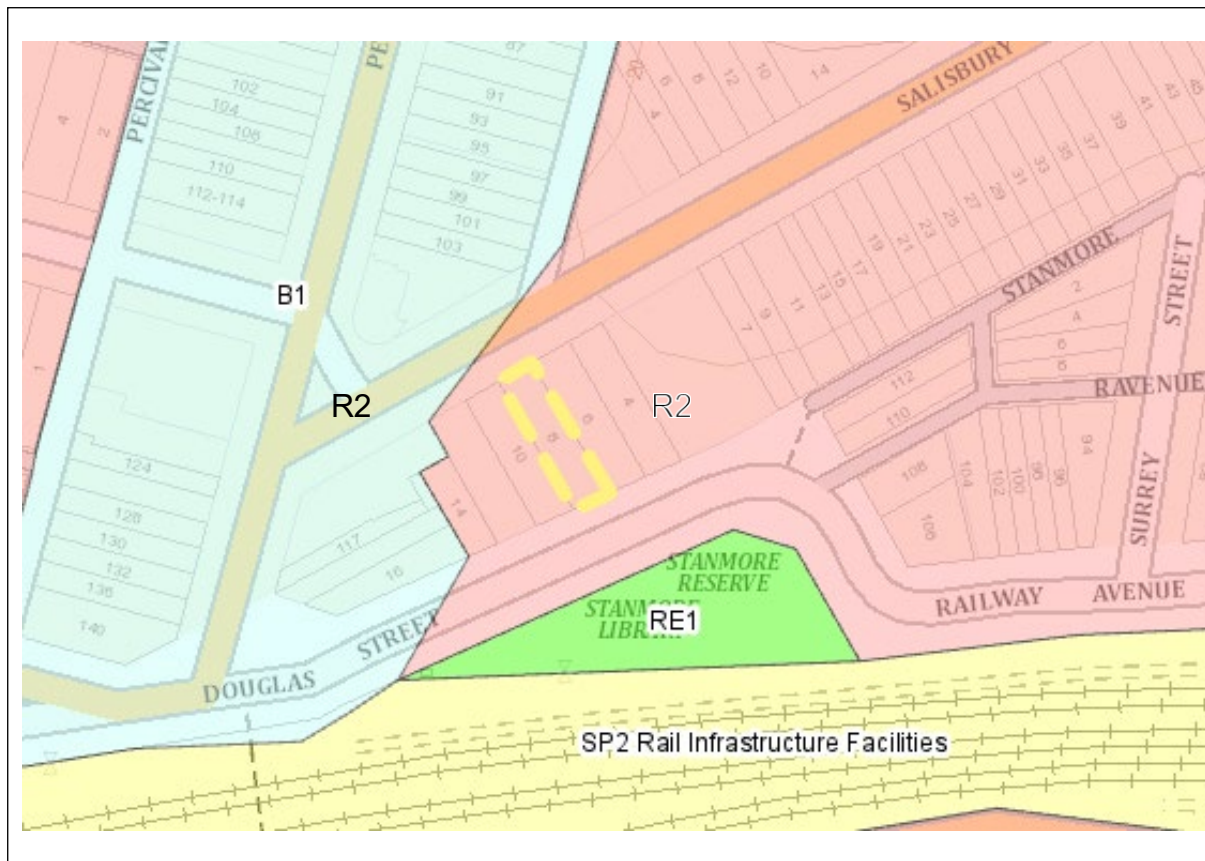
## 3. Site Description

The subject site is located on the northern side of Douglas Street, between Percival Road and Durham Street. The site consists of 1 allotment and is generally rectangular shape with a total area of 310 sqm and is legally described as Lot 41, Section T in D.P. 3782.

The site has a frontage to Douglas Street of 9.1 metres and a secondary frontage of approximately 9.1 metres to Salisbury Road.

The site supports a single storey dwelling and a single garage at the rear of the site. The adjoining properties support single storey dwelling houses.

The property is located within a conservation area namely Annandale Farm Heritage Conservation Area. There is one palm tree located in the centre of the site.



#### 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.

##### Surrounding sites

##### 6 Douglas Street Stanmore

Application	Proposal	Decision & Date
DA/2021/1100	To demolish part of the premises and carry out ground floor alterations and additions to a dwelling house	Approved 9 March 2022

4(b) Application history

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

Date	Discussion / Letter / Additional Information
2 May 2022	Additional information letter sent to applicant requesting the following: <ul style="list-style-type: none"> <li>• Clause 4.6 request to vary minimum lot size for secondary dwellings under the Housing SEPP;</li> </ul>
	<ul style="list-style-type: none"> <li>• Additional plans illustrating GFA of existing dwelling and private open space for secondary dwelling;</li> <li>• Amended plans illustrating a reduction in bulk and scale of the proposed structure; and</li> <li>• Shadow diagrams illustrating existing versus proposed overshadowing.</li> </ul>
12 July 2022	Amended plans were submitted addressing the above request. The amended plans are the subject of this assessment report.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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



In considering the above, there 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 (Building Sustainability Index: BASIX) 2004**

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

**5(a)(iii) State Environmental Planning Policy (Housing) 2021**

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

The SEPP provides controls relating to various matters including floor space ratio, site area and parking requirements. The proposal includes a secondary dwelling on the first floor. The development is subject to Chapter 3, Part 1 of the Housing SEPP which allows for secondary dwellings to be carried out with consent.

The main standards relating to secondary dwellings contained in the Housing SEPP are addressed below:

Clause	Standard	Proposed	Compliance
52 (2)(a) – Number of dwellings	No dwellings other than principal and secondary dwelling are permitted	The development proposes a principal dwelling and secondary dwelling only on the site.	Yes
52 (2)(b) – Floor area	217sqm floor area permitted under LEP for site	154sqm (0.5:1) gross floor area proposed	Yes
52 (2)(c) – Total Floor Area	Maximum 60sqm floor area permitted for secondary dwelling	The secondary dwelling has a floor area of 28sqm	Yes
53 (2)(a) – Minimum site area	Minimum site area of 450sqm	The site has an area of 310sqm which doesn’t comply with the minimum site area under the Housing SEPP.	No. See discussion under Clause 4.6 of MLEP 2011.
53 (2)(b) – Parking	Existing car parking space must be maintained	The site maintains the existing car parking space on the site.	Yes

The proposed development is consistent with Chapter 3, Part 1 of the Housing SEPP except for the minimum site area requirements. The development proposes a variation to the minimum site area required by Clause 53(2)(a) of the Housing SEPP under Clause 4.6 of the MLEP 2011. This matter is discussed in more detail below under Clause 4.6 of MLEP 2011.

5(a)(iv) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

Chapter 2 Vegetation in non-rural areas

Chapter 2 concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of MDCP 2011.

The application seeks the removal of vegetation from within the site. The application was referred to Council’s Tree Management Officer who raised no objections to the removal of the palm tree and identified no neighbouring trees would be impacted.

Overall, the proposal is considered acceptable with regard to the SEPP and Part 2.20 of MDCP 2011 subject to the imposition of conditions, which have been included in the recommendation of this report.

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

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- 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 5.10 - Heritage Conservation
- Clause 6.1- Earthworks
- Clause 6.5 - Development in areas subject to aircraft noise

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

Standard	Proposal	non compliance	Complies
<b>Height of Building</b> Maximum permissible: 9.5 m	6.46 m	NA	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 or 217.21 sqm	0.5:1 or 154 sqm	NA	Yes

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

The site is zoned R2 low density residential under the *MLEP 2011*. The *MLEP 2013* defines the development as:

*“dwelling house means a building containing only one dwelling.”; and*

*“secondary dwelling means a self-contained dwelling that—*

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and*
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”*

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R2 zone.

