

INNER WEST

DEVELOPMENT ASSESSMENT REPORT





Application No.	MOD/2021/0522
Address	13 Dickson Street NEWTOWN NSW 2042
Proposal	Section 4.55 Modification to DA/2020/0331, including addition of a basement and changes to floor plans
Date of Lodgement	03 December 2021
Applicant	Mr Patrick K Power
Owner	Mr Patrick K Power Mrs Anastasia Power
Number of Submissions	8
Value of works	\$1,582,200.00
Reason for determination at Planning Panel	Floor Space Ratio (FSR) variation exceeds 10% Holmwood Archaeological Site
Main Issues	FSR Variation Impact on Heritage Conservation Area Impact of Excavation
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Statement of Heritage Significance
Attachment D	Archaeological Assessment Report
Attachment E	Draft conditions in the event of approval by Panel



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INNER WEST
Created on 9/08/2022
Map Scale: 1:600

LOCALITY MAP

Subject Site		Objectors	
Notified Area		Supporters	

1. Executive Summary

This report is an assessment of the application submitted to Council for modification to DA/2020/0331, including addition of a basement and changes to floor plans at 13 Dickson Street NEWTOWN.

The application was notified to surrounding properties and 8 submissions were received from 1 property in response to the notification.

The main issues that have arisen from the application include:

- FSR Variation
- Impact on Heritage Conservation Area
- Impact of Excavation

The application fails to demonstrate the site is suitable for the proposed development. The application is unsupportable and in view of the circumstances, refusal of the application is recommended.

2. Proposal

The proposal seeks consent for amendments to the approved development on the site as part of development consent DA/2020/0331. Specifically, the proposed modification works include the following:

Basement

- Addition of a new basement level to accommodate Comms Room, Plant / Solar Battery Room, Wine Cellar and Garage General Storage.

Ground Floor

- Removal of existing walls between the ground floor dining/kitchen and living areas.
- Replace existing walls within the kitchen and dining areas with new walls in approved location.
- Amendment to powder room to accommodate new basement stairs.
- New window and door configuration to rear master bedroom
- Removal of sitting room to master bedroom and enlargement of ensuite bathroom.
- New internal stair and lift core from ground floor to the basement level.
- New external stair from carport to basement level.

First Floor

- Replace existing walls/floor within the hallway, bedroom 1, walk in robe and ensuite areas with new walls/floor in approved location.
- Replace approved balcony to Bedroom 1 with internal extension of room and ensuite.
- Reconfigure windows to Bedroom 1.

Roof

- New skylights over internal stairwell through upper existing slate roof.

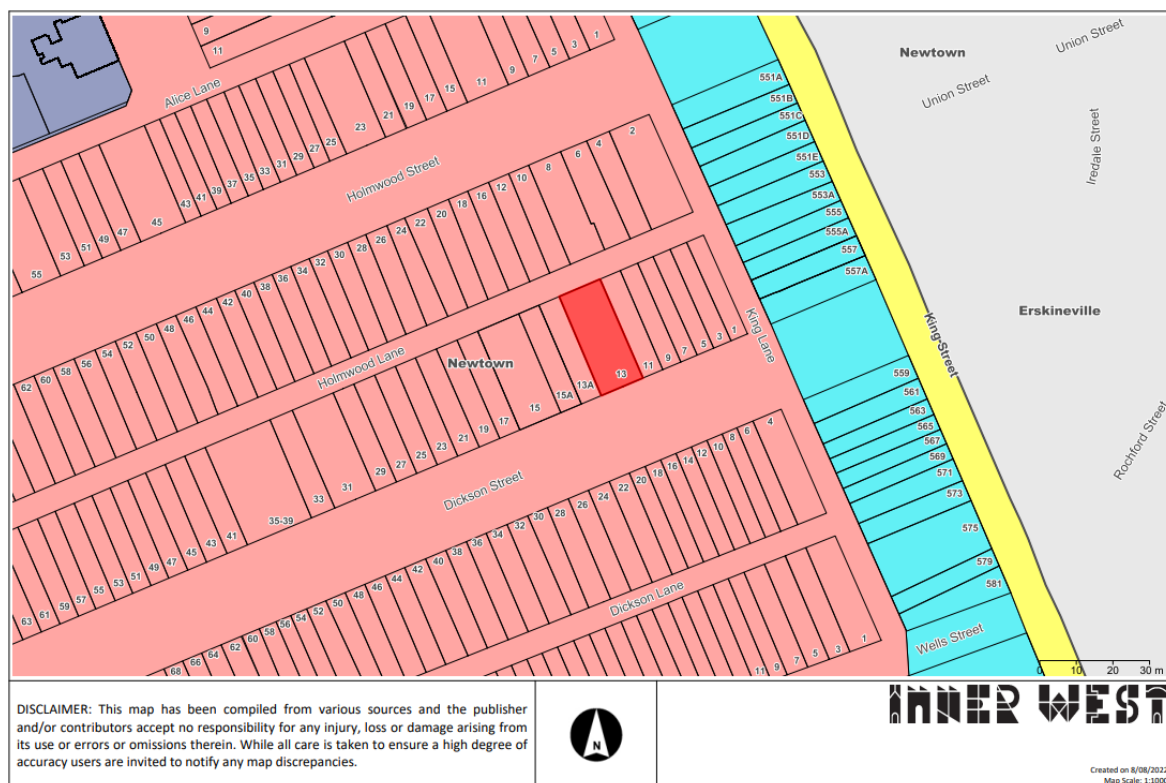
3. Site Description

The subject site is located on the northern side of Dickson Street, between King Lane and Pearl Lane. The site is legally described as Lots 34 and 35 in DP 2569 and has a site area of approximately 293.4sqm. The site is a rectangular shaped allotment with a frontage to Dickson Street of 10.97 metres.

The site contains a two-storey brick dwelling and a double carport at the rear of the allotment. Vehicular access to the carport is obtained from Holmwood Lane adjoining the site at the rear.

The adjoining properties support 1 to 2 storey dwelling houses. Adjoining the subject site to the west is 13A Dickson Street, a small single storey studio located at the rear of the property with a nil setback to the laneway. Adjoining the subject site to the east is 11 Dickson Street, comprised of an attached single storey dwelling, which forms a part of a row of similar style attached dwellings in the easterly direction.

The site is part of 4 properties identified as being part of the Holmwood Archaeological Site being 13, 13A, 15A and 15 Dickson Street under the MLEP 2011. The site is also located within the Holmwood Estate Heritage Conservation Area (HCA) which is characterised by mixture of terrace housing, detached and semi-detached dwellings. In the near vicinity of the site at 15 Dickson Street is a locally listed heritage item being 'Josiah Gentle's Victorian Italianate style villa' and, at 17–23 Dickson Street are heritage listed items, being a 'Group of Victorian Italianate style terrace houses'.



4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA/2020/0331	To demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house	Approved - 21/10/2020
DA201800147	to demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house	Approved - 30/08/2018
PDA201700073	to demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house	Advice Letter Issued - 12/09/2017
DA201600097	to remove 2 Bangalow Palms	Approved - 15/04/2016

Surrounding properties

11 Dickson Street, Newtown

Application	Proposal	Decision & Date
010.2015.00000207.001	Alterations and addition to dwelling including new attic addition.	Approved - 24/11/2015

13A Dickson Street, Newtown

Application	Proposal	Decision & Date
DA201800146	to demolish part of the premises and carry out ground and first floor alterations and additions to convert the workshop/studio to a dwelling	Approved - 23/10/2018

4(b) Application history

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

Date	Discussion / Letter / Additional Information
22/12/2021	Application lodged.
11/01/2022 – 27/02/2022	Application notified.
04/05/2022	<p>Request for Additional Information provided to applicant raising the following concerns:</p> <ul style="list-style-type: none"> - FSR Non-compliance - Heritage and Design - Internal changes - Construction and Impacts of Basement - Archaeological Site and Heritage Council - Plans demonstrating elements of building to be retained - Structural Engineers Report
02/06/2022	<p>Additional information lodged with Council including:</p> <ul style="list-style-type: none"> - Cover Letter - Archaeological Assessment Report - Revised architectural drawings
27/07/2022	<p>Letter provided to applicant requesting withdrawal of the application due to the following concerns:</p> <ul style="list-style-type: none"> - FSR Non-compliance - Heritage and Design - Loss of internal fabric - Excavation - Plans demonstrating elements of building to be retained - Structural Engineers Report
04/08/2022	Email correspondence with the applicant advising that as the application has not been withdrawn it would be determined and refused.
05/08/2022	Further email correspondence with the applicant advising that that application would be required to be determined by the Inner West Local Planning Panel.

Amended plans were received during the assessment of the application. Renotification was not required in accordance with Council's Community Engagement Framework. The amended plans are the subject of this 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)(i) *Section 4.55 Modification Provisions*

Section 4.55(2)

Section 4.55(2) of the EPA Act 1979 allows a consent authority to modify a development consent granted by it, if:

- a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent.
- The application does not require concurrence from an approval body.
- The submissions have been considered. Refer to section 5(g) of this report.

5(a)(ii) *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 (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(iii) 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.

A search of Council’s records in relation to the site has not indicated that the site is one that is specified in Section 4.6 (4)(c).

The application involves does not involve category 1 remediation under *SEPP (Resilience and Hazards) 2021*.

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

A BASIX Certificate was submitted with the application and is satisfactory.

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

Chapter 2 Vegetation in non-rural areas

The protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council’s DCP.

The application does not seek the removal of vegetation from within the site or on Council land. Therefore, the proposal is considered acceptable with regard to the SEPP

Chapter 10 Sydney Harbour Catchment

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and as such only the aims of the plan are applicable. The proposal is consistent with these aims.

5(a)(vi) *Marrickville Local Environment 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 5.10 - Heritage Conservation
- Clause 6.2 - Earthworks
- Clause 6.5 - Development in areas subject to aircraft noise

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

Standard	Proposal	Non-compliance	Complies
Height of Building Maximum permissible: 9.5m	No change from approved development	N/A	Yes
Floor Space Ratio Maximum permissible: 0.8:1 or 234.72sqm	1:1 or 292.4sqm	24.57% or 57.7sqm	No – refer below

(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.

The development is permitted with consent within the land use table. However, the development is not consistent with the objectives of the R2 Low Density Residential zone as discussed below.

(ii) Clause 4.4 - Floor space ratio

Clause 4.4 of the MLEP 2011 prescribes a maximum Floor Space Ratio (FSR) of 0.8:1. As detailed in the table above, the application proposes a FSR of 1:1 which results in a variation of 24.57% or 57.7sqm. It should be noted that an FSR of 0.86:1 was originally approved on the site under DA/2020/0331 due to acceptable amenity and heritage impacts.

The current proposal includes changes to the approved ground floor and first floor plans and the addition of a new basement level which result in additional gross floor area on the site. The changes represent a further variation to the approved FSR of 0.86:1 which represents a 15.88% or 40.10sqm variation beyond the original consent.

While a Clause 4.6 Exception request is not required for a s4.55 modification, it is considered the proposal fails to adequately demonstrate that the proposed variation to the development standard is acceptable or reasonable in the circumstances of the site. This is primarily due to the extent of the basement level and its use which includes a Wine Cellar, Comms Room, Plant/Solar Battery Room and Storage Room. While the definition of gross floor area (GFA) under the MLEP 2011 excludes areas of any basement used for purposes of storage, the areas associated with the proposed Comms Room and Plant/Solar Battery Room are extensive and insufficient information has been provided justifying their use for the purposes of the existing dwelling house. Similarly, while plant rooms used for the purposes of mechanical services or ducting are also excluded as GFA, the use of this room in the basement has not been sufficiently illustrated, especially noting that there no existing or proposed solar panels on the building. The proposal has failed to demonstrate how these areas meet the exclusions specified under the definition of GFA under the MLEP 2011. Therefore, the areas of the basement associated with the Comms Room, Plant/Solar Battery Room and circulation space have been included as GFA as part of Council's calculation and contribute to the FSR variation noted above.

The proposed basement level also relies on extensive excavation which has not been supported by geotechnical and structural investigation and results in undue impacts to neighbouring properties and the Heritage Conservation Area (refer to Sections below).

Overall, the design of the proposal has not provided an adequate response to the requirements of Clause 4.4 of the MLEP 2011 and does not provide a suitable built form in terms environmental impacts on adjoining properties, pattern of development and compatibility with the desired future character of the area.

(iii) Clause 5.10 - Heritage Conservation

The following objectives, under this Part of the MLEP 2011 are applicable to the proposed development:

- (1) **Objectives** *The objectives of this clause are as follows—*
- (a) *to conserve the environmental heritage of Marrickville,*
 - (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
 - (c) *to conserve archaeological sites,*
 - (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

No.13 Dickson Street Newtown is listed as part of the Holmwood Archaeological Site, which extends across Nos. 13, 13A, 15 and 15A Dickson Street. It is also located within the Holmwood Heritage Conservation Area (HCA) and is a contributory building within its context.

The proposed works include internal changes to the original part of the dwelling and the addition of a new basement level. While it noted that amended plans were submitted during the assessment of the application, it is considered that the amended proposal will adversely impact the heritage fabric of the contributory building and also affect adjoining properties which are part of the Holmwood Archaeological Site.

It is considered that the changes and additions have not been appropriately designed / amended to address the following points:

- The proposed changes include extensive demolition of walls, floors, ceilings and fireplaces/chimney breasts and their replacement in an altered form which result in the loss of key heritage fabric.
- The full extent of excavation has not been shown on the sectional drawings and appears to be in excess of 3.0m in deep overall with a nil setback to the boundary. This is of considerable concern not only to neighbouring properties but within the heritage context of the subject building. Consideration has not been given to proper perimeter drainage and potential interference with ground water or the long standing context of the adjoining house as well as the subject house footings.
- A structural engineer's report has not been provided demonstrating that the basement can be feasibly constructed without adversely impacting the subject building or the ongoing use of adjoining sites.

It should be noted that the location and size of the proposed basement were amended to reduce potential impacts on the Holmwood Archaeological Site. The revised proposal including the submitted Archaeological Assessment Report were reviewed by Council's Heritage Officers and the Heritage Council of NSW and found to be acceptable with regard to impacts on the Archaeological Site (refer to Section 6).

Notwithstanding, for the reasons outlined above, it is considered that proposal is inconsistent with the objectives of this Clause and results in adverse impacts on the pattern of development within the HCA and the heritage significance of the contributory building. From a structural perspective, there is insufficient information to determine if the works can be achieved satisfactorily without undermining the integrity of the existing building

As such, the application is recommended for refusal.

(iv) Clause 6.2 – Earthworks

A geotechnical report or structural engineers' certificate was not submitted with the application to the support the extent and location of the proposed excavation on the site. It is therefore unclear whether the existing structures can support the proposed basement level and/or whether the construction of a basement can practicably occur without major alterations to the existing dwelling. It is also unclear whether the extent of excavation close to the boundary will impact neighbouring properties which form part of the Holmwood Archaeological Site in terms of drainage patterns and soil stability.

It is considered that the application fails to demonstrate that the proposal will not have a detrimental impact on environmental functions and processes, neighbouring uses and heritage items on surrounding land. As such, the proposed development does not satisfy the provisions of this clause and the application is recommended for refusal.

(v) Clause 6.5 - Development in areas subject to aircraft noise

The site is located within the ANEF 20-25 contour and as such the development is likely to be affected by aircraft noise.

Suitable conditions were imposed as part of the original development consent under DA/2020/0331 satisfying the requirements of this clause. While the application is recommended for refusal for other reasons outlined in this report, the proposal is capable of satisfying the provisions of this Clause as originally determined.

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) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The *Inner West Local Environment Plan 2022* (IWLEP) was gazetted on the 12th of August 2022. As per Section 1.8A – Savings provisions, of this plan, as the subject development application was made before the commencement of this Plan, the application is to be determined as if the IWLEP 2022 had not commenced.

Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and (1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 3 December 2021, at this date, the IWLEP was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

IWLPP 2022 contains substantially the same provisions relating to Floor Space Ratio, Heritage and Earthworks as MLEP 2011 and as such the proposal would remain inconsistent with the objectives of these provisions for the reasons discussed earlier in this report.

5(d) Development Control Plans

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

MDCP 2011	Compliance
Part 2.1 – Urban Design	No – see discussion
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.8 – Social Impact	N/A
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes
Part 2.11 – Fencing	Yes
Part 2.12 – Signs and Advertising	N/A
Part 2.13 – Biodiversity	N/A
Part 2.14 – Unique Environmental Features	N/A
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 3 – Subdivision	N/A
Part 4.1 – Low Density Residential Development	No – see discussion
Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings	N/A
Part 4.3 – Boarding Houses	N/A
Part 5 – Commercial and Mixed Use Development	N/A
Part 6 – Industrial Development	N/A
Part 8 – Heritage	No – see discussion
Part 9 – Strategic Context Part 9.14.2 – Camdenville (Precinct 14)	No – see discussion

The following provides discussion of the relevant issues:

(i) Part 2.1 – Urban Design and Part 4.1 – Low Density Residential Development

The following objectives, under these Parts of the MDCP 2011 are applicable to the proposed development:

- O1 To provide more details on the residential standards contained in Marrickville Local Environmental Plan 2011 (MLEP 2011).
- O3 To encourage residential development which is sensitive to the local environment, socially responsive and which promotes a safe living environment and makes better use of existing infrastructure.
- O4 To ensure the impact of urban housing on the amenity of surrounding properties and the streetscape is a prime and initial consideration in the preparation and assessment of development proposals.
- O5 To encourage restoration and sympathetic alterations and additions to residential period buildings in a manner that retains and enhances their architectural character and streetscape presentation.
- O7 To encourage innovative design that positively responds to the character and context of the locality.

The proposal has not been appropriately designed / amended to address the following points:

- The proposal results in a further variation to the approved FSR on the site.
- Geotechnical or structural information has not been provided demonstrating that the proposed basement level can be adequately constructed without adversely impacting adjoining residential properties, surrounding heritage significance or the ongoing use of the local environment.
- The proposed internal changes to the original contributory building result in the loss of key heritage fabric and retention of the architectural character of the building has not been adequately considered.
- The proposed basement level is incompatible with the desired future character of the area and the pattern of development within the locality.

Overall, the proposal would have adverse impacts on the significance of the contributory building, amenity of adjoining properties and the character of the area. As such, the application is recommended for refusal.

(ii) Part 8 – Heritage

The following objectives, under this Part of the MDCP 2011 are applicable to the proposed development:

- *O1 To conserve heritage items and maintain appropriate setting and views.*
- *O2 To retain evidence of historic themes of development evident in the Marrickville LGA, through the proper care and maintenance of individual heritage items, HCAs and period buildings.*
- *O3 To provide guidelines for alterations and additions which complement and do not detract from the heritage significance of individually listed heritage items, HCAs and period buildings.*
- *O4 To protect those items, areas and buildings of value to the local community.*
- *O5 To encourage new development which complements existing heritage items and heritage conservation areas in a modern context.*

The proposal not been appropriately designed / amended to address the following points:

- The proposed changes include extensive demolition of walls, floors, ceilings and fireplaces/chimney breasts and their replacement in an altered form which result in the loss of key heritage fabric.
- The full extent of excavation has not been shown on the sectional drawings and appears to be in excess of 3.0m in deep overall with a nil setback to the boundary. This is of considerable concern not only to neighbouring properties but within the heritage context of the subject building. Consideration has not been given to proper perimeter drainage and potential interference with ground water or the long standing context of the adjoining house as well as the subject house footings.
- A structural engineer's report has not been provided demonstrated that the basement can be feasibly constructed without adversely impacting the subject building or the ongoing use of adjoining sites which contribute to the heritage significance of the locality.

Overall, it is considered that proposal is inconsistent with the objectives of this Part and results in adverse impacts on the pattern of development within the HCA and the heritage significance of the contributory building and adjoining buildings.

As such, the application is recommended for refusal.

(iii) Part 9.14.2 – Camdenville (Precinct 14)

The following desired future character controls of Precinct 14, under this Part of the MDCP 2011 are applicable to the proposed development:

1. *To protect and preserve contributory and period buildings within the precinct and require their sympathetic alteration or restoration.*
2. *To protect the identified Heritage Items within the precinct.*
7. *To protect the identified values of the ... Holmwood Estate Heritage Conservation Area.*

The proposal not been appropriately designed / amended to address the following points:

- The proposed internal changes to original walls, floors, ceilings and fireplaces/chimney breasts result in the loss of key heritage fabric.
- A structural engineer's report has not been provided demonstrating that the basement can be feasibly constructed without adversely impacting the subject building or the ongoing use of adjoining sites which contribute to the heritage significance of the locality.

Overall, it is considered that proposal is inconsistent with the controls and objectives of this Part and results in adverse impacts on the pattern of development within the HCA and the heritage significance of the contributory building and adjoining buildings.

As such, the application is recommended for refusal.

5(e) The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse environmental, social or economic impacts upon the locality.

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

It is considered that the proposal will have an adverse impact on adjoining properties and heritage significance of the site therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

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

8 submissions were received from 1 property in response to the initial notification.

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

- Floor Space Ratio – refer to Section 5(a)(iv)
- Heritage Impacts – refer to Section 5(a)(iv) and 5(d)
- Excavation, Structural Impacts and Use of Basement – refer to Section 5(a)(iv)

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Owners / Residents of No. 11 Dickson Street

Concern	Comment
Disturbance/traffic/noise impacts to surrounding properties during demolition and construction.	Suitable standard conditions are imposed on development consents to ensure a construction traffic management plan is adhered to and any potential construction impacts are appropriately managed. However, the application is not supported for other reasons outlined in this report.
Not notified of previously approved DA's on the site.	The current application and all previous development applications on the site were notified in accordance with Council's Community Engagement Framework. According to Council's records, DA/2020/0331 was notified to all adjoining neighbouring properties including No. 11 Dickson Street, Newtown.
The dividing fences act has not been considered.	Council is not responsible for administering the provisions of the Dividing Fences Act 1991 when assessing a development application as this is a Civil matter and therefore the responsibility of the landowners to negotiate. This is not a matter for consideration under Section 4.15 of EP&A Act 1979 EP&A however, the application is recommended for refusal for reasons outlined elsewhere in this report.
Height of buildings non - compliance	The proposal complies with the applicable height of buildings development standard and does not seek any further increase to the approved height of structures under DA/2020/0331.
Overshadowing	The proposal does not include any changes to the built form, footprint or height of the approved development which would result in additional shadows being cast to neighbouring properties. The approved first floor balcony which is proposed to be enclosed and converted to gross floor area is partially enclosed and therefore would not result in additional shadows. While the proposal complies with Clause 2.7 of the MDCP 2011, the application is not supported for other reasons outlined in this report.

<p>Heritage and privacy impacts associated with enclosure of balcony at first floor for bedroom.</p>	<p>The proposed enclosure of the approved first floor balcony for use as GFA associated with Bedroom 1, does not impact the heritage significance of the dwelling and relates to the alterations and additions approved at the rear of the site under DA/2020/0331.</p> <p>Furthermore, the approved balcony includes privacy screens to the north - eastern elevation which are being retained and therefore, the enclosure of this space would not result in any undue privacy impacts beyond the approved development on the site.</p>
<p>Impact to trees on the boundary line</p>	<p>The proposed changes will not impact trees on adjoining properties as they relate to internal changes and the proposed basement is suitably setback from any tree on an adjoining property.</p> <p>The impacts of approved development on adjoining trees at No. 11 Dickson Street were considered as part of DA/2020/0331 and suitable conditions were imposed to ensure the protection of neighbouring trees which will remain on any future consent.</p>
<p>“We were never consulted in regards to a 5.5 meter high wall built on our boundary line. Nor the scale and bulk of the proposed new works.”</p> <p>“That the 7.48 meter high x 11 meter long wall approved in DA/2020/0331 being built on the shared boundary wall adjoining No:11 Dickson Street is over scaled and bulky. That this wall will cause overshadowing to the windows to bedroom two, and to the living room window/doors.”</p>	<p>The proposal does not include any changes to the approved wall located along the north eastern boundary of the site or any changes to the approved height, bulk and scale of the additions approved under DA/2020/0331.</p> <p>Matters relating the approved development on the site with regard to setbacks, built form, amenity, height, bulk and scale were considered and assessed to be acceptable.</p> <p>Therefore, this is not a matter for consideration under the current modification application as the proposed changes do not relate to these aspects of the approved development.</p>

5(h) The Public Interest

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

The proposal is contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage – Not acceptable (refer to body of report for discussion)
- Development Engineering – Acceptable, subject to conditions

6(b) External

The application was referred to the following external bodies and issues raised in those referrals are discussed below.

- Heritage Council – Acceptable, subject to conditions (refer below)

The study area is within the 'Holmwood Archaeological Site' (Marrickville LEP item A-18-11) and Holmwood Estate Heritage Conservation Area' (Marrickville LEP item C15). Artefact Heritage concluded that the study area has low potential to contain archaeological remains of local significance associated with the construction and occupation of Holmwood Estate. A program of archaeological monitoring under a s139(4) Excavation Permit Exemption is proposed by Artefact Heritage. Heritage NSW agrees with these mitigation measures.

Weir Phillips concluded that the proposed modifications would have no impact on the heritage values of the residence. Therefore, no mitigation measures are required. As delegate of the Heritage Council of NSW, it is recommended that the following condition is included on the Development Consent:

Unexpected Finds

The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: Archaeological relics are protected under s.139 of the Heritage Act 1977. Notification of the unexpected discovery of known or suspected relics is a statutory requirement under s146 of the Heritage Act 1977.

Notwithstanding, for the reasons outlined under Section 5(a)(vi), it is considered that proposal is inconsistent with the objectives of this Clause and results in adverse impacts on the pattern of development within the HCA and the heritage significance of the contributory building.

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

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

8. Conclusion

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

The development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

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

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. MOD/2021/0522 for Section 4.55 Modification to DA/2020/0331, including addition of a basement and changes to floor plans at 13 Dickson Street, Newtown for the following reasons.

Attachment A – Reasons for Refusal

1. The proposed development is inconsistent with the following Clauses of *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
 1. Clause 1.2 - Aims of the Plan, in that the proposal will result in the loss of Heritage fabric and impacts on the local environment and neighbouring properties.
 2. Clause 2.7 - Demolition Requires Development Consent, in that the proposal will result in the loss of significant heritage fabric.
 3. Clause 4.4 – Floor Space Ratio, in that the proposal will result in a variation to the applicable development standard.
 4. Clause 5.10 – Heritage Conservation, in that the proposal will result in adverse impacts on the pattern of development within the HCA and the heritage significance of the contributory building.
 5. Clause 6.5 – Earthworks, in the absence of a structural engineers report, the proposal may have a detrimental impact on environmental functions, processes and neighbouring residences on surrounding land.
2. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.
3. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
4. The proposed development does not comply with the following Parts of the *Marrickville Development Control Plan (DCP) 2011*, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
 1. Part 2.1 – Urban Design, in that the proposal is incompatible with the desired future character of the area and surrounding development.
 2. Part 4.1 – Low Density Residential Development, in that the proposal would have adverse impacts on the significance of the contributory building, amenity of adjoining properties and the character of the area.
 3. Part 8 – Heritage, in that the proposal results in adverse impacts on the heritage significance of the contributory building and Heritage Conservation Area.
 4. Part 9.14.2 – Camdenville (Precinct 14) Heritage Items, in that the proposal has not been designed to retain and complement the character and significance of the Heritage Item.

Attachment B – Plans of proposed development

S4.55 MODIFICATION TO DA APPLICATION DA/2020/0331
 13 DICKSON STREET, NEWTOWN 2042
 LOTS 34 & 35 D.P. 2569



2 Location Plan NTS
 Source: Google Maps

- BASIX** A374076_02
- Fixtures & Systems**
 - Min 3 star water rating showerheads (flow rate no greater than 9L/min)
 - Min 3 star water rating toilets (no greater than 4L/flush)
 - Min 3 star water rating kitchen/bathroom taps (flow rate no greater than 9L/min)
 - Hot Water**
 - Gas instantaneous
 - Insulation**
 - Timber framed external walls: R1.30
 - Raked ceiling, pitched/skillion framed roof: R1.74
 - Flat Ceiling framed roof: R1.55
 - Roof (medium solar absorbance); Foli backed blanket (55mm)
 - Lighting**
 - 40% new/alterred lights fluorescent, compact fluorescent or LED lamps

Dwg N°	Rev.	Description	Scale
DA00	G	Cover Page	N/A
DA01	G	Site Analysis + Roof Plan	1:200
DA12	G	Basement Plan	1:100
DA02	G	Ground Floor Plan	1:100
DA03	G	First Floor Plan	1:100
DA04	G	North Elevation	1:100
DA05	G	South Elevation	1:100
DA06	G	East Elevation	1:100
DA07	G	West Elevation	1:100
DA08	G	Section A	1:100
DA09	G	Section B & Section C	1:100
DA10	G	Materials & Finishes Schedule	N/A
DA11	B	Photomontage	N/A
DA20	D	Shadow Diagrams - June 21 9am	1:200
DA21	D	Shadow Diagrams - June 21 12pm	1:200
DA22	D	Shadow Diagrams - June 21 3pm	1:200
DA23	D	Shadow Diagrams Elevation - June 21	1:200
DA24	D	Shadow Diagrams Elevation - June 21 12PM- 3PM	1:200
DA30	A	Concept Drainage Plan	1:100
DA31	G	Area Calculations	N/A
E01	B	Existing Ground Floor Plan	1:100
E02	B	Existing First Floor Plan	1:100
L01	A	Landscape Plan	1:100
L02	A	Landscape Plant Schedule	N/A

CODE	DESCRIPTION
AS	AUSTRALIAN STANDARD
BK	BRICK RENDER & PAINT FINISH
DP	DOWN PIPE
(e)	EXISTING
FBK	FACE BRICKWORK
MIR	METAL ROOF SHEET
MS	METAL WALL SHEET
PTxx	PAINTED FINISH
SR	SLATE ROOF
ST	SANDSTONE BLOCK
TM	TIMBER PAINTED FINISH
TME	TO MATCH EXISTING
W	WINDOW
GR	GREEN ROOF

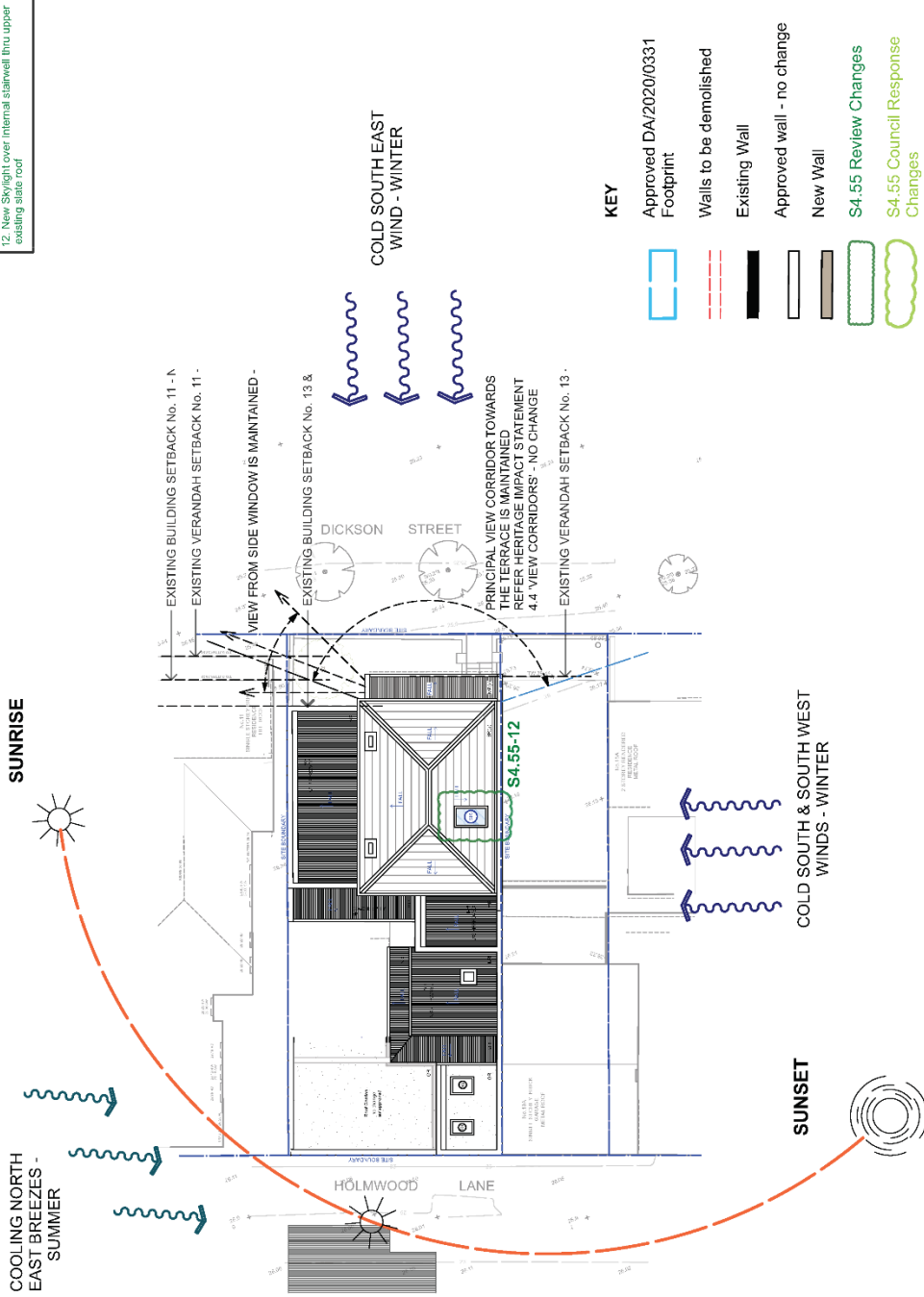
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[Red dashed line]	Walls to be demolished
[Black solid line]	Existing Wall
[White solid line]	Approved wall - no change
[Grey solid line]	New Wall
[Green dashed line]	S4.55 Review Changes
[Yellow dashed line]	S4.55 Council Response Changes