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard: Clause 53(2)(a) – Non-discretionary development standards – the Act, s 4.15 of the Housing SEPP

The applicant seeks a variation to the non-discretionary development standards development standard (minimum site area) under Clause 53(2)(a) of the Housing SEPP by 31% (139.7sqm).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *Marrickville Local Environmental Plan 2011* below.

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

- The proposed building typology is common within the Inner West LGA being a secondary dwelling located above a garage;
- The secondary dwelling provides adequate internal amenity for residents of the secondary dwelling and the principal dwelling;
- The development complies with the FSR and height controls under the MLEP 2011;
- The development complies with the landscaping, solar access and privacy controls under MDCP 2011;
- The development is consistent with the objectives of the zone in that it provides additional housing opportunities compatible with the streetscape; and
- The proposal does not result in unreasonable and adverse impacts on the adjoining properties.

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

The site is located within an R2 Low Density Residential zone and the objectives of the zone are as follows:

Zone Objectives

- *"To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents."*

It is considered the development is in the public interest because it is consistent with the objectives of the R2 Low Density Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* as the development is consistent with the zone objectives in that it provides for the housing needs while maintaining the low density character and nature of the surrounding area. Furthermore, the proposal is for a secondary dwelling located above a garage which is consistent with the nature of development in the surrounding streets and area.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the *Marrickville Local Environmental Plan 2011*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from non-discretionary development standards under Clause 53(2)(a) and it is recommended the Clause 4.6 exception be granted.

Clause 5.10 – Heritage Conservation

The subject site is a contributory building within the Annandale Farm Conservation Area (HCA 6). The development has largely been designed to respond to the significance of the conservation area and preserve contributory elements and fabric of the existing building. Notwithstanding, the proposed development includes a W/C that 'pops out' from the main form of the proposed garage/secondary dwelling. Council's Heritage Advisor has reviewed the proposal and concluded that the southern façade of the garage/secondary dwelling has not taken cues from the scale, proportion and materials of the existing dwelling on the site and as such detracts from the significance of the existing contributory building on the site. Therefore, the proposed addition, particularly the southern elevation of the structure is considered to result in adverse impacts on the heritage conservation area as it does not provide a sympathetic addition to the site.

Given the circumstances, a condition has been included on the recommendation requiring the relocation of the w/c to under the stairwell and deletion of the pop out from the proposed structure.

Subject to compliance with the above, the development preserves the environmental heritage of the Inner West in accordance with the provisions of Clause 5.10 of MLEP 2011.

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 as follows: A condition has been included in the development consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal’s compliance with the relevant provisions Cl. 6.3 of MLEP 2011.

5(b) Draft Environmental Planning Instruments

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

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The development is considered acceptable 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 of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.10 – Parking	Yes – see discussion
Part 2.18 – Landscaping and Open Space	Yes – see discussion
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes – see discussion
Part 2.25 – Stormwater Management	Yes – see discussion
Part 4.1 – Low Density Residential Development	Yes – see discussion
Part 8 – Heritage	Yes – see discussion

The following provides discussion of the relevant issues:

Part 2 – Generic Provisions

Control	Proposed	Compliance
Part 2.1 – Urban Design	<ul style="list-style-type: none"> <li>• The proposal does not impact the definition between the public and private domain and is appropriate for the character of the locality given its form, massing, siting and detailing; and</li> <li>• The proposal preserves the existing character of the streetscape, as the development is located at the rear of the site.</li> </ul>	Yes
Part 2.6 – Acoustic and Visual Privacy	<ul style="list-style-type: none"> <li>• The proposal includes windows and a balcony that overlook Salisbury Road with no direct views into surrounding private open space or living areas.</li> <li>• The windows and balcony are adequately setback from adjoining properties to minimise overlooking impacts;</li> <li>• The proposed balcony is of a size that does not lend itself to be used for extended periods for entertainment and as such will not result in overlooking impacts;</li> </ul>	Yes
	<ul style="list-style-type: none"> <li>• The proposed side facing windows will be screened with privacy screening to minimise overlooking impacts.</li> </ul>	
Part 2.7 – Solar Access and Overshadowing	<ul style="list-style-type: none"> <li>• The development maintains existing levels of solar access to principal living areas and private open space of the adjoining properties;</li> <li>• The adjoining properties are largely as existing overshadowed by structures on their own site and as such the development will not result in adverse amenity impacts as a result of overshadowing;</li> <li>• At least one habitable room of the dwelling has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; and</li> <li>• The private open space provided for the dwelling house receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.</li> </ul>	Yes
Part 2.10 – Parking	<ul style="list-style-type: none"> <li>• One car parking space is proposed which complies with the requirements.</li> </ul>	Yes



Part 2.18 – Landscaping and Open Spaces	<ul style="list-style-type: none"> <li>• The entire front setback is to consist of pervious landscaping with the exception of the pathway;</li> <li>• The Landscape Plan identifies that a minimum of 62 sqm, being 20% of the total site area, with no dimension being less than 3 metres is to be retained as private open space for the principal dwelling;</li> <li>• In excess of 50% of the private open space is to be maintained as pervious landscaping; and</li> <li>• The plans submitted with the application illustrate an area of 4 metres by 4 metres of private open space is retained for the secondary dwelling setback by at least 4 metres from the principal dwelling.</li> </ul>	Yes
Part 2.21 – Site Facilities and Waste Management	<ul style="list-style-type: none"> <li>• The application was accompanied by a waste management plan in accordance with the Part; and</li> <li>• Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal.</li> </ul>	Yes
Part 2.25 – Stormwater Management	<ul style="list-style-type: none"> <li>• Standard conditions are recommended to ensure the appropriate management of stormwater.</li> </ul>	Yes, subject to conditions

Part 4 – Low Density Residential Development

Control	Assessment	Compliance
Part 4.1.5 – Streetscape and Design	<ul style="list-style-type: none"> <li>• The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape; and</li> <li>• The proposal is a contemporary design that complements the character of the area.</li> </ul>	Yes
Part 4.1.6 – Built form and character	See discussion below table.	Yes
Part 4.1.7 – Car Parking	<ul style="list-style-type: none"> <li>• The garage and car parking space comply with the design requirements and minimum dimension for car parking within Part 2.10 of MDCP 2011;</li> <li>• The garage is located to the rear of the site and is safely and conveniently located for use;</li> <li>• The design of the garage is appropriate to the dwelling house and the presentation of the garage to the laneway is consistent in height and form with other approved development in the laneway; and</li> <li>• The location of the driveway is suitable within the laneway and will not impact traffic or parking.</li> </ul>	Yes

<p>Part 4.1.7.5 – Loft Structures Over Garages</p>	<ul style="list-style-type: none"> <li>• The proposal complies with the overall height, FSR, landscaping and parking requirements of this DCP and MLEP 2011;</li> <li>• The development will have minimal adverse impact on amenity of the subject property, neighbouring properties and the public domain;</li> <li>• The bulk and scale of the overall structure is not dominant when compared with structures along Salisbury Road or the houses in the locality; and</li> <li>• The structure does not adversely affect the character of the street or laneway.</li> </ul>	<p>Yes</p>
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Consideration of non-compliances

*Objective O10, Control C8 and C11 - Part 4.1.6 MDCP 2011– Built form and character*

The proposal does not comply with the requirements of control C8 and C11 within Part 4.1.6 of the Marrickville Development Control Plan 2011 which requires 1.5 metre setbacks for secondary dwellings and for secondary dwellings to be compatible with the scale of development in the vicinity. The relevant objectives to consider in relation to the variation is objective 10 within Part 4.1.6 of the Marrickville Development Control Plan 2011.