Weir Phillips Architects
 NATA Registered Number: 15081 (Herbert View)

13 Dickson Street
 Power Residence
 Cover Page
 Level 19, 100 William Street, Sydney NSW 2000
 T: 61 2 915 1519 W: www.wepa.com.au E: info@weirphillips.com.au

DA00

REVISIONS
 12. New Skylight over internal stairwell thru upper existing slate roof



SUNRISE

COOLING NORTH EAST BREEZES - SUMMER

COLD SOUTH EAST WIND - WINTER

COLD SOUTH & SOUTH WEST WINDS - WINTER

SUNSET

PRINCIPAL VIEW CORRIDOR TOWARDS THE TERRACE IS MAINTAINED REFER HERITAGE IMPACT STATEMENT 4.4 'VIEW CORRIDORS' - NO CHANGE

KEY

- Approved DA/2020/0331 Footprint
- Walls to be demolished
- Existing Wall
- Approved wall - no change
- New Wall
- S4.55 Review Changes
- S4.55 Council Response Changes

PROJECT	13 Dickson Street	PROJECT NO.	DA01
CLIENT	Power Residence	DATE	10/08/22
NO.	Site Analysis & Roof Plan	DATE	10/08/22
Level 1B, 10C, William Street, Sydney NSW 2000		DATE	10/08/22
T: 02 9510 7010 W: www.weirphillips.com.au E: info@weirphillips.com.au		DATE	10/08/22

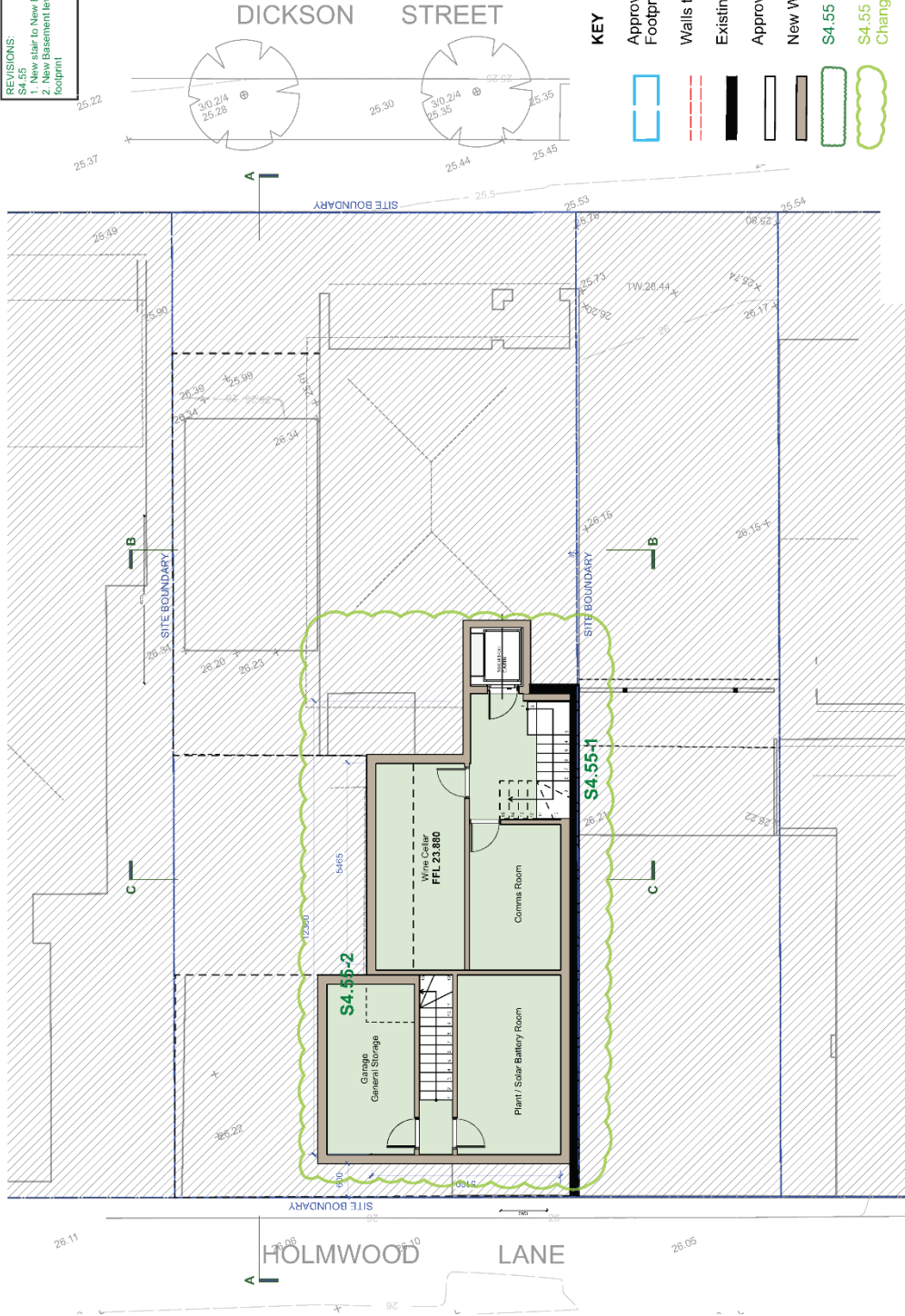
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REVISIONS:
S4.55
 1. New Stair to New Basement Level
 2. New Basement Level within approved building footprint



- KEY**
- Approved DA/2020/0331 Footprint
 - Walls to be demolished
 - Existing Wall
 - Approved wall - no change
 - New Wall
 - S4.55 Review Changes
 - S4.55 Council Response Changes

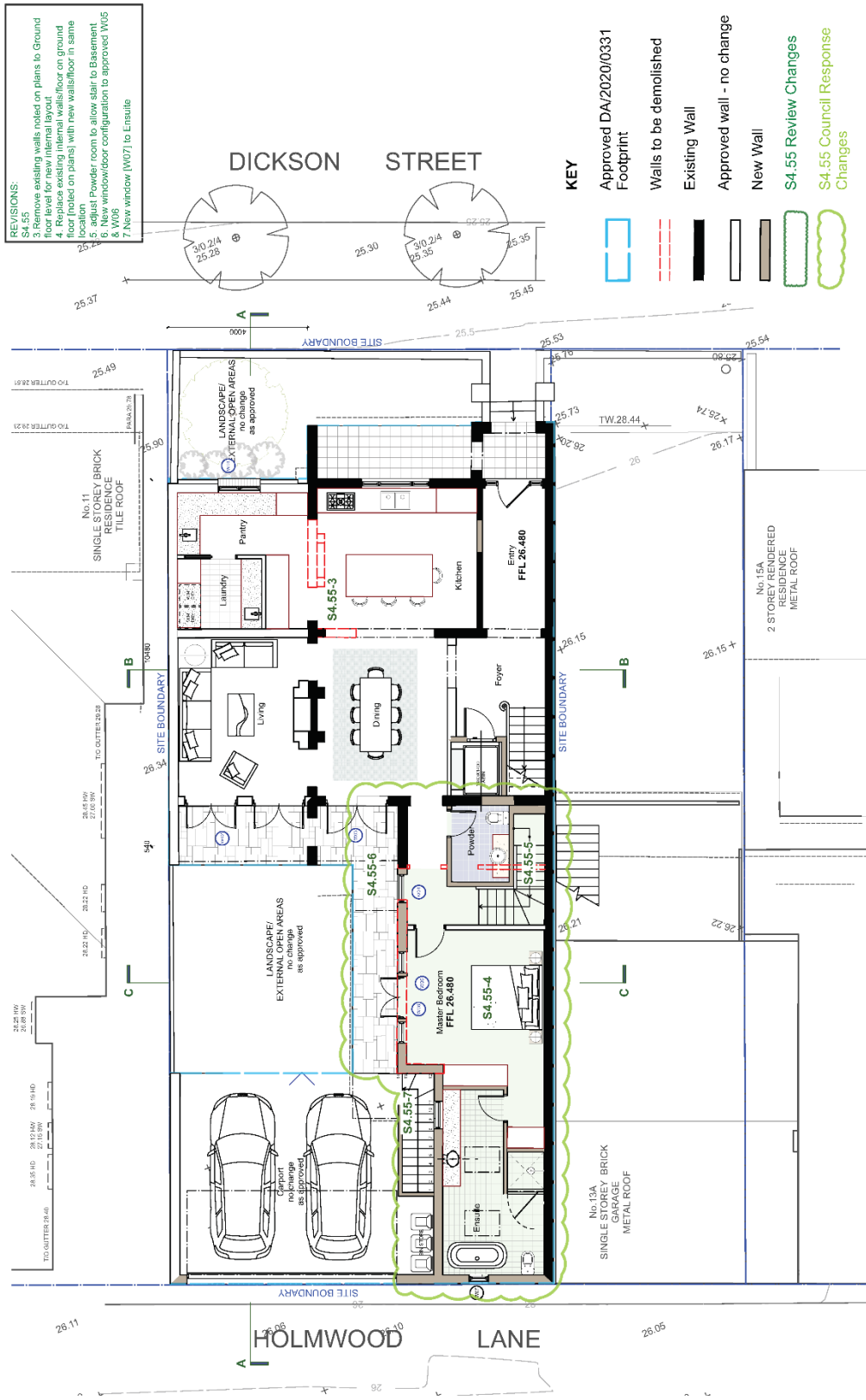
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CLIENT	Power Residence	DATE	DA/21
NO	Basement Floor Plan	DATE	
Level 1B, 100 William Street, Sydney NSW 2000			
T: 61 2 9510 4010 W: www.weirphillips.com.au E: info@weirphillips.com.au			

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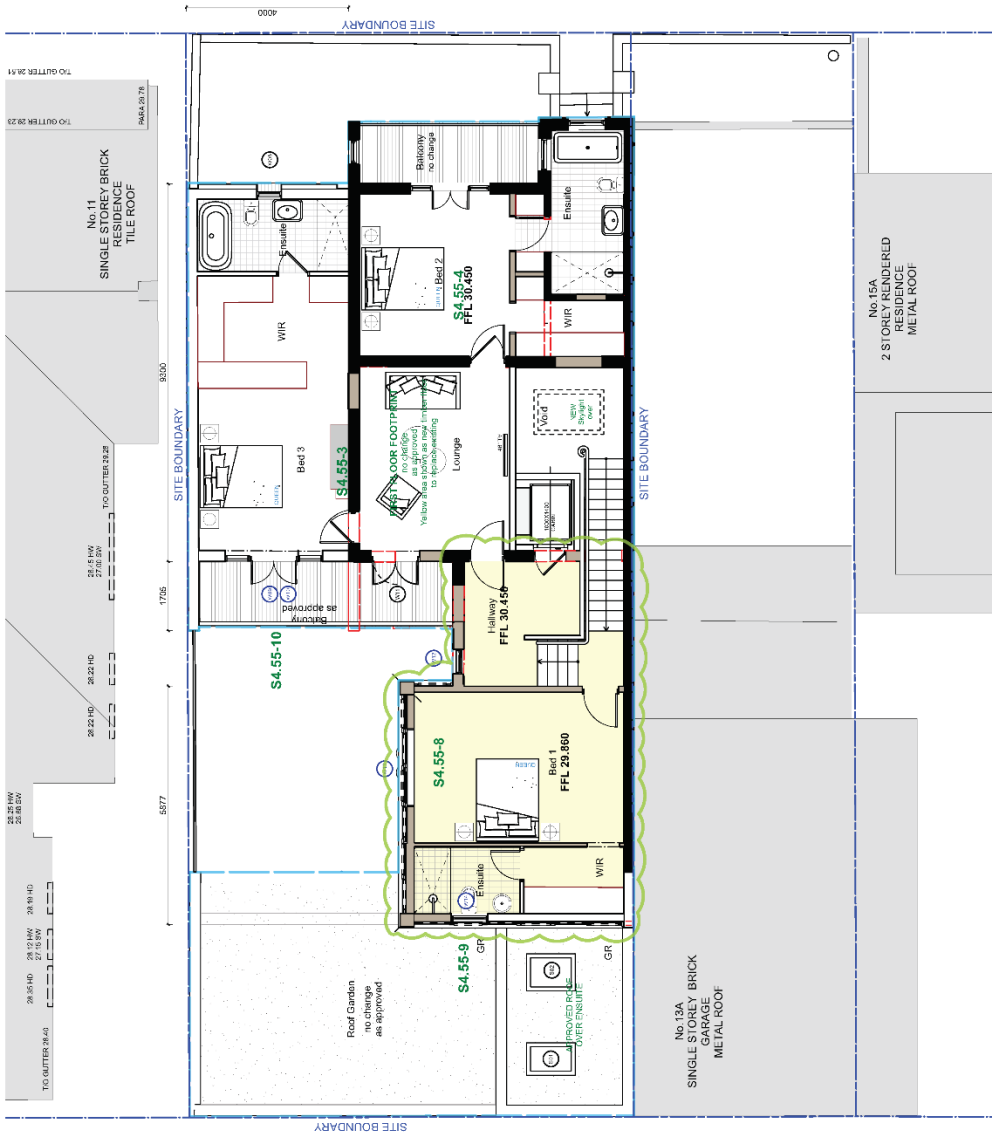


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NO.	Ground Floor Plan	DATE	09/08/22
Level 1B, 100 William Street, Sydney NSW 2000		DATE	09/08/22
T: 61 2 9210 7010 W: www.weirphillips.com.au E: info@weirphillips.com.au		DATE	09/08/22

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REVISIONS:
S4.55
 3. Remove existing walls noted on plans & associated to Ground floor level.
 4. Existing walls on ground floor (retained on plans) & existing walls on new walls/floor in same approved location.
 5. Replace approved balcony to Bed 1 with internal extension of room.
 6. Replicate W14 from NE facade on Ensuite to NW balcony.
 7. Reconfigure approved W09 + W10 doors to balcony.

- KEY**
- Approved DA/2020/0331 Footprint
 - Walls to be demolished
 - Existing Wall
 - Approved wall - no change
 - New Wall
 - S4.55 Review Changes
 - S4.55 Council Response Changes



PROJECT	13 Dickson Street	PROJECT	PDN
CLIENT	Power Residence	DATE	DA03
NO.	First Floor Plan	DATE	
Level 19, 100 William Street, Sydney NSW 2000			
T: 61 2 9310 7010 W: www.weirphillips.com.au E: info@weirphillips.com.au			

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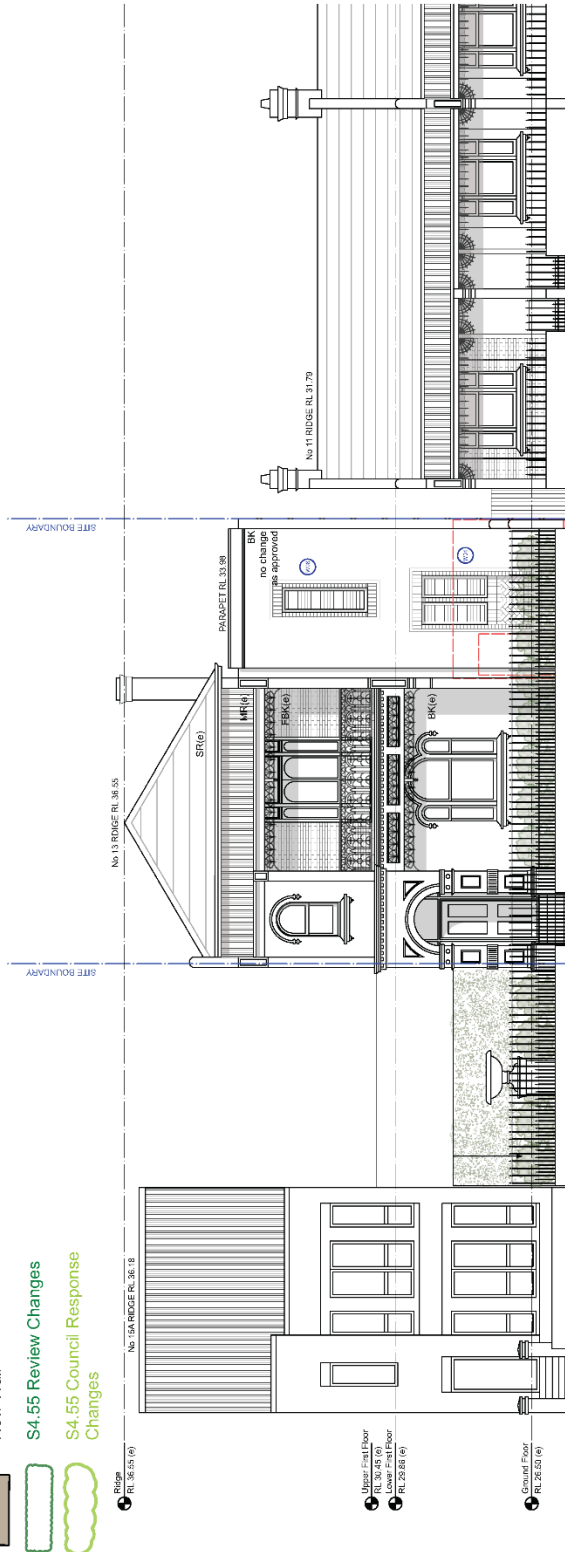
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REVISIONS:
 S4.55
 NO CHANGE TO APPROVED STREET
 FRONTAGE
 EXTERNAL COLOUR CHANGE - REFER TO
 EXTERNAL FINISHES SCHEDULE

KEY

-  Approved DA/2020/0331 Footprint
-  Walls to be demolished
-  Existing Wall
-  Approved wall - no change
-  New Wall
-  S4.55 Review Changes
-  S4.55 Council Response Changes



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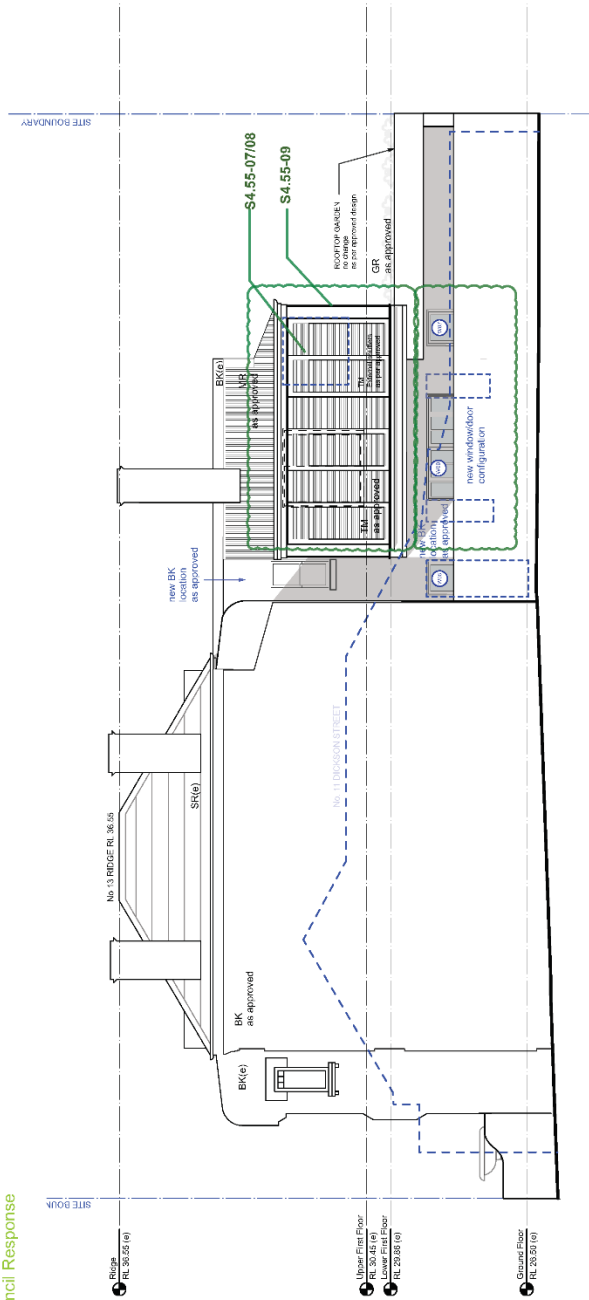
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PROJECT NAME	Power Residence		
PROJECT ADDRESS	13 Dickson Street		
PROJECT TYPE	South Elevation		
PROJECT LOCATION	Level 19, 100 William Street, Sydney NSW 2000		
PROJECT CONTACT	T: 61 2 9310 1010 W: www.weirphillips.com.au E: info@weirphillips.com.au		
PROJECT ID	DA05	PROJECT ID	PDN
PROJECT STATUS	DA05	PROJECT STATUS	PDN

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REVISIONS:
 S4.55
 8. Replace approved balcony to Bed 1 with internal extension of room
 9. Replicate W74 from NE facade on Ensuite to NW facade

KEY

- Approved DA/2020/0331 Footprint
- Walls to be demolished
- Existing Wall
- Approved wall - no change
- New Wall
- S4.55 Review Changes
- S4.55 Council Response Changes



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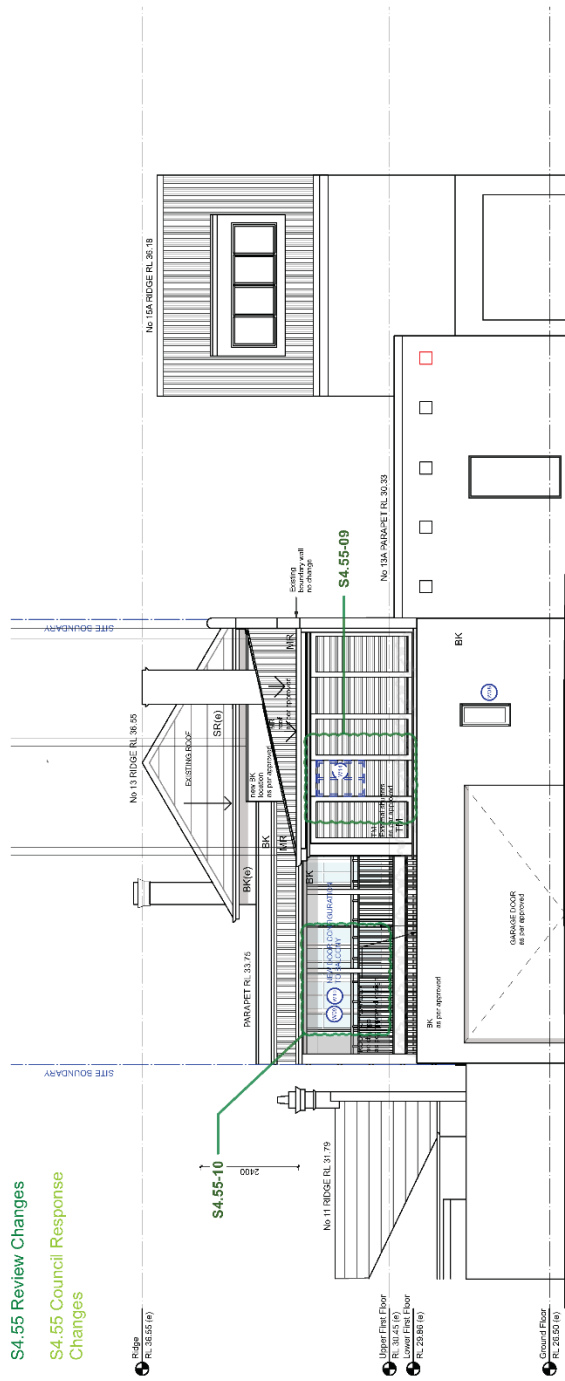
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SUBJECT	Power Residence	DATE	10/27
NO.	DA06	DATE	10/27
NO.	East Elevation	DATE	10/27
NO.	Level 1B, 100 William Street, Sydney NSW 2000	DATE	10/27
NO.		DATE	10/27
NO.		DATE	10/27
NO.		DATE	10/27

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 T: 61 2 9310 7010 W: www.wpph.com.au E: info@wpph.com.au

REVISIONS:
 S4.55
 09 Relocate W14 from NE facade on Ensulle to NW facade
 10 Reconfigure approved W09 + W10 doors to balcony

KEY

- Approved DA/2020/0331 Footprint
- Walls to be demolished
- Existing Wall
- Approved wall - no change
- New Wall
- S4.55 Review Changes
- S4.55 Council Response Changes



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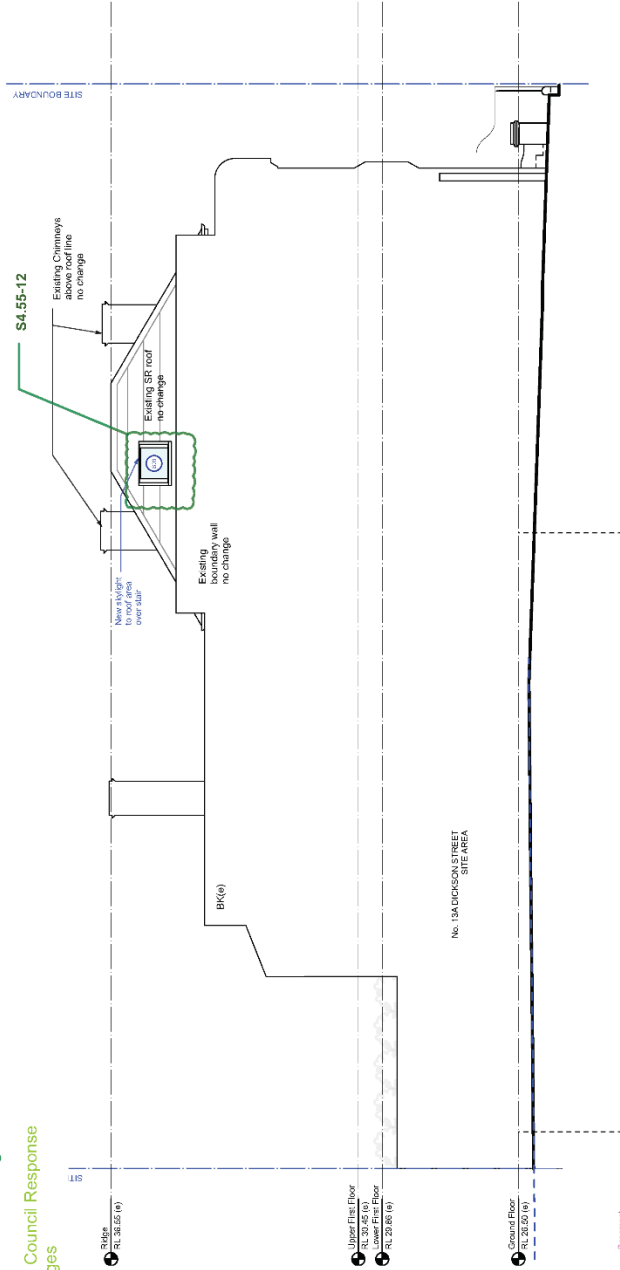
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13/08/22	REVISED	WPH/LSM
19/08/22	REVISED	WPH/LSM
25/08/22	REVISED	WPH/LSM
01/09/22	REVISED	WPH/LSM

PROJECT: 13 Dickson Street
 POWER RESIDENCE
 NORTH ELEVATION
 DA04
 PDN

REVISIONS
 S4.55
 12. New Skylight over internal stairwell thru upper existing slate roof

KEY

-  Approved DA/2020/0331 Footprint
-  Walls to be demolished
-  Existing Wall
-  Approved wall - no change
-  New Wall
-  S4.55 Review Changes
-  S4.55 Council Response Changes










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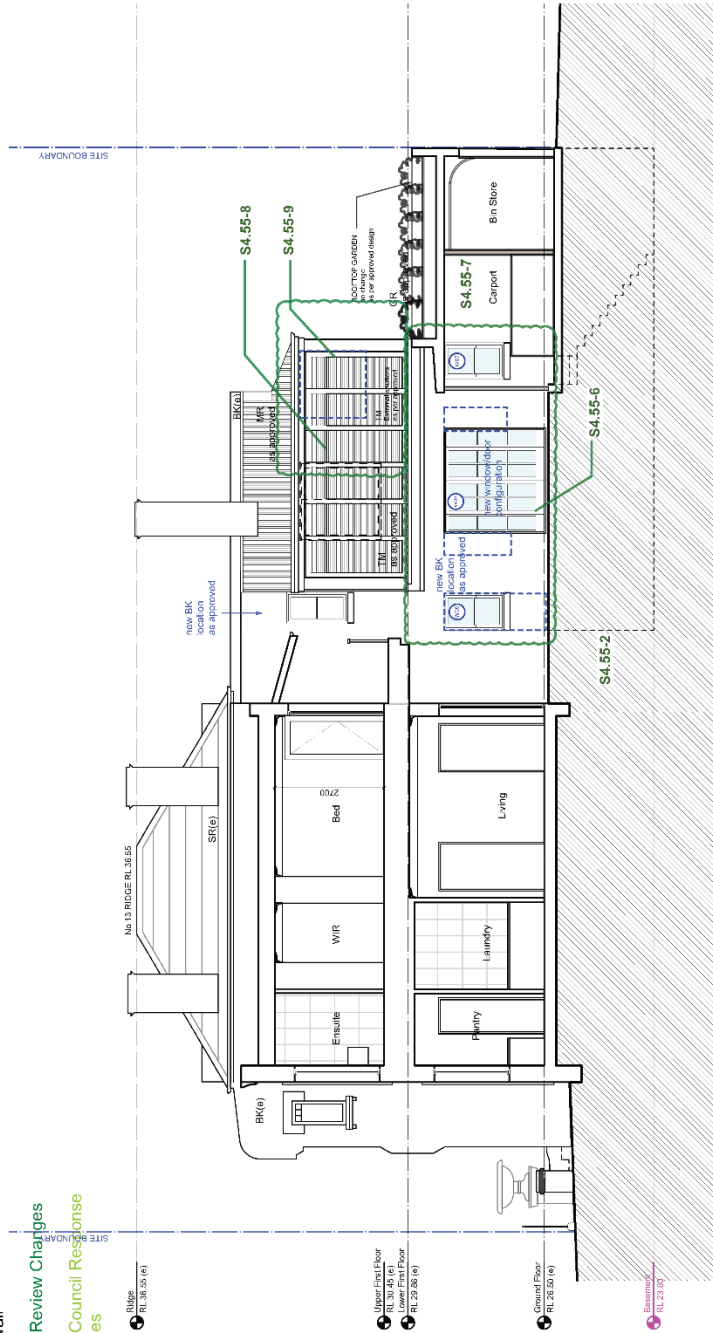
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CLIENT	Power Residence	DATE	10/27
NO.	West Elevation	DATE	10/27
Level 1B, 100 William Street, Sydney NSW 2000		DATE	10/27
T: 61 2 9510 7010 W: www.weirphillips.com.au E: info@weirphillips.com.au		DATE	10/27

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- REVISIONS:**
S4.55
 1. New Stair to New Basement Level
 2. New Basement level within approved building footprint
 3. New window/door configuration to approved W05 & W06
 4. New window/door configuration to approved W05 & W06
 5. New window/door configuration to approved W05 & W06
 6. New window/door configuration to approved W05 & W06
 7. New window (W08) to Ensuite
 8. Replace approved balcony to Bed 1 with internal extension of room
 9. Replicate W14 from NE facade on Ensuite to NW facade.