The proposed development includes a W/C that ‘pops out’ from the main form of the proposed garage/secondary dwelling, as discussed earlier in this report a condition is recommended to be imposed to delete this element and provide the WC the staircase. The secondary dwelling proposed would have nil side boundary setbacks to the ground floor side boundaries and nil

on the western side of the first floor and 1.1m on the eastern side with the exception of the awning. It is considered unnecessary for the awning and for the balcony facing Salisbury Road to encroach into the side setback given it extends out over the planter bed on the ground floor. As a result, a condition is recommended to remove this element of the first floor that encroaches into the northern side boundary.

Given the site is in a unique position between medium-high density structures along Salisbury Road, which are built to the boundary and ranging between 1-5 storeys, the nil boundary setbacks and two storey scale of the secondary dwelling in this instance is considered a reasonable outcome for the site. Amended plans during the assessment of the application reduced the height slightly and introduced brickwork to more of the upper level to improve its visual bulk from adjoining properties. Overall, the amendments, combined with the proposed condition to delete the pop-out and awning in the eastern side setback will result in a detached structure that is of a scale and form that will enhance the Salisbury Road streetscape it sits in and will not result in any detrimental impacts to the quality of the streetscape.

Part 8 – Heritage

<i>Part 8 - Heritage</i>		
Part 8.2.8 – Annandale Farm Heritage Conservation Area – HCA 6	There are no controls relevant to the proposal. The subject site is located in a mixed residential HCA (Type B) and the relevant objectives and controls are outlined below.	Noted.
Part 8.3.2.1 – Public domain elements	<ul style="list-style-type: none"> <li>Public domain elements will be protected by consent condition.</li> </ul>	Yes, subject to condition.
Part 8.3.2.3 – Building setbacks	<ul style="list-style-type: none"> <li>The original front building setback is to be retained by the proposal.</li> </ul>	Yes.
Part 8.3.2.4 – Building heights	<ul style="list-style-type: none"> <li>The proposed height is considered compatible with the existing dwelling and character of the area.</li> </ul>	Yes.
Part 8.3.2.5 Building form	Subject to the recommended condition to delete the WC pop-out, the development is considered to have an appropriate building form for the HCA	Yes, subject to condition
Part 8.3.2.6 Roof form	<ul style="list-style-type: none"> <li>The proposed roof form is compatible with the existing roof form and will not detract from the existing contributory building.</li> </ul>	Yes.
Part 8.3.2.9 – Windows and doors	<ul style="list-style-type: none"> <li>The front door is proposed to be retained in its original position; and</li> <li>The size and location of existing original window on the principal facade is to be retained.</li> </ul>	Yes
Part 8.3.2.10 – Façade materials	The incorporation of further brickwork to all elevations is considered a positive association and relationship to the existing contributory building and streetscape.	Yes
Part 8.3.2.13 – Car parking	The development provides driveway access from the rear lane which is compatible with surrounding development and maintains original access to the site.	Yes

5(e) The Likely Impacts

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

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

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

#### 5(g) Any submissions

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

1 submission was received in response to the initial notification.

The following issues raised in submissions have been discussed in this report:

- Overshadowing impacts– see Section 5(d)

#### 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 not contrary to the public interest.

## 6 Referrals

#### 6(a) Internal

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

- Development engineer;
- Heritage; and
- Tree management officer.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$17,011.80 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest subject to the imposition of appropriate conditions.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the site area development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/1222 for Demolition of the existing rear outbuilding, construction of a new detached two storey outbuilding fronting Salisbury Road, to contain a studio and garage at ground level and a secondary dwelling at first floor level at 8 Douglas Street, Stanmore subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

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

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A-0000 C	Cover Sheet	1 June 2022	McGregor Westlake Architecture
A-1000 C	Site Plan (Roof Plan) and Section	1 June 2022	McGregor Westlake Architecture
A-1100 C	Existing/Demolition Plan	1 June 2022	McGregor Westlake Architecture
A-2000 C	Proposed Plans - Ground and First Floor	1 June 2022	McGregor Westlake Architecture
A-3000 C	Elevations - Street and Rear	1 June 2022	McGregor Westlake Architecture
A-3001 C	Elevations - Sides	1 June 2022	McGregor Westlake Architecture
A-4000 C	Section	1 June 2022	McGregor Westlake Architecture
A- 7000 C	Materials and Finishes Schedule	1 June 2022	McGregor Westlake Architecture
1256731S	BASIX Certificate	16 November 2021	BCA Energy
210720R1 Rev 2	Aircraft Noise Impact Assessment	28 September 2021	Rodney Stevens Acoustics



As amended by the conditions of consent.

**DESIGN CHANGE**

**2. Design Change**

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

- a. Deletion of the pop out w/c on the ground floor southern elevation;
- b. Relocation of the ground floor w/c under the staircase; and
- c. Deletion of the first floor awning within 1.1 metres of the eastern side boundary.

**FEES**

**3. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$8,432.00
<b>Inspection Fee:</b>	\$350.00

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not

completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

#### 4. 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 \$17,011.80 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 18/07/2022. \*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	14,712.25
Community Facilities	1,716.17
Traffic Facilities	249.82
Plan Administration	333.56
<b>TOTAL</b>	<b>17,011.80</b>

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.

**5. 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**

**6. Tree Protection**

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent throughout the development:

Tree No.	Botanical/Common Name	Location
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1	<i>Magnolia X soulangeana</i> (Saucer Magnolia)	Rear
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Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed.

**7. Works to Trees**

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
<i>Dracaena marginata</i> (Dracaena) Rear	Remove
<i>Archontophoenix alexandrae</i> (Alexander Palm) Rear	Remove

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

**8. Stormwater Drainage System – Simple**

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

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. No concentration of flows or nuisance to other properties.

**9. Waste Management Plan**

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

#### **10. Erosion and Sediment Control**

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

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

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

### **PRIOR TO ANY DEMOLITION**

#### **12. 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.

#### **13. Dilapidation Report**

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

#### **14. Advising Neighbours Prior to Excavation**

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining

allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

#### **15. 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**

#### **16. 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.

#### **17. Parking Facilities - Domestic**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- b. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements;
- c. The garage must have minimum clear internal dimensions of 5400 x 3000 mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- d. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces;
- e. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other



direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004; and

- f. The external form and height of the approved structures must not be altered from the approved plans.

**18. 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*

**19. Acoustic Report – Aircraft Noise**

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

**DURING DEMOLITION AND CONSTRUCTION**

**20. Tree Protection Zone**

To protect the following tree/s, no work must commence until its/their Protection Zone is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*. The fence/s (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site.

Tree No.	Botanical/Common Name	Radius in metres
1	<i>Magnolia X soulangeana</i> (Saucer Magnolia)	3 metres

**21. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

**22. 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****23. Certification of Tree Planting**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of two (2) x 75 litre size replacement trees, one (1) being an *Archontophoenix alexandrae* (Alexander Palm), the other achieving a minimum mature height of six (6) metres, have been planted in a suitable location within the property at a minimum of 1.5 metres from any boundary, 2 metres from the building or garage and allowing for future tree growth. The tree stock is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

**24. 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.

**25. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

**26. Parking Signoff – Minor Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

**27. Aircraft Noise –Alterations and Additions**

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

**ON-GOING****28. Tree Establishment**

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

**ADVISORY NOTES****Consent of Adjoining property owners**

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is

the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

#### **Arborists standards**

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

#### **Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

#### **Tree Pruning or Removal (including root pruning/mapping)**

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports*.

#### **Permits**

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

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

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

#### **Insurances**

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

#### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2021*.