- KEY**
-  Approved DA/2020/0331 Footprint
 -  Walls to be demolished
 -  Existing Wall
 -  Approved wall - no change
 -  New Wall
 -  S4.55 Review Changes
 -  S4.55 Council Response Changes



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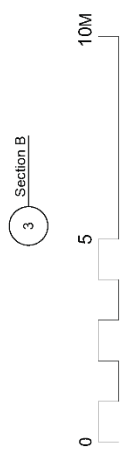
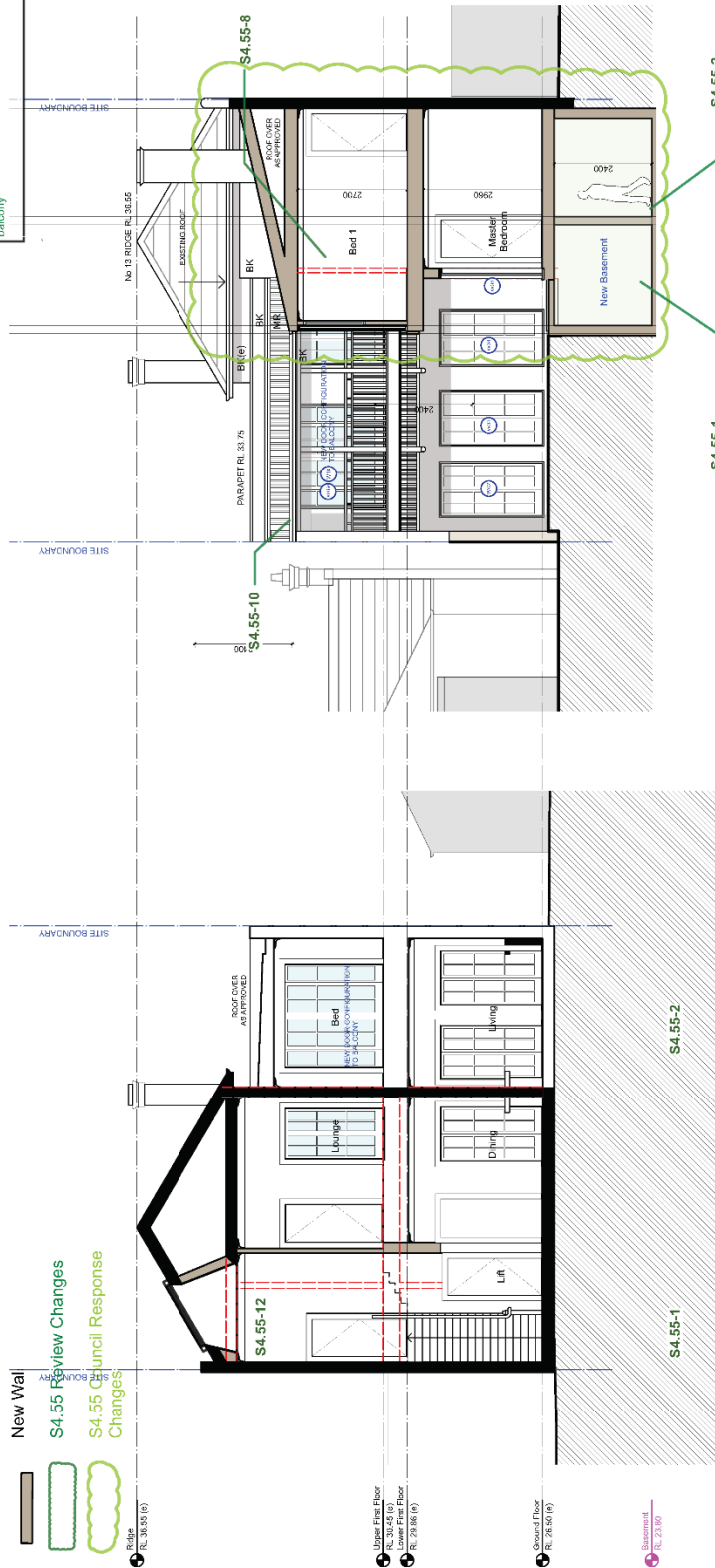
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DATE	NO.	DESCRIPTION
13/08/20	1	ISSUED FOR PERMIT
13/08/20	2	ISSUED FOR PERMIT
13/08/20	3	ISSUED FOR PERMIT
13/08/20	4	ISSUED FOR PERMIT
13/08/20	5	ISSUED FOR PERMIT
13/08/20	6	ISSUED FOR PERMIT
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13/08/20	50	ISSUED FOR PERMIT

- REVISIONS:**
S4.55
 1. New Stair to New Basement Level
 2. New Basement Level within approved building footprint
 3. Remove existing walls noted on plans & associated fireplaces to Ground floor level.
 4. Remove existing internal walls/floor on ground floor (noted on plan) & replace with new walls/floor in same approved location
 5. Relocate existing stair to Basement
 6. Replace approved balcony to Bed 1 with internal extension of room
 7. Relocate W14 from NE facade on Ensuite to NW facade.
 8. Reconfigure approved W09 + W10 doors to balcony

- KEY**
- Approved DA/2020/0331 Footprint
 - Walls to be demolished
 - Existing Wall
 - Approved wall - no change
 - New Wall
 - S4.55 Review Changes
 - S4.55 Council Response Changes



1 Section C

PROJECT	13 Dickson Street	PROJECT NO.	DA09
CLIENT	Power Residence	DATE	11/06/21
NO.	Section B & Section C	SCALE	1:100
Level 1B, 100 William Street, Sydney NSW 2000		DESIGNER	WEIR PHILLIPS ARCHITECTS
T: 61 2 9510 7010 W: www.weirphillips.com.au		REV.	01

Weir Phillips Architects
 Weir Phillips Architects
 Level 1B, 100 William Street, Sydney NSW 2000
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AREA CALCULATIONS
CHANGES NOTED IN RED

Site Area: 293.4 sqm

Site Coverage Control (60%): 174 sqm

Site Coverage [DA/2020/0331] Approved (71%): 211 sqm [no change]

Permitted GFA (FSR 0.8:1): 234.72 sqm

Approved [DA/2020/0331] GFA - Ground Floor: 133 sqm

Approved [DA/2020/0331] GFA - First Floor: 121 sqm

Proposed [DA/2020/0331] GFA - TOTAL: 254 sqm / FSR 0.86:1

\$4.55 PROPOSED GFA

Proposed GFA - Basement Floor: 68 sqm [excluded from GFA]

Proposed GFA - Ground Floor: 133 sqm [no change]

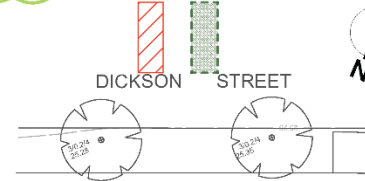
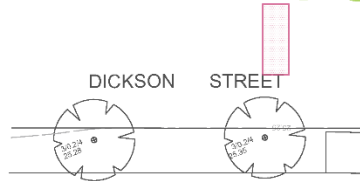
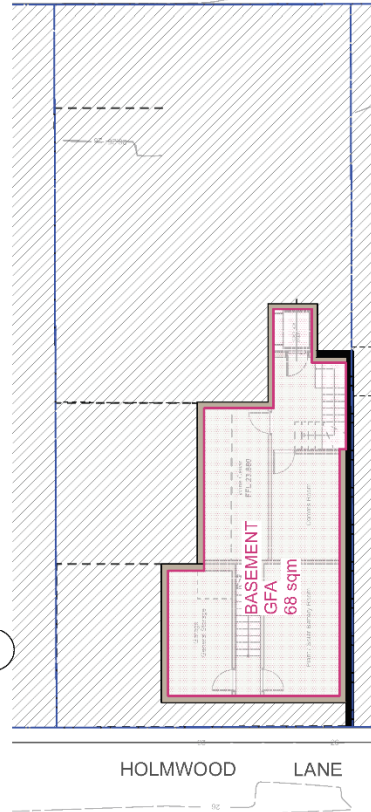
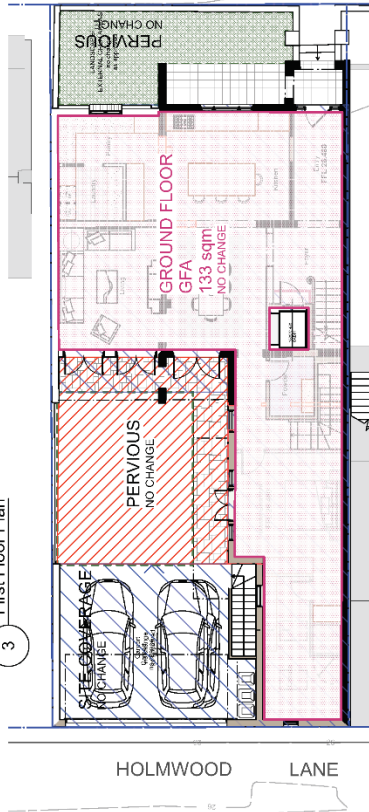
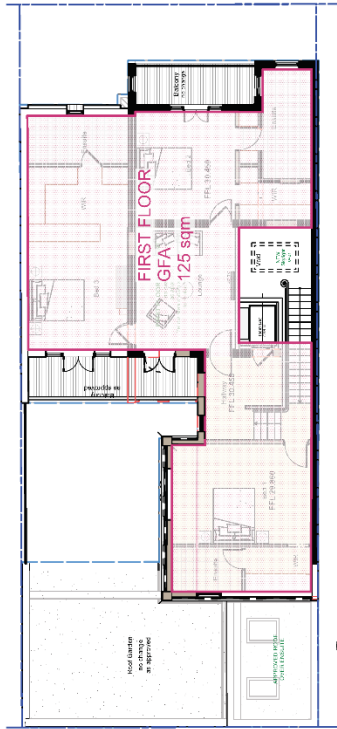
Proposed GFA - First Floor: 125 sqm

Proposed GFA - TOTAL: 258 sqm / FSR 0.88:1

Private Open Space Control: 45 sqm

Private Open Space [DA/2020/0331] Approved: 48 sqm [no change]

Pervious Area [DA/2020/0331] Approved: 53.5 sqm



Weir Phillips Architects
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PROJECT	13 Dickson Street	PROJECT NO.	DA31
DATE	10/06/22	DATE	10/06/22
PREPARED BY	Power Residence	DATE	10/06/22
CHECKED BY	Area Calculations	DATE	10/06/22
DATE	10/06/22	DATE	10/06/22
DATE	10/06/22	DATE	10/06/22
DATE	10/06/22	DATE	10/06/22
DATE	10/06/22	DATE	10/06/22

Document Set ID: 38877045
 Version: 1, Version Date: 09/08/2022

Attachment C- Statement of Heritage Significance

Weir Phillips Heritage and Planning

25th November 2021

J4210

Attention: General Manager
 Inner West Council
 PO Box 14
 Petersham NSW 2049

Re: Heritage Impact Statement
 s4.55 DA/2020/0331 Application
 13 Dickson Street, Newtown

This Heritage Impact Statement (HIS) has been prepared to accompany an application to modify development consent under s4.55(1) of the *Environmental Planning and Assessment Act 1979* for modifications to an approved DA for alterations and additions at No. 13 Dickson Street, Newtown, New South Wales. The site is legally described as Lot 34 and Lot 35 in Deposited Plan 2569.

The site is located within the Inner West Council LGA. The principal planning instrument for the site is the *Marrickville Local Environmental Plan 2011 (LEP 2011)*. The subject site is listed as an item of local heritage significance known as *Holmwood Archaeological Site* by Schedule 5, Part 1 of the *Marrickville LEP 2011*. The site is also located within the *Holmwood Estate Heritage Conservation Area* by Schedule 5, Part 2 of the *Marrickville LEP 2011*.

Weir Phillips Heritage and Planning prepared the HIS that accompanied D/2020/0331. This statement, dated April 2020, should be referred to for a site history and heritage assessment. It is noted that the site has been gazetted as an archaeological site in the interim since the original approval. It is recognized that an archaeological assessment may be required.

This HIS should be read in conjunction with the plans prepared by Weir Phillips Architects. This s4.55(1) Application seeks approval for the following modifications.

Proposed modifications	Heritage Impact Assessment
New Skylight over Internal stairwell through upper existing slate roof	Located on the secondary side elevation. While within the original roof form, the discreetly positioned skylight will not impact upon the ability to understand the dwelling as a late Victorian era dwelling.
New stair to New Basement Level	The proposed stairs to the basement will have no heritage impact as they are concealed behind a doorway next to the lift. The new stair will not impact upon spatial qualities of the entry foyer which reuse parts of the original stair.

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 Version: 1, Version Date: 09/08/2022

Astragal Heritage t/a
 Weir Phillips Heritage and Planning
 ABN 40 600 197 859

Weir Phillips Heritage and Planning

Proposed modifications	Heritage Impact Assessment
New Basement level within approved building footprint	<p>The proposed basement will have no impact on the external appearance of the building which is its primary contributory characteristic to the HCA.</p> <p>It is recognized that there may be archaeological impacts associated with the construction of a basement. This impact can be assessed in a separate report.</p>
Remove and reconstruction existing walls noted on plans to Ground floor level for new internal layout	<p>The proposed removal and reconstruction of walls in the kitchen and dining area (to facilitate the construction of the basement) will be reinstated in the same location to preserve an understanding of the original layout. Where openings are proposed to occur, such as the widening between the kitchen and laundry, nib walls are to be retained so the original configuration can be readily understood.</p>
Adjust Powder room to allow stair to Basement	<p>The proposed adjustment to the power room configuration will have no additional heritage impact, works are contained to the interior of the dwelling and will not be visible from the exterior.</p>
New window/door configuration to approved W05 & W06	<p>No heritage impact.</p> <p>The proposed minor adjustment to the previously approved contemporary windows.</p>
New window [W07] to Ensuite	<p>No heritage impact.</p> <p>The proposed minor adjustment to the previously approved contemporary window.</p>
Replace approved balcony to Bed 1 with internal extension of room	<p>No heritage impact.</p> <p>The proposed rear wing part of the approved contemporary addition to the dwelling. The proposed extension to the bedroom will not be visible from Dickson Street and will not substantially increase the overall massing of the building.</p>

Weir Phillips Heritage and Planning

Proposed modifications	Heritage Impact Assessment
W14 from NE facade on Ensuite to NW facade.	No heritage impact. The proposed new window is located within the existing approved contemporary addition to the dwelling. The proposed extension to the bedroom will not be visible from Dickson Street.
Reconfigure approved W09 + W10 doors to balcony	No heritage impact. The proposed minor adjustment to the previously approved contemporary window.
External Colours Front Door – Dulux Vengeful Red Masonry – Dulux Platinum Class (light grey) Ironwork/Bargework – Resene Cinder (black) Window & Door Trims + Eaves & Soffit linings – Dulux Snowy Mountain (cream)	No heritage impact. The proposed colour scheme is compatible with the surrounding area. The proposed scheme will ensure the architectural mouldings and other features are highlighted appropriately.

The proposed modifications are substantially in accordance with the D/2020/0331. The changes represent design developments that will not impact on the overall massing, scale and character of the approved works, nor will they have an adverse impact on significant or original fabric.

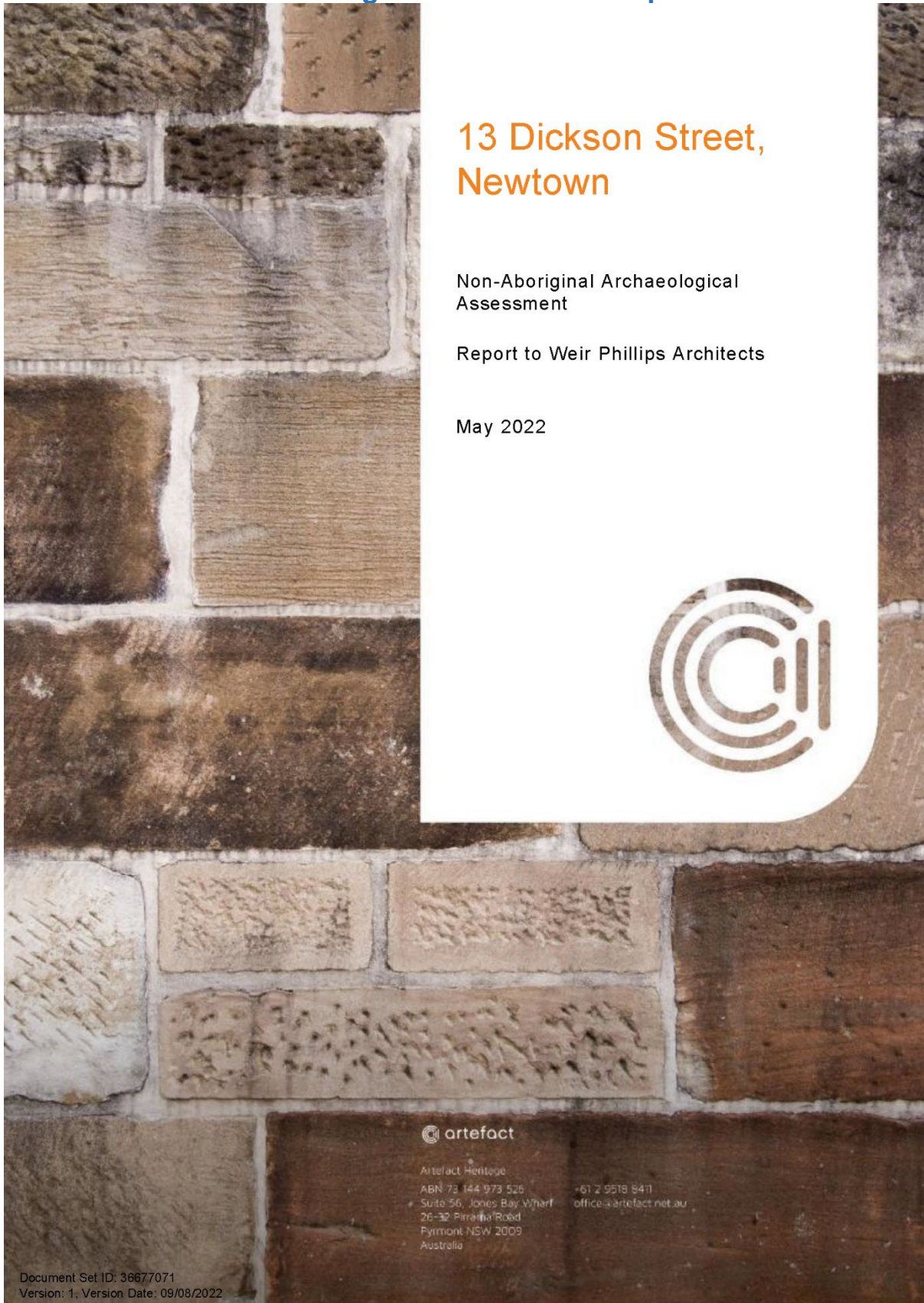
Please do not hesitate to contact me on (02) 8073 5317 if you require further information.