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

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

#### **Storage of Materials on public property**

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

#### **Toilet Facilities**

The following facilities must be provided on the site:

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

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

#### **Infrastructure**

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

#### **Other Approvals may be needed**

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

#### **Failure to comply with conditions**

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

#### **Other works**

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

#### **Obtaining Relevant Certification**

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;



- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

#### **Disability Discrimination Access to Premises Code**

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

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

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

#### **Notification of commencement of works**

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

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

#### **Dividing Fences Act**

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

#### **Permits from Council under Other Acts**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in

accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

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

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

#### **Noise**

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

#### **Amenity Impacts General**

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

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

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

**Dial before you dig**

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

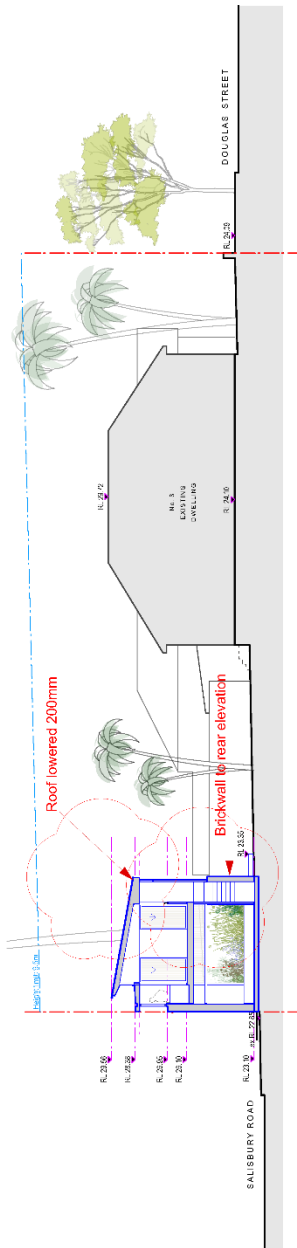
**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm
	<a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20
	<a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>
	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100
	<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660
	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441
	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406
	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a>
	<a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a>
	Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555
	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92

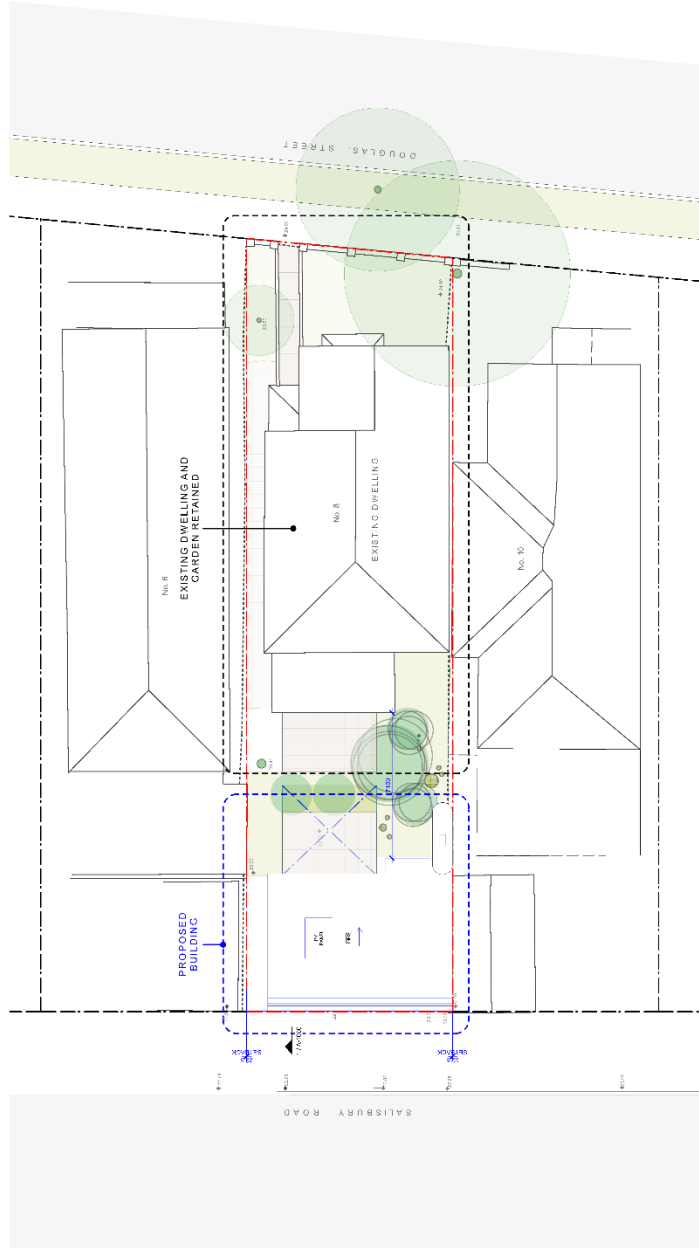
[www.sydneywater.com.au](http://www.sydneywater.com.au)  
Waste Service - SITA 1300 651 116  
Environmental Solutions [www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)  
  
Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)  
  
WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)  
Enquiries relating to work safety and asbestos removal and disposal.

**REASONS FOR REFUSAL**





1 Site Section  
1:200



2 Site Plan  
1:200



ABN 74 090 196 066 Nominated architect Peter McGrath 7243  
 10/100 Westlake Drive NSW 1585  
 T 612 9211 6151 F 612 9281 3171 studio@mwarchitects.com.au  
 www.mwarchitects.com.au  
 Document Set ID: 3552374  
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ISSUE	DATE	REVISION
A	23/11/21	Development Application Issue
B	23/5/22	DA amendments for council
C	18/9/22	Council Amendments

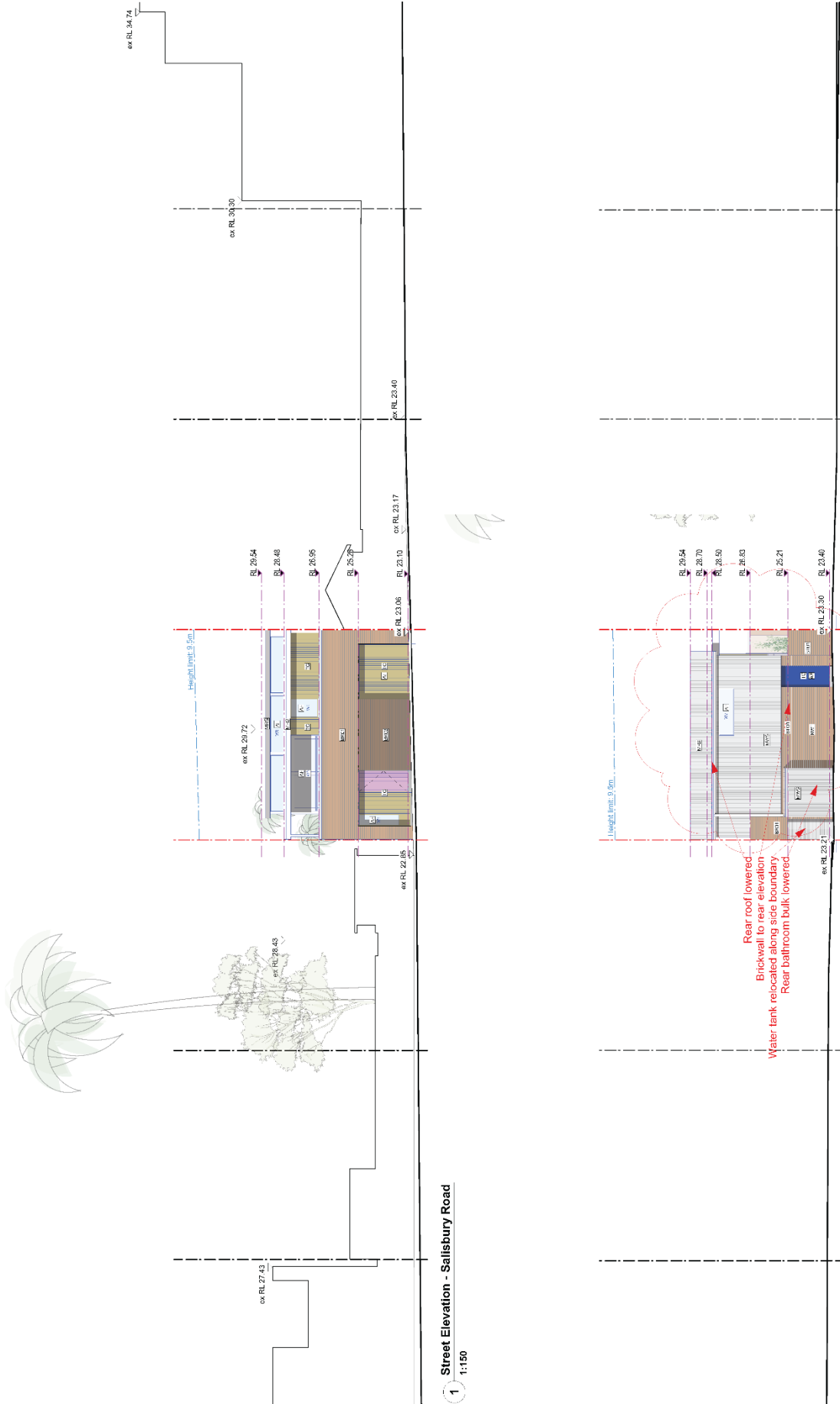
Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing  
 Dimensions in millimetres. Use figured dimensions only prior to commencing work. If discrepancy exists notify architect. If in doubt ask.

**LEGEND**

	SITE BOUNDARY
	EXISTING
	PROPOSED

PROJECT	8 Douglas Street, Stanmore	PROJECT #	210528
CITY	George Towns	DWG #	A-1000 DA
DWG	Site Plan (Roof Plan) and Section	DATE	23/11/21
SCALE 1/200	SK	PM	C





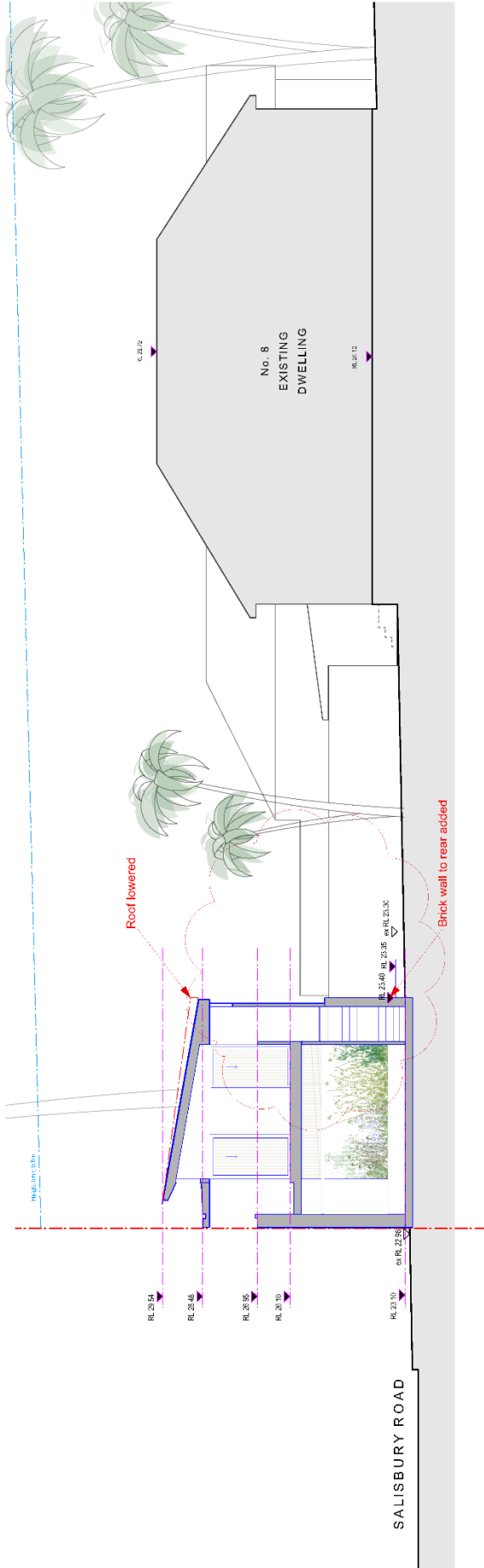
1 Street Elevation - Salisbury Road  
1:150

2 Rear Elevation  
1:150

		PROJECT 8 Douglas Street, Stanmore		PROJECT # 210528	
ABN 74 090 186 066 Nominated architect Peter McGregor 7243 10/100 Rymer Road Rymer Park NSW 1510 T 612 9011 6151 F 612 9081 3171 studio@mwaarchitects.com.au www.mwaarchitects.com.au Document Set ID: 35562374 © Copyright		CLIENT George Dovas		DIVISION A-3000 DA	
REVISION Development Application Issue DA amendments for council Council Amendments		UTM SK		REVISION C	
DATE 23/1/21 18/22		SCALE (W/A) 1:150		FIELD DATE 23/1/21	
ISSUE A B C		LEGEND SITE BOUNDARY EXISTING PROPOSED		DRAWN PM	
Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing Dimensions in millimetres Use figured dimensions only prior to commencing work If discrepancy exists notify architect. If in doubt ask.					







1 Short Section  
1:100

		ABN 74 090 196 066 Nominated architect Peter McGrath 7243 10/100 Westlake Drive NSW 1585 Westlake NSW 1585 T 612 9011 6151 F 612 9081 3171 studio@mwarchitects.com.au www.mwarchitects.com.au Document Set ID: 35562374 © Copyright Version: 1, Version Date: 12/07/2022	
ISSUE A B C	DATE 23/1/21 23/5/22 1/8/22	REVISION Development Application Issue DA amendments for council Council Amendments	PROJECT 8 Douglas Street, Stanmore CLIENT George Dovas DWG Section SCALE (B/A3) 1:100 LITHO SK DPMO PM FILED DATE 23/1/21 REVISION C
LEGEND SITE BOUNDARY EXISTING PROPOSED		Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing Dimensions in millimetres Use figured dimensions only If discrepancy exists notify architect. If in doubt ask.	



		<b>McGregor Westlake Architecture</b> ABN 74 090 196 066 Nominated architect Peter McGregor 7243 111/111 Sydney Road Sydney NSW 1587 T 61 2 9011 6151 F 61 2 9081 3171 studio@mwarchitects.com.au www.mwarchitects.com.au Document Set ID: 35562374 © Copyright	
ISSUE	DATE	REVISION	DESCRIPTION
A	23/11/21		Development Application Issue
B	23/09/22		DA amendments for council
C	19/02		Council Amendments

Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres

Use figured dimensions only, site prior to commencing work.

If discrepancy exists notify architect, if in doubt ask.