Yours faithfully,



James Phillips | Director

Attachment D – Archaeological Assessment Report



13 Dickson Street, Newtown
Historical Archaeological Impact Assessment

Document history and status

Revision	Date issued	Reviewed by	Approved by	Date approved	Revision type
1	31/05/22	JW	JW	01/06/22	Internal draft review
2	02/06/2022	JW	JW	02/06/2022	Final

Author:	Stephanie McCarthy-Reece, John Sokalik and Jenny Winnett
Project manager:	Jenny Winnett
Project number:	22121
Name of organisation:	Artefact Heritage
Document version:	Final

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13 Dickson Street, Newtown
Historical Archaeological Impact Assessment

EXECUTIVE SUMMARY

Project background

Artefact Heritage has been engaged by Weir Phillips Architects on behalf of the proponent to prepare a non-Aboriginal (historical) Archaeological Assessment (AA) for proposed works at 13 Dickson Street, Newtown within Lot 34 DP2569 and Lot 35 DP2569 (the study area).

The study area is located within the Holmwood Archaeological Site, identified as an archaeological site on Schedule 5 Part 3 of the Marrickville Local Environmental Plan 2011 (LEP 2011) as item A-18-11. The study area is also located within the Holmwood Estate Heritage Conservation Area (HCA), listed on the Marrickville LEP 2011 as item C15.

The Inner West Council are currently considering a Section 4.66 Modification to DA/2020/0331 (MOD/2021/0522) for development within the study area. The modification includes the addition of a basement and changes to previously approved floor plans. As such, Council have requested the submission of a revised proposal that incorporates an archaeological assessment of the site.

The aim of this AA is to assess the potential for proposed works to impact historical archaeological resources within the study area and outline any research questions that can be addressed during the proposed development. This report also includes an assessment of historical archaeological potential, and historical archaeological significance.

Conclusions

The non-Aboriginal archaeological assessment concluded that:

- The study area is located within the 'Holmwood Archaeological Site,' listed on Schedule 5 Part 3 of the Marrickville LEP 2011 as item A-18-11. The study area is also within the 'Holmwood Estate HCA,' listed on the Marrickville LEP 2011 as C15
- The study area has low potential to contain archaeological remains of local significance associated with the construction and occupation of Holmwood (Phase 2), and early occupation of the current property (Phase 3), including:
 - Remains of former landscaping features including original circular drive, fences, paths, drains, former drainage/utilities, retaining walls and gardens (Phase 2)
 - Former utilities (Phase 2 and 3)
 - Rubbish pits and isolated artefacts (Phase 3)
 - Structural evidence associated with unknown Phase 3 privvies/outbuildings.
- Proposed basement excavation works are unlikely to impact on significant archaeological resources due to its location in the frontage of the former house. The overall impact of the proposal on the listed archaeological site and potential archaeological resource associated with Holmwood is therefore assessed as being negligible, as summarised in the below table:

13 Dickson Street, Newtown
Historical Archaeological Impact Assessment

Phase	Archaeological potential	Potential	Significance	Project impact
1 (1794 – 1835)	Evidence associated with early agricultural land use: <ul style="list-style-type: none"> Evidence of land clearance and early agricultural use i.e. tree boles, introduced soil amendments Fencelines/postholes 	Nil to low	N/A	Nil
2 (1835-1890)	Evidence associated with the early construction and occupation of Holmwood including: <ul style="list-style-type: none"> Truncated landscape features including evidence of the former circular drive, plantings, fences, paths, drains, former drainage/utilities, retaining walls and gardens 	Low	Local	Negligible
2 (1890)	Evidence associated with late 19 th century occupation: <ul style="list-style-type: none"> Demolition deposits associated with Holmwood Artefact bearing deposits i.e. yard scatters Privies/outbuildings 	Low	Local (intact artefact bearing deposits)	Negligible

Recommendations

It is recommended that the following mitigation measures are implemented prior to and during project excavation works:

Mitigation measure	Description
s139(1B) Excavation Permit Exception	Prior to works occurring a s139(1B) Excavation Permit Exception granted under section 139(4) of the <i>Heritage Act 1977</i> would need to be obtained from Heritage NSW. A s139(1B) is applicable as the excavation works would not affect the significant areas of the known archaeological site. This document should be submitted with the exception application.
Archaeological management during excavation works	It is recommended that a program of archaeological monitoring, in accordance with the Work Method Statement outlined in this document (see Appendix A), is implemented during basement excavation works to confirm that no archaeological remains survive in this location. Where substantial intact archaeological relics of State or local significance not identified in this AA are unexpectedly discovered during excavation, work must cease in the affected area and Heritage NSW must be notified in writing in accordance with Section 146 of the <i>Heritage Act 1977</i> . Depending on the nature of the discovery, additional assessment and possibly an excavation permit may be required prior to the recommencement of excavation in the affected area.

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Mitigation measure	Description
Heritage induction	All relevant construction staff, contractors and subcontractors must be made aware of their statutory obligations for archaeological resources under the <i>NSW Heritage Act 1977</i> and best practice as outlined in The Burra Charter (Australia ICOMOS 2013) to ensure no archaeological remains are impacted during the proposed works without appropriate mitigation measures in place. This will be implemented through a heritage induction carried out prior to works commencing and throughout the works program.
Aboriginal archaeology	Should Aboriginal objects be uncovered during the construction program works should cease immediately and Heritage NSW is to be notified in accordance with Section 89A of the <i>National Parks and Wildlife Act 1974</i> . Further approval would be required to impact, harm or remove Aboriginal objects.
Design modifications	Any modifications, including minor corrections, clarifications, amendments, or additional works beyond the scope of those works assessed in this report would require further assessment. If works are inconsistent with the s139 exception and/or other project approvals, additional approvals may be required.

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1.0 INTRODUCTION

1.1 Project background

Artefact Heritage has been engaged by Weir Phillips Architects on behalf of the proponent to prepare a non-Aboriginal (historical) Archaeological Assessment (AA) for proposed works at 13 Dickson Street, Newtown within Lot 34 DP2569 and Lot 35 DP2569 (the study area).

The study area is located within the Holmwood Archaeological Site, identified as an archaeological site on Schedule 5 Part 3 of the Marrickville Local Environmental Plan 2011 (LEP 2011) as item A-18-11. The study area is also located within the Holmwood Estate Heritage Conservation Area (HCA), listed on the Marrickville LEP 2011 as item C15.

The Inner West Council are currently considering a Section 4.66 Modification to DA/2020/0331 (MOD/2021/0522) for development within the study area. The modification includes the addition of a basement and changes to previously approved floor plans. As such, Council have requested the submission of a revised proposal that incorporates an archaeological assessment of the site.

The aim of this AA is to assess the potential for proposed works to impact historical archaeological resources within the study area and outline any research questions that can be addressed during the proposed development. This report also includes an assessment of historical archaeological potential, and historical archaeological significance.

1.2 Study area

The study area includes Lot 34 DP2569 and Lot 35 DP2569 at 13 Dickson Street, Newtown. It is located within the Inner West Council Local Government Area (LGA) within the parish of Petersham and the County of Cumberland. The study area is within the boundaries of the Metropolitan Local Aboriginal Land Council (LALC).

The location of the study area is illustrated in Figure 1.

1.3 Authorship and acknowledgements

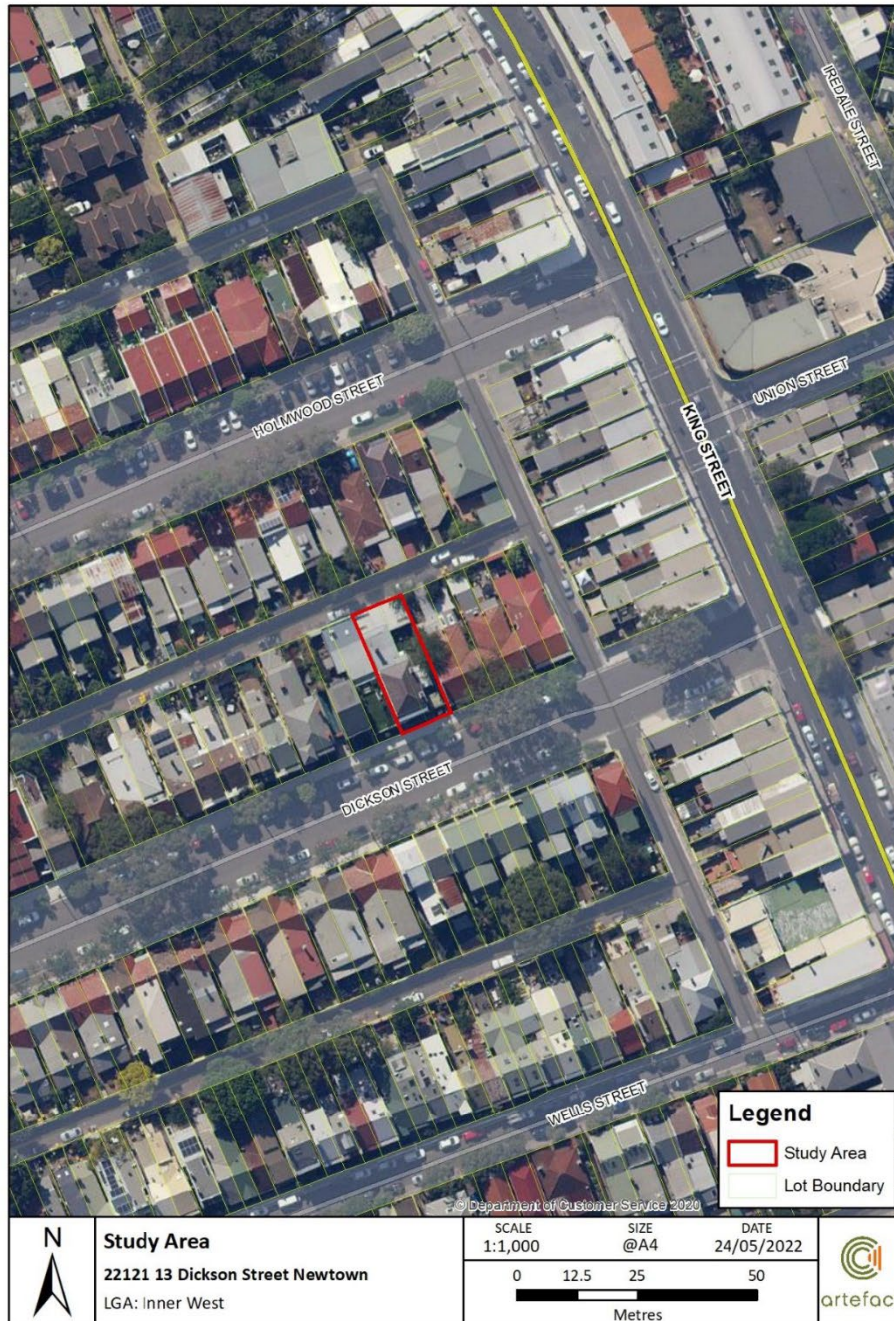
This report was prepared by Stephanie McCarthy-Reece (Heritage Consultant, Artefact Heritage) and John Sokalik (Senior Heritage Consultant, Artefact Heritage) with management input and review provided by Jenny Winnett (Principal, Artefact Heritage).

1.4 Limitations

This document provides an assessment of non-Aboriginal (historic) archaeological remains within the study area only. Aboriginal cultural heritage and built heritage were not assessed within the scope of this study.

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Figure 1. Location of the study area



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2.0 LEGISLATIVE CONTEXT

2.1 Overview

There are several items of State and Commonwealth legislation that are relevant to the current study. A summary of these Acts and the potential legislative implications is given below.

A search of the relevant state and federal statutory heritage registers identified heritage items located within and directly adjacent to the study area. The registers are as follows:

- Commonwealth Heritage List (CHL)
- National Heritage List (NHL)
- SHR
- Section 170 Heritage and Conservation Registers
- NSW State Heritage Inventory database
- Relevant LEP's
- Register of the National Estate (RNE)
- National Trust of Australia (NSW) register.

Items listed on these registers have been previously assessed against the NSW Heritage Assessment guidelines. The statements of heritage significance provided in this assessment are based on the NSW Heritage Assessment guidelines as they appear in relevant heritage inventory sheets and documents.

2.2 Environmental Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides a legislative framework for the protection and management of matters of national environmental significance, that is, flora, fauna, ecological communities and heritage places of national and international importance. Heritage items are protected through their inclusion on the World Heritage List, Commonwealth Heritage List or the National Heritage List.

The EPBC Act stipulates that a person who has proposed an action that will, or is likely to, have a significant impact on a World, National or Commonwealth Heritage site, must refer the action to the Department of the Environment and Energy and Minister for the Environment (hereafter Minister). The Minister will then determine if the action requires approval under the EPBC Act. If approval is required, an environmental assessment would need to be prepared. The Minister would approve or decline the action based on this assessment.

No items listed on the WHL are within or in proximity to the study area.

2.2.1 Commonwealth Heritage List

The Commonwealth Heritage List has been established to list heritage places that are either entirely within a Commonwealth area, or outside the Australian jurisdiction and owned or leased by the Commonwealth or a Commonwealth Authority. The Commonwealth Heritage List includes natural, Indigenous and historic heritage places which the Minister is satisfied have one or more Commonwealth Heritage values.

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No items listed on the CHL are within or in proximity to the study area.

2.2.2 National Heritage List

The National Heritage List has been established to list places of outstanding heritage significance to Australia. It includes natural, historic and Indigenous places that are of outstanding national heritage value to the Australian nation.

No items listed on the NHL are within or in proximity to the study area.

2.3 NSW Heritage Act 1977

The NSW *Heritage Act 1977* (Heritage Act) is the primary piece of State legislation affording protection to heritage items (natural and cultural) in NSW. Under the Heritage Act, 'items of environmental heritage' include places, buildings, works, relics, moveable objects and precincts identified as significant. Significance is based on historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values. State significant items can be listed on the NSW SHR and are given automatic protection under the Heritage Act against any activities that may damage an item or affect its heritage significance. The Heritage Act also protects 'relics', which can include archaeological material, features and deposits.

2.3.1 State Heritage Register

Established under Section 22 of the Heritage Act, the SHR is a list of places and objects of particular importance to the people of NSW, including archaeological sites. The SHR is administered by Heritage NSW, DPC and includes a diverse range of over 1,500 items in private and public ownership. To be listed, an item must be deemed to be of heritage significance for the whole of NSW.

To carry out activities within the curtilage of an SHR-listed item, consent must be gained from the Heritage Council through a Section 60 approval. In some circumstances, under Section 57(2) of the Heritage Act, a Section 60 approval may not be required if works are undertaken in accordance with the NSW Heritage branch document *Standard Exemptions for Works Requiring Heritage Council Approval* or in accordance with agency specific exemptions. This includes works that are minor in nature and will have minimal impact on the heritage significance of the SHR-listed item.

The study area is not listed on the SHR.

2.3.2 Section 170 registers

Under the Heritage Act all government agencies are required to identify, conserve and manage heritage items in their ownership or control. Section 170 of the Heritage Act requires all government agencies to maintain a Heritage and Conservation Register that lists all heritage assets and an assessment of the significance of each asset. They must also ensure that all items on its list are maintained with due diligence in accordance with State Owned Heritage Management Principles approved by the Government on advice of the NSW Heritage Council. These principles serve to protect and conserve the heritage significance of items and are based on NSW heritage legislation and guidelines.