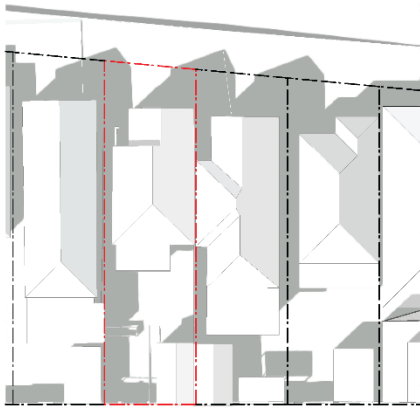
PROJECT	8 Douglas Street, Stanmore
CLIENT	George Dovas
TYPE	Streetscape Views - Salisbury Road
SCALE (B/A)	NTS
DATE	23/11/21
REVISION	C
DESIGNER	PM
ILLUSTRATOR	SK

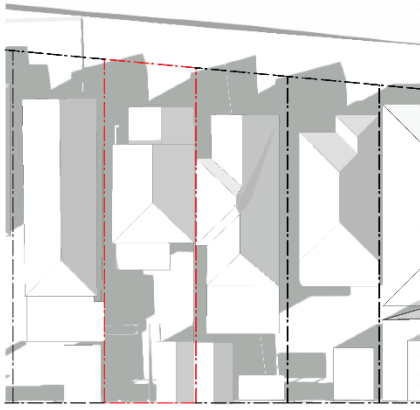
**LEGEND**

	SITE BOUNDARY
	EXISTING
	PROPOSED

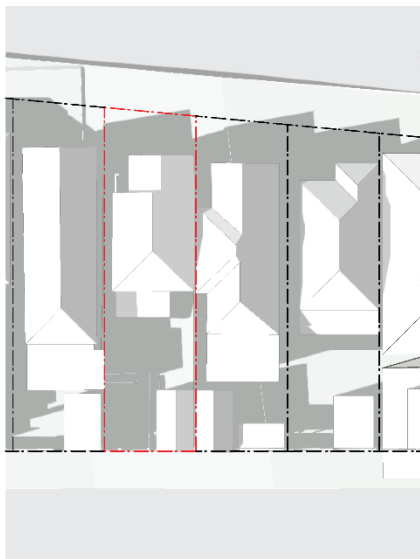




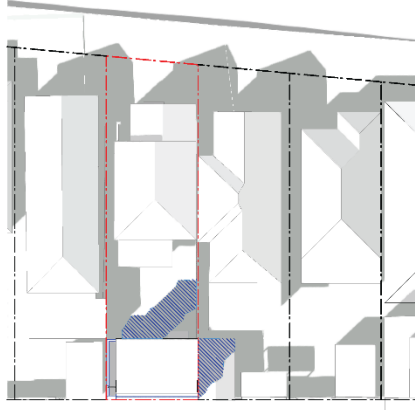
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9am, 21 June



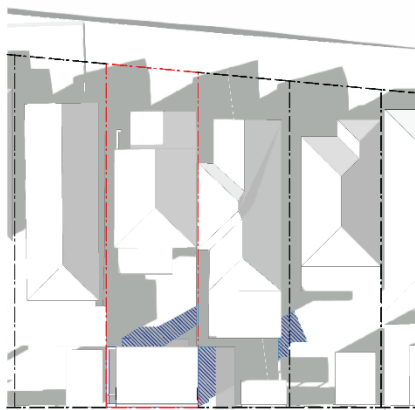
2 Existing Site Plan  
10am, 21 June



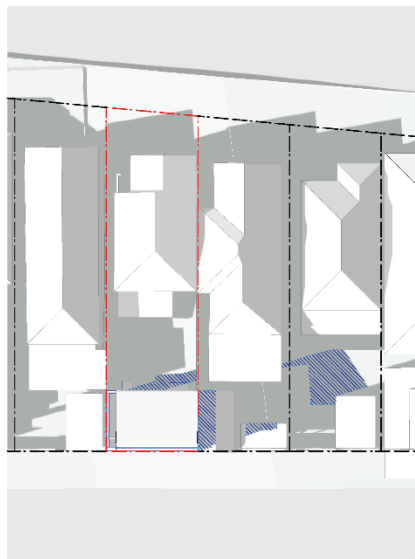
3 Existing Site Plan  
11am, 21 June



6 Proposed Site Plan  
11am, 21 June



5 Proposed Site Plan  
10am, 21 June



4 Proposed Site Plan  
9am, 21 June

EXISTING SHADOW      NEW / ADDITIONAL SHADOW CAST BY PROPOSED BUILDING



ABN 74 090 196 066    Nominated architect Peter McGregor 7243  
 10/100 Westlake NSW 1570  
 T 612 9211 6151    F 612 9281 3171    studio@mwarchitects.com.au  
 www.mwarchitects.com.au  
 Document Set ID: 35562374  
 Version: 1, Version Date: 12/07/2022

ISSUE	DATE	REVISION
A	23/11/21	Development Application Issue
B	23/5/22	DA amendments for council
C	18/5/22	Council Amendments

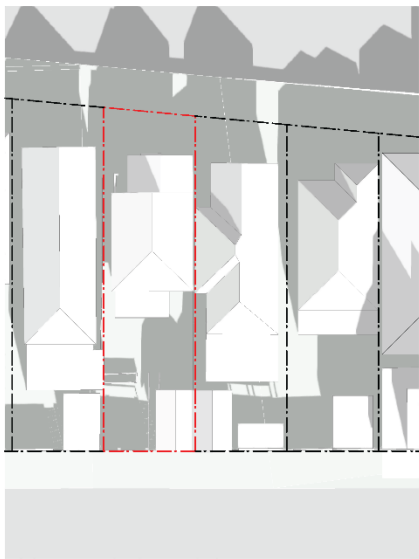
Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing  
 Dimensions in millimetres  
 Use figured dimensions only, site prior to commencing work.  
 If discrepancy exists notify architect. If in doubt ask.



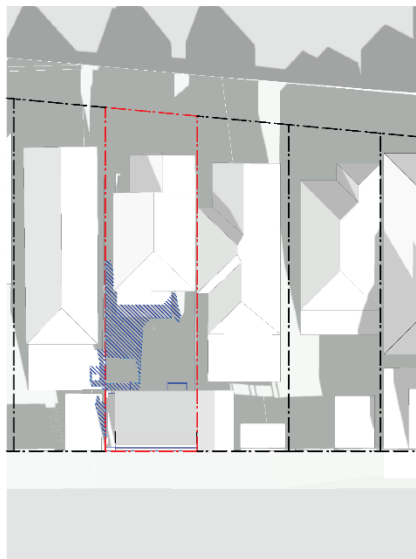
LEGEND	
	SITE BOUNDARY
	EXISTING
	PROPOSED

PROJECT	8 Douglas Street, Stanmore	PROJECT #	210528
CLIENT	George Dovas	DWG #	A-6007 DA
DRAWN	NTS	DATE	17/5/22
CHECKED	FH	BY	PM
SCALE	1:1	REVISION	C





13 Existing Site Plan  
3pm, 21 June



14 Proposed Site Plan  
3pm, 21 June

EXISTING SHADOW NEW / ADDITIONAL SHADOW CAST BY PROPOSED BUILDING



ABN 74 090 196 066 Nominated architect Peter McGrath 7243  
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ISSUE	DATE	REVISION
A	23/1/21	Development Application Issue
B	2/5/22	DA amendments for council
C	18/22	Council Amendments

Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing  
 Dimensions in millimetres  
 Use figured dimensions only  
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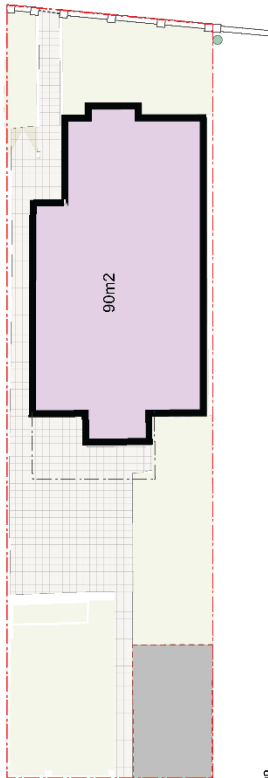
LEGEND	
	SITE BOUNDARY
	EXISTING
	PROPOSED

PROJECT	ISSUE NO		
8 Douglas Street, Stanmore	210528		
CLIENT	DWG #		
George Dovas	A-6009 DA		
DWG	SCALE (W/A)	DATE	REVISION
Shadow Diagrams - Existing and Proposed	NTS	17/5/22	C
	LIUWIN	FH	PM



**Existing**

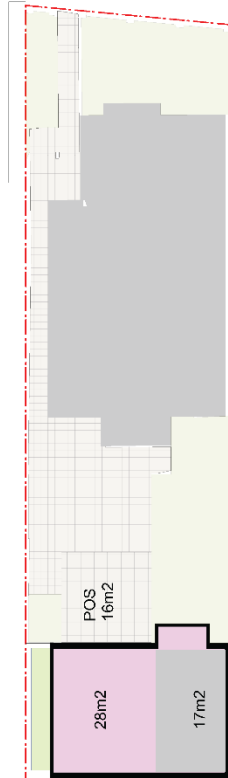
- Site Area = 310m<sup>2</sup>
- Building Area = 90m<sup>2</sup>
- Garage 21m<sup>2</sup>
- Landscape Area 188 m<sup>2</sup>
- Soft Landscape- 99m<sup>2</sup>
- Site Coverage 37%
- FSR = .29/1 m<sup>2</sup>



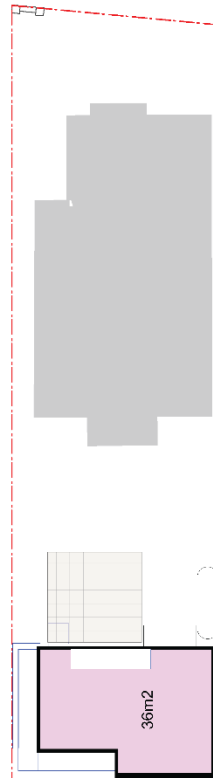
1 Existing Ground Floor Plan

**Proposed**

- Proposed Building Area = 28m<sup>2</sup> + 36 = 64
- Total Building Area = 64+90 = 154m<sup>2</sup>
- Landscape Area 145 m<sup>2</sup>
- Soft Landscape - 75m<sup>2</sup>
- Site Coverage 37%
- FSR = .154/310= .49/1 m<sup>2</sup>



2 Proposed Ground Floor Plan



3 Proposed First Floor Plan

**McGregor Westlake Architecture**

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 Document Set ID: 35562374  
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 Use figured dimensions only.  
 prior to commencing work.  
 If discrepancy exists notify architect.  
 If in doubt ask.

LEGEND

- SITE BOUNDARY
- EXISTING
- PROPOSED

PROJECT: 8 Douglas Street, Stanmore  
 CLIENT: George Dovas  
 DWG: Area Diagrams  
 SCALE: 1:200  
 DRAWN: SK  
 CHECK: PM  
 FIELD DATE: 23/11/21  
 REVISION: A-6100 DA  
 DIV: C



 <p>ABN 74 090 196 066 Nominated architect Peter McGregor 7243          100 Westlake Drive NSW Macquarie          T 61 2 9911 6151 F 61 2 9981 3171 studio@mwarchitects.com.au          www.mwarchitects.com.au          Document Set ID: 35562374          © Copyright          Version: 1, Version Date: 12/07/2022</p>		<table border="1"> <thead> <tr> <th>ISSUE</th> <th>DATE</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>23/11/21</td> <td>Development Application Issue</td> </tr> <tr> <td>B</td> <td>23/5/22</td> <td>DA amendments for council</td> </tr> <tr> <td>C</td> <td>1/8/22</td> <td>Council Amendments</td> </tr> </tbody> </table>	ISSUE	DATE	REVISION	A	23/11/21	Development Application Issue	B	23/5/22	DA amendments for council	C	1/8/22	Council Amendments	<p>Comply with relevant Authorities of Australia and all relevant Australian Standards when executing works described in this drawing</p> <p>Dimensions in millimetres. Use figured dimensions only prior to commencing work. If discrepancy exists notify architect. If in doubt ask.</p>	<p><b>LEGEND</b></p> <p> <span style="border: 1px solid red; display: inline-block; width: 10px; height: 10px; margin-right: 5px;"></span> SITE BOUNDARY  <span style="border: 1px solid black; display: inline-block; width: 10px; height: 10px; margin-right: 5px;"></span> EXISTING  <span style="border: 1px solid blue; display: inline-block; width: 10px; height: 10px; margin-right: 5px;"></span> PROPOSED                 </p>	<table border="1"> <tr> <td>PROJECT</td> <td>8 Douglas Street, Stanmore</td> </tr> <tr> <td>CITY</td> <td>George Towns</td> </tr> <tr> <td>DWG</td> <td>SCHEDULES</td> </tr> <tr> <td>SCALE (W/A)</td> <td>NTS</td> </tr> <tr> <td>DATE</td> <td>23/11/21</td> </tr> <tr> <td>DESIGNER</td> <td>PM</td> </tr> <tr> <td>DATE</td> <td>23/11/21</td> </tr> <tr> <td>REVISION</td> <td>C</td> </tr> </table>	PROJECT	8 Douglas Street, Stanmore	CITY	George Towns	DWG	SCHEDULES	SCALE (W/A)	NTS	DATE	23/11/21	DESIGNER	PM	DATE	23/11/21	REVISION	C
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REVISION	C																																

## Attachment C- Clause 4.6 Exception to Development Standards



09.06.2022

### Clause 4.6 - Variation Request

#### 8 Douglas Street, Stanmore

##### 1. Introduction

This Variation Statement has been in support of a development application for the redevelopment of 8 Douglas Street, Stanmore, and seeks to vary clause 5.3(2)(a) of State Environmental Planning Policy (Housing) 2021.

This Statement has been prepared in accordance with clause 4.6 – Exceptions to Development Standards of the Marrickville LEP 2013, and the NSW Department of Planning and Infrastructure (DP&I) "Varying development standards: A Guide", August 2011.

##### 2. Development Standard to be varied

The development standard to be varied is clause 5.3(2)(a) of State Environmental Planning Policy (Housing) 2021 relating to minimum site area.

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

- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—
  - (a) for a detached secondary dwelling—a minimum site area of 450m<sup>2</sup>,
  - (b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.

1 / 10

### 3. Proposed Development

The proposed development seeks to undertake the following:

1. Demolition of the existing rear outbuilding.
2. Removal of two trees.
3. Construction of a new detached two storey outbuilding fronting Salisbury Road.
4. Use of the ground floor of the outbuilding as a studio and a single garage in association with the primary dwelling.
5. Use of the first level as a secondary dwelling with access provided from Douglas Street.

### 4. Principles of Exceptions to Development Standards

Clause 4.6 provides a nexus to enable the flexibility of development standards where it is demonstrated that the proposed variation to a development standard may, in some circumstances, achieve the underlying purpose of the standard as much as one which complies. If the development is not only consistent with the underlying purpose of the standard, but also with the broader planning objectives for the locality, strict compliance with the standard can be deemed to be unreasonable and unnecessary and Council could approve an exception.

It is noted that the NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare clause 4.6 variations in the form of "Varying development standards: A Guide August 2011". This written request to vary the standard is based on the DP&I guide, in particular Appendix 3 which provides a template for and "Application Form to vary a development standard".

The following has been prepared in accordance with this Guide:

#### 4.1. What is the name of the environmental planning instrument that applies to the land?

- *Marrickville Local Environmental Plan 2011*
- *State Environmental Planning Policy (Housing) 2021*

#### 4.2. What is the zoning of the land?

The site is zoned R2 Low Density Residential under *Marrickville Local Environmental Plan 2011*

#### 4.3. What are the Objectives of the zone?

The Objectives of the R2 Low Density Residential are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

4.4. What is the development standard being varied?

The development standard being varied is the minimum site area for a detached secondary dwelling.

4.5. Under what Clause is the development standard listed in the environmental planning instrument?

The development standard is listed under clause 5.3(2)(a) of State Environmental Planning Policy (Housing) 2021.