The study area is not listed on a s170 register.

13 Dickson Street, Newtown
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2.3.3 2009 'Relics provisions'

The Heritage Act also provides protection for 'relics', which includes archaeological material or deposits. According to Section 139 (Division 9: Section 139, 140-146):

(1) A person must not disturb or excavate any land knowingly or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, damaged or destroyed unless the disturbance is carried out in accordance with an excavation permit.

(2) A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.

(3) This section does not apply to a relic that is subject to an interim heritage order made by the Minister or a listing on the State Heritage Register.

(4) The Heritage Council may by order published in the Gazette create exceptions to this section, either unconditionally or subject to conditions, in respect of any of the following:

- a. Any relic of a specified kind or description,*
 - b. Any disturbance or excavation of a specified kind or description,*
 - c. Any disturbance or excavation of land in a specified location or having specified features or attributes,*
 - d. Any disturbance or excavation of land in respect of which an archaeological assessment approved by the Heritage Council indicates that there is little likelihood of there being any relics in the land.*
-

Section 4 (1) of the Heritage Act (as amended in 2009) defines a relic as:

...any deposit, artefact, object or material evidence that:

relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and is of State or local heritage significance

A relic has been further defined as¹:

Relevant case law and the general principles of statutory interpretation strongly indicate that a 'relic' is properly regarded as an object or chattel. A relic can, in some circumstances, become part of the land be regarded as a fixture (a chattel that becomes permanently affixed to land).

Excavation permits are issued by the Heritage Council of NSW, or its Delegate, under Section 140 of the Heritage Act for relics not listed on the SHR or under Section 60 for relics listed on the SHR. An application for an excavation permit must be supported by an Archaeological Research Design and Archaeological Assessment prepared in accordance with Heritage NSW, Department of Premier and Cabinet (Heritage NSW) archaeological guidelines. Minor works that will have a minimal impact on

¹ *Assessing Significance for Archaeological Sites and 'Relics'*, Heritage Branch, Department of Planning, 2009:7.

13 Dickson Street, Newtown
Historical Archaeological Impact Assessment

archaeological relics may be granted an exception under Section 139 (4) or an exemption under Section 57 (2) of the Heritage Act.

2.3.4 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) establishes the framework for cultural heritage values to be formally assessed in the land using planning and development consent process. The EP&A Act requires that environmental impacts be considered prior to land development; this includes impacts on cultural heritage items and places as well as archaeological sites and deposits. The proposed works are subject to assessment under Part 5 of the EP&A Act.

The EP&A Act also requires that local governments prepare planning instruments (such as Local Environmental Plans (LEPs) and Development Control Plans (DCPs)) in accordance with the EP&A Act to provide guidance on the level of environmental assessment required.

2.3.4.1 Marrickville Local Environmental Plan 2011

The study area location falls within the boundaries of the Inner West Council LGA and is subject to the Marrickville Local Environmental Plan 2011 (LEP 2011). Heritage items identified on Schedule 5 of the LEP are managed in accordance with the provisions of Clause 5.10 Heritage Conservation. In accordance with the LEP, the objectives of Clause 5.10 are as follows:

-
- (a) to conserve the environmental heritage of Marrickville,
 - (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,
 - (c) to conserve the archaeological sites,
 - (d) to conserve the Aboriginal objects and Aboriginal places of heritage significance.
-

The study area is within the Holmwood Archaeological Site, which is identified as an archaeological site on Schedule 5 Part 3 of the Marrickville LEP 2011 as item A-18-11.

The study area is within the Holmwood Estate HCA, listed on the Marrickville LEP 2011 as C15.

The study area is adjacent to 'Josiah Gentle's Victorian italianate style villa—"The Towers", including interiors', listed on the Marrickville LEP 2011 as I145.

2.3.5 Statement of significance – Holmwood Archaeological site

The statement of significance for the Holmwood archaeological site is limited:²

Early villa associated with southern expansion from Sydney.

² State Heritage Inventory, accessed via <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemid=2030419> 31/05/2022

13 Dickson Street, Newtown
Historical Archaeological Impact Assessment

2.3.6 Statement of significance – Holmwood Estate HCA

The statement of significance for the Holmwood Estate HCA is as follows:³

Holmwood Estate Heritage Conservation Area is of historical significance as the subdivision of the last remaining grounds of the site of the 1837 house "Holmwood" (aka Bello Retiro), which led to development of distinctive late 19th to early 20th century residential streetscapes. The area also has historical association with Josiah Gentle, owner of the Bedford Brickworks (now Sydney Park) who purchased the actual site of "Holmwood" plus some other blocks within the subdivision, and developed 15 Dickson Street in 1896 as his own house, and terraces at 17-23 Dickson Street circa 1900. The built form of the area reflects the interruption to development caused by the 1890s depression, as many lots were still undeveloped in 1910. The Area is aesthetically significant for its narrow and dense development which establishes a tightly described street wall which creates a sense of intimacy and privacy within the area. It is also significant for its 19th and early 20th Century terraces, cottages and houses (detached and semi-detached) which include several highly cohesive groups. The Area is representative of fine examples of single and two-storey terraces set in a highly cohesive streetscape with good street tree planting and other streetscape qualities.

2.4 Summary of heritage listings

A summary of the statutory heritage listings relevant to the study area are outlined in Table 1 below. The heritage curtilages in relation to the study area are shown in Figure 2

Table 1. Statutory heritage listings relevant to the study area

Item	Address	Significance	Listing	Place ID
Holmwood Archaeological site	13, 13A, 15A and 15 Dickson Street	Local	Marrickville LEP	LEP A-18-11
Holmwood Estate Conservation Area	13, 13A, 15A and 15 Dickson Street	Local	Marrickville LEP	C15
Josiah Gentle's Victorian Italianate style villa—"The Towers", including interiors	15 Dickson Street	Local	Marrickville LEP	I145

³ State Heritage inventory, accessed via <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?id=2030482>, 31/05/2022

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Figure 2: Heritage items in the vicinity of the project area



3.0 HISTORICAL CONTEXT

3.1 Aboriginal History

The traditional custodians of the land on which Newtown stands are the Gadigal people of the Dharug language group, who have cared for Country for tens of thousands of years. King Street, to which Dickson Street connects, is thought to have been built over an ancient Aboriginal trackway that linked the inland regions to the coast.⁴

3.2 Early European Settlement: 1794 to 1840's

The study area is located on the western end of a 25-acre allotment granted to William Field in 1794 (Figure 3). Newtown was predominately made up of farmland in the late 18th and early 19th century, and it is likely that this is what Field used his land for. In the 1830s, Field's allotment – along with the neighbouring 25-acres owned by Richard Evans to the south of Field's estate – was purchased by the wealthy merchant named Alexander Brodie Spark.

An Irish free-settler and former clock-maker, Spark served as the managing director of the Bank of Australia in 1832 and had interests in the wool industry, which was a thriving trade in 1830's NSW.⁵ Sometime in 1835-37, Spark constructed a large villa on the northern edge of Field's grant named *Bello Retiro*, meaning "beautiful retreat" in Spanish. John Lord, a businessman and ship-owner who arrived in Australia in 1827, lived at *Bello Retiro* from 1836 until sometime in the 1840's. Following the Depression of 1840 caused by a crash in the wool market, Spark was forced to sell off his properties. In 1842, the grounds to the south-east of the villa (bounded by modern Darley Street and Wells Street) were subdivided and sold off as the "*Bello Retiro Estate*". The current study area was part of the now-reduced grounds of the *Bello Retiro* villa.

Figure 3: Parish of Petersham Map, n.d. (Source: Historic Land Records Viewer).



⁴ Daniel, S. 17 May 2018. "Walking in their tracks": How Sydney's Aboriginal paths shaped the city,' in ABC News. Accessed on 24 May 2022 via <<https://www.abc.net.au/news/2018-05-17/curious-sydney-aboriginal-pathways/9676076?nw=0&r=HtmlFragment>>.

⁵ National Centre of Biography, 2006. 'Spark, Alexander Brodie (1792–1856),' Australian Dictionary of Biography, Australian National University, accessed on 24 May 2022 via <<https://adb.anu.edu.au/biography/spark-alexander-brodie-2684/text3755>>.

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3.3 Holmwood: 1850's-1887

During the 1850s, the house and remaining grounds of *Bello Retiro* were owned by merchant and agriculturalist William Fanning, who had risen to commercial prominence in Sydney following his arrival a decade earlier.⁶ In 1857, Fanning renamed the house *Holmwood* (Figure 4) and placed it up for sale in 1858. The notice of sale describes the grounds (which contained the study area) as being made up of "twelve acres of land, laid out in a garden, orchard, shrubberies and paddocks."⁷

In 1855, Newtown Railway Station was constructed 900m north-west of the study area, and the suburb of Newtown continued to develop as an upper-class metropolitan centre. The estate (Figure 5) was sold in 1859 to James Dickson, a Scottish-born merchant, agriculturalist, and politician who split his time between his properties in Maitland and Newtown.⁸ An 1859 notice of an escaped horse indicates that Dickson kept livestock on the estate, however it is unclear where the stables or associated equestrian buildings were located on the 12-acre property.⁹ It is also likely that there was a gardener's outhouse and substantial gardens or orchards on the *Holmwood* property, since Dickson advertised for a married live-in gardener whose wife could serve as laundress.¹⁰ The Dickson family was involved in the local Presbyterian community, and regularly hosted church events in the gardens of *Holmwood* (Figure 6: Garden party at Holmwood, c. 1860 (Source: Archaeology and Heritage Pty Ltd)).

Following Dickson's death in 1863, the *Holmwood* estate passed into the possession of James Dickson's widow, Agnes Graham Dickson. Agnes Dickson was known in Newtown for her tradition of opening up the house and grounds to students from the Newtown Presbyterian Sunday School every New Year's Day.¹¹ Mrs. Dickson made various improvements on the house in the years following James' death, including the installation of custom wrought-iron fixtures and the addition of a second story.¹² Agnes continued to raise horses on the property into the 1870's, and a large stabling business operated in a subdivision at the rear of the estate.¹³ Throughout the 1860's and 70's, many of the estates surrounding *Holmwood* were subdivided and quickly sold off to the ever-growing Newtown buyer's market.

⁶ Teale, R. 2006. 'Fanning, William (1816–1887),' Australian Dictionary of Biography, Australian National University, accessed on 24 May 2022 via <<https://adb.anu.edu.au/biography/fanning-william-3497>>.

⁷ *Empire*, 13 Aug 1858. 'Family Residence,' pg. 7.

⁸ Walsh, G.P. 2006. 'Dickson, James (1813–1863),' Australian Dictionary of Biography, Australian National University, accessed on 24 May 2022 via <<https://adb.anu.edu.au/biography/dickson-james-3411>>.

⁹ *Sydney Morning Herald*, 15 Dec 1859. 'Advertising,' pg. 1.

¹⁰ *Sydney Morning Herald*, 21 Aug 1860. 'Advertising,' pg. 1.

¹¹ *Sydney Morning Herald*, 2 Jan 1869. 'Highland Gathering,' pg. 7.

¹² *Sydney Morning Herald*, 18 Dec 1867. 'Tenders,' pg. 1.

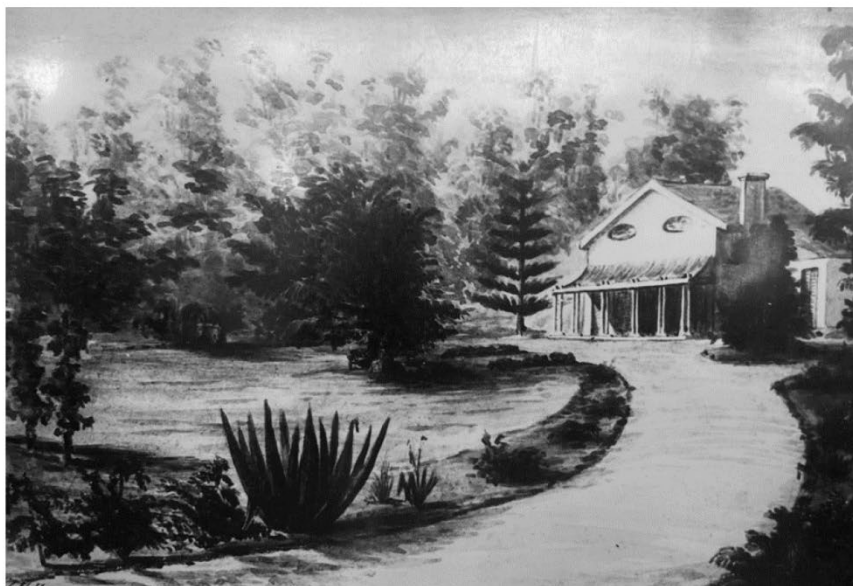
¹³ *Sydney Morning Herald*, 13 Dec 1870. 'Stolen or Strayed,' pg. 1.

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Figure 4: Pencil drawing of *Holmwood* by William Fanning, c. 1857 (Source: State Library of NSW).

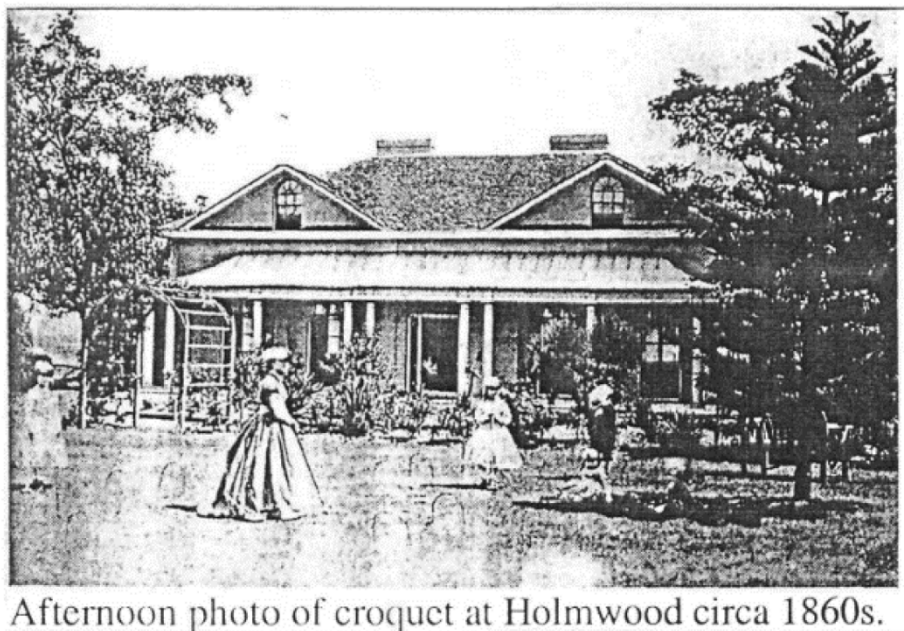


Figure 5: Drawing of *Holmwood*, 1858. (Source: State Library of NSW).



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Figure 6: Garden party at Holmwood, c. 1860 (Source: Archaeology and Heritage Pty Ltd)



Afternoon photo of croquet at Holmwood circa 1860s.

Archaeology And Heritage Pty Ltd 135 Catherine St. Leichhardt NSW 2040 Ph 02/95699672

3.4 Subdivisions: 1887-1890

In April of 1886, subdivision of the *Holmwood* estate began. In 1887, David Dickson (brother of James Dickson) donated £200 towards the construction of roads during the estate's subdivision – it is after David Dickson that Dickson Street is named.¹⁴ Newspapers from 1887 reported that the *Holmwood* villa itself would not be demolished to make way for subdivision, and would instead be repurposed as “a first-class scholastic or other institution.”¹⁵ During the initial 1887 subdivision, the *Holmwood* villa and approximately half of its grounds were indeed preserved, including the subject site (Figure 6 and 7) However, by 1890, the villa had been demolished and the remaining land subdivided (Figure 10). By 1891, thirteen people lived on Dickson Street, many of whom were tradesmen. To accommodate Newtown's increasing population, a horse-drawn tram operated during the 1890s, connecting Newtown and St Peters' stations via King Street (Figure 10).

According to the auction flier for the 1890 subdivision (Figure 9) the subject site at 13 Dickson Street had not been sold or developed. This was not unusual – the Depression of the 1890's meant that development on Dickson Street took place more slowly than on surrounding streets where subdivision had previously occurred. The lot directly next to the subject site, however, had been purchased by Josiah Gentle a businessman and developer who owned the nearby terraces at 17-23 Dickson Street, as well as the Bedford Brickworks (now Sydney Park) just 400m south-east of the subject site.¹⁶

¹⁴ *Sydney Morning Herald*, 14 Nov 1887. 'Municipal Councils: Newtown,' pg. 4.