4.6. What are the Objectives of the development standard?

clause 5.3(1) of State Environmental Planning Policy (Housing) 2021.

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

4.7. What is the numeric value of the development standard in the environmental planning instrument?

The numeric value of the development standard is 450m<sup>2</sup>

4.8. What is the proposed numeric value of the development standard in your development application?

The maximum numeric value proposed is 310.3m<sup>2</sup>

4.9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation is 31%

## 5. Proper application of Clause 4.6

Clause 4.6 of Marrickville LEP 2013 provides:

- 1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- 5) *In deciding whether to grant concurrence, the Secretary must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- 6) - 8) ...

Clause 4.6 has five requirements as follows:

1. There must be a written request from the applicant that seeks to justify the contravention of the standard (clause 4.6(3)).
2. That written request must seek to justify contravention of the standard by demonstrating that:
  - Compliance with the development standard is unreasonable or unnecessary in particular circumstances of the case (clause 4.6(3)(a)); and

- That there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).
3. The consent authority must consider the written request.
  4. The consent authority must be satisfied that:
    - The written request as adequately addressed the matters that are required to be demonstrated, i.e. compliance is unreasonable and unnecessary and sufficient environmental planning grounds (clause 4.6(4)(a)(i)).
    - The development is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out grounds (clause 4.6(4)(a)(ii)).
  5. Concurrence to the variation must have been obtained from the Director-General grounds (clause 4.6(4)(b)).

It should be noted that steps 1 and 2 are matters for the applicant. Steps 3 and 4 are matters for the consent authority. Step 5 is a matter for the Director-General, however in this case the Director-General has issued a blanket concurrence to variations to development standards where the variation is made pursuant to an environmental planning instrument which contains clause 4.6 in the form contained in the standard template or in similar terms.

Assistance on the approach to justifying a development standard variation is found in certain defining decisions of the NSW Land and Environment Court, in particular the judgements for:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2FivePtyLtd v Ashfield Council* [2015] NSWLEC 1009
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386
- *Moskovich v Waverley Council* [2016] NSWLEC 1015
- *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179.

## 6. Assessment of the Proposed Variation under Clause 4.6

This Variation Request has been prepared against the following relevant Steps in reference to clause 4.6:

- Step 1 – The written request
- Step 2 – Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3))
- Step 3 – The proposed development will be in the public interest because it is consistent with the objectives of the development standard and objectives for development within the zone (clause 4.6(4))

### STEP 1

#### 6.1. Step 1 – The written Request

This document constitutes the written request to the application which seeks to justify contravention of the standard.

### STEP 2

#### 6.2. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a));

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five ways that could be applied to establish whether compliance is unreasonable or unnecessary. These are discussed below:

1. *Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard*

The standard relates to a minimum site area for a detached secondary dwelling.

The secondary dwelling is attached to an outbuilding associated with the primary dwelling and fronts a parallel road street frontage.

The addition of a dwelling above a garage outbuilding is a building typology that is common and generally approved by council within the Innerwest LGA.

As shown on the submitted architectural plans, the lot has an adequate site area, shape and dimension(s) that can support a detached primary and secondary dwelling house.

Each dwelling achieve superior amenity including natural light and privacy to each room, generous internal dimensions and areas that are suitable for modern living standards, and appropriate level of landscaping and private open space area, and includes:

- bedrooms of adequate internal dimensions and space to accommodate a double bed, side tables and generous wardrobe space.

- Bathrooms to service the intended occupancy capacity of each dwelling.
- Unobstructed open plan living, dining and kitchen of adequate internal dimensions, shape and space to accommodate a kitchen, table and lounge, with direct access to a private open space area.
- A covered private open space area adequate in size to accommodate a table, outdoor cooking facilities and a clothes line.
- Laundry, outdoor drying facilities and site facilities.

As further shown in the submitted Statement of Environmental Effects, the resulting development on each lot complies the following Council development controls:

- Floor Space Ratio development standard.
- Building height development standard
- Landscape area control.
- Private open space control.
- Solar access control.

Overall, the lot size and proposed development is deemed adequate to accommodate development that is consistent with the zoning of the site and consistent with the relevant development controls. Compliance with the development standard is unreasonable or unnecessary as objectives of the development standard are achieved.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

This contention is not applicable to the proposal.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

This contention is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

This contention is not applicable to the proposal.

5. *"the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

This contention is not applicable to the proposal.



6.3. Is there sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).

Yes. In the circumstances of the case, there are sufficient planning grounds to justify contravening the development standard being:

- A secondary dwelling development is a permissible use under the R2 Zoning. This will provide additional housing opportunities that are compatible with the streetscape and the capacity of existing infrastructure and utilities. The proposal is therefore consistent with the relevant objectives in the R2 Zone.
- The cadastral lot size, shape and dimensions remain unchanged.
- The site is a parallel lot with two street frontages. The site area and dimension is capable of accommodating a dwelling fronting each street frontage. Each dwelling will have direct street frontage
- The construction of the secondary dwelling does not result in any physical changes to the primary dwelling. The quantum of private open space, solar access, site facilities and internal room layout configuration to the primary dwelling will remain unchanged.
- The built form of the secondary dwelling is appropriate to the surrounding urban built form. It is located on the eastern entry gateway to the Stanmore Town Centre, and is an appropriate infill development that transitions to the higher 3 storey scale of 111 – 115 Percival Street, and the 4 storey scale of 105 -107 Salisbury Road located directly opposite the site provides visual cohesiveness and uniformity that is consistent
- The design of the secondary dwelling has superior internal amenity with more than 3 hours of direct solar access, natural cross ventilation, natural daylight to the kitchen and bathroom, and a dual private open space area.
- The secondary dwelling includes habitable windows and a balcony orientated towards the street providing casual surveillance onto the public domain, and this is an improvement in comparison to the existing conditions of the site. It provides casual surveillance and activation of the Salisbury Road streetscape.
- The proposal maintains adequate amenity of the occupants between the primary and secondary dwelling in regards to building separation, privacy and solar access.
- The proposal does not result in any privacy impacts upon adjoining properties.
- The proposal retains sufficient solar access to the adjoining properties in accordance with Council's controls.
- As demonstrated in the submitted Statement of Environmental Effects, the compliance of the resulting development with Council's built form controls ensures the proposal does not result in any unreasonable amenity impacts upon adjoining properties.

For the reasons set out above, the proposal will achieve a better planning outcome than a compliant development of the site.

**STEP 3**

6.4. Will the proposed development be in the public interest because it is consistent with the objectives of the development standard?

An assessment against these objectives is provided in Section 6.2.

Even though the proposal results in a non-compliance with the development standard, as demonstrated above, the proposal is considered consistent with the objectives of the development standard, and is in the public interest.

6.5. Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

The Objectives of the R2 Low Density Residential are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is consistent with the zone objectives for the following reasons:

- In regards to dot point 1, the proposed secondary dwelling provides additional housing choice and supply for the local community within a low density residential environment consistent with this objective.
- Dot point 2 is not applicable to the proposal.

## 7. Conclusion

It is requested that council supports the proposed variation to clause 5.3(2)(a) of State Environmental Planning Policy (Housing) 2021 for the following reasons:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. There are sufficient environmental planning grounds to justify contravening the development standard.
3. The proposed development is the logical provision of built form across the site, the streetscape and surrounding locality.
4. No unreasonable environmental impacts are introduced as a result of the proposal.
5. There is no public benefit in maintaining strict compliance with the standards.
6. The proposed development is in the public interest.
7. Overall, the construction of a secondary dwelling provides a positive contribution to the character of Salisbury Road and reinforces the eastern entry gateway to the Stanmore Town Centre, whilst maintaining adequate amenity between the primary and secondary dwelling.

Given the above justification provided above this Clause 4.6 Variation is well founded and should be favourably considered by Council.