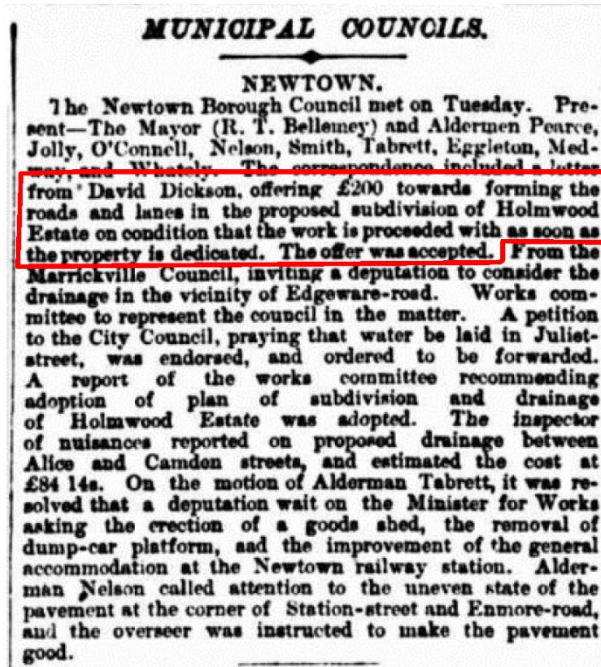
¹⁵ *Sydney Morning Herald*, 9 Nov 1887. 'Grand Subdivision Sale,' pg. 12.

¹⁶ City of Sydney, 2022. 'History of Sydney Park,' accessed on 24 May 2022 via <<https://www.cityofsydney.nsw.gov.au/histories-local-parks-playgrounds/history-sydney-park>>.

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Gentle constructed a large two-storey house called 'The Towers' on the lot by 1895, with images suggesting that lot 13 was still undeveloped (Figure 10).

Figure 7: David Dickson's donation for roads (Source: *Sydney Morning Herald*, 14 Nov 1887).



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Figure 8: 1887 Holmwood Estate auction flier (Source: National Library of Australia).

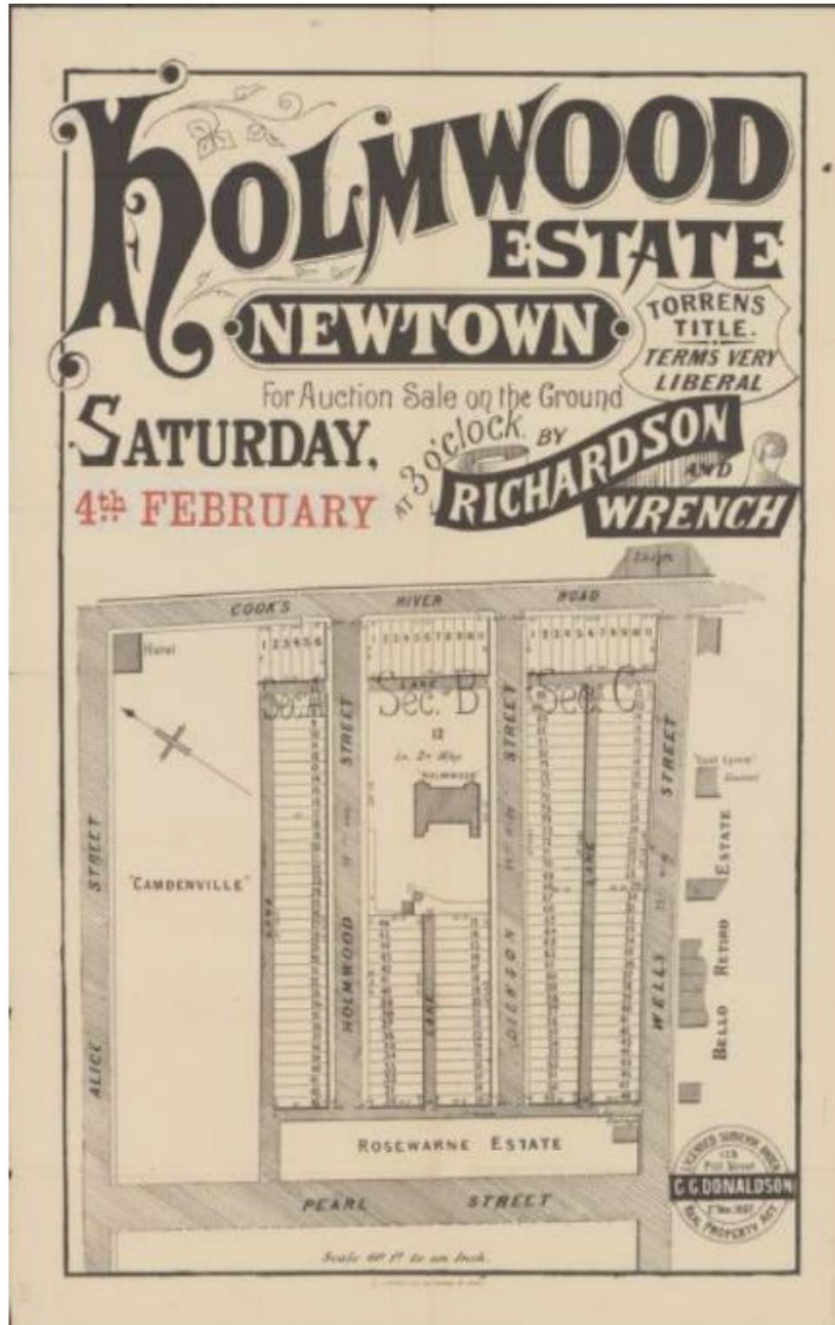
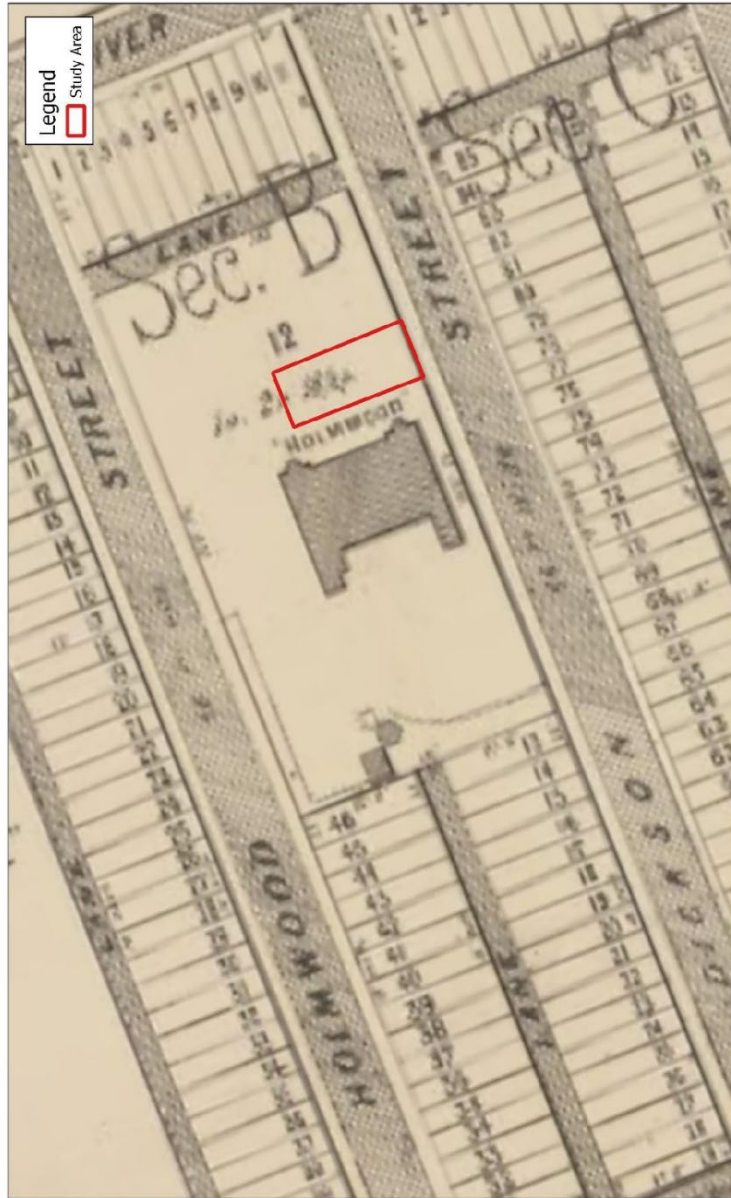


Figure 9: Holmwood subdivision, 1887, study area in red.



Scale: 1:1,000
 Size: A4
 Date: 24-05-2022

1887 - Historical Overlay
 22121-13 Dickson Street, Newtown
 LGA: Inner West



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Figure 10: Parish of Petersham map, c. 1890s (Source: Historic Land Records Viewer).



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Figure 11: c. 1890 auction flier for second subdivision (Source: State Library of NSW).

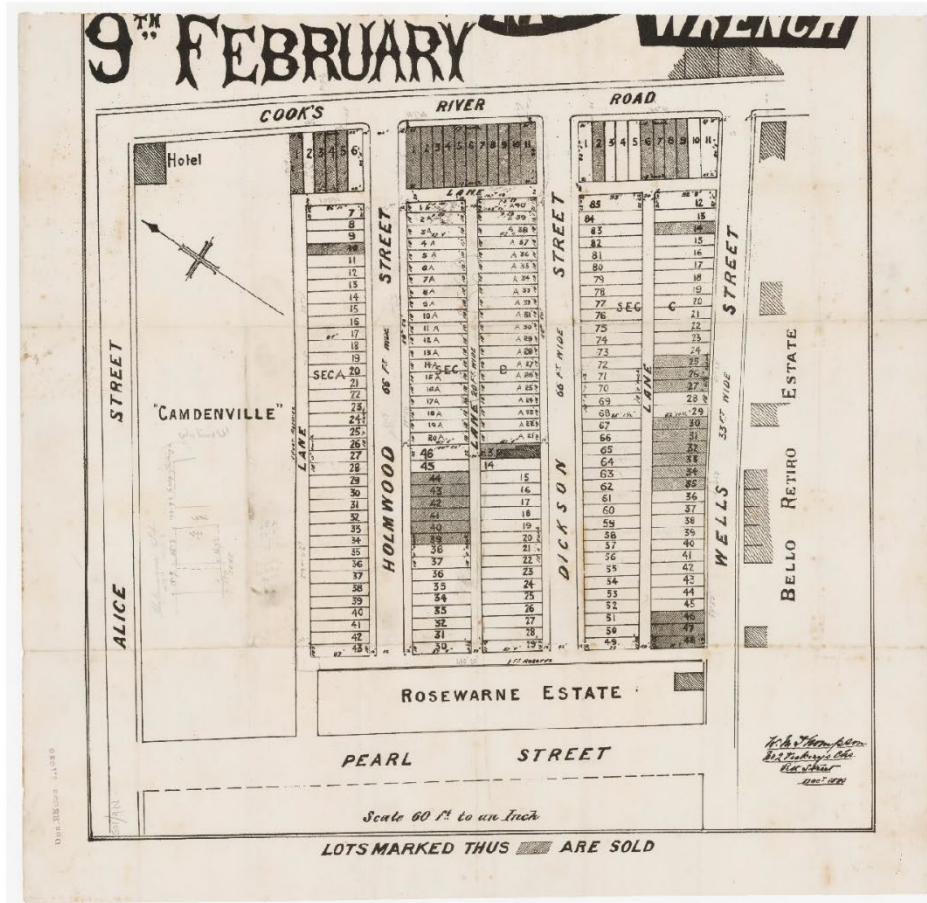
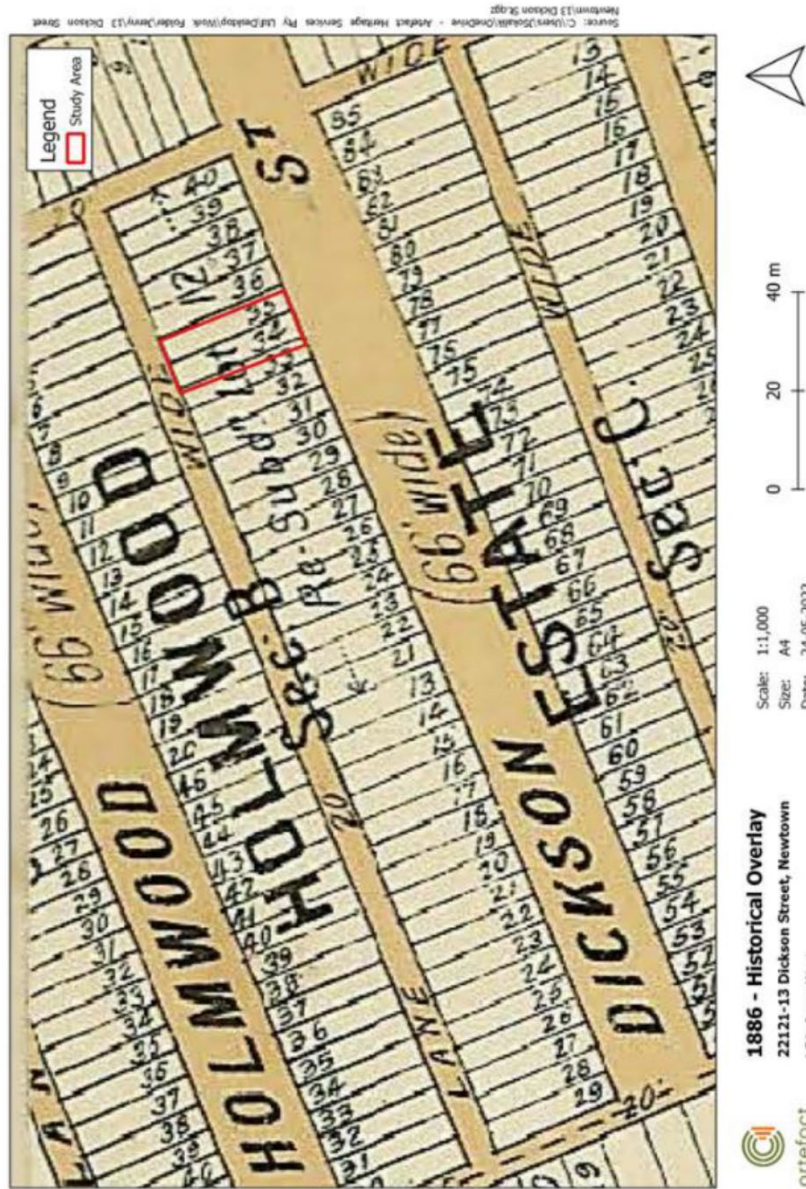


Figure 12: 1886 Subdivisions with study area (Source: Historic Land Records Viewer).



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Figure 13: 'The Towers' at 15 Dickson Street (Source: The Daily Telegraph).



3.5 Post-1890 residential development

The earliest recorded occupant of 13 Dickson Street was Eve John, who lived at the property from 1896 until around 1902.¹⁷ It is therefore likely that the current house was constructed in 1895-96. The house passed to William Brown in 1905 who named it 'Ellesmere.' Brown sold the house in 1919, describing it as "a modern, solidly-built, well-finished and large residence... brick roofed with slates, has verandahs and balconies, electric light in every room, gas and fuel stoves, tiled hearths and grates, marble mantels, tiled path in front, stone coping and iron railing."¹⁸ The study area was purchased by William Taylor Whitton, who put it up for sale in 1923, describing the residence as a "commodious two storey brick house."¹⁹

Although little more is known about the historical uses of 13 Dickson Street, it is probable that it was inhabited by working families or students throughout the remainder of the 20th century. From the mid-20th century, Newtown gained a reputation as a blue-collar 'slum' (largely due to post-WWII anti-immigrant sentiment).²⁰ A short newspaper segment about a shooting on Dickson Street in 1947

¹⁷ Sands, J. 1896. *Sands Sydney, Suburban and Country Commercial Directory, 1896*. Sydney: City of Sydney Archives, pg. 331.

¹⁸ *Sydney Morning Herald*, 31 May 1919. 'A very desirable and complete home at Newtown,' pg. 21.

¹⁹ *The Daily Telegraph*, 25 Oct 1923. 'Real Estate Auctions,' pg. 9.

²⁰ Turnbull, C. and Valiotis, C. 2001. *A Thematic History of Greek Settlement in New South Wales*. Sydney: NSW Heritage Office and Centre for Community History, pg. 1-5.

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mentions that a 13 year old boy lived at the study area, indicating that it was likely being used as a family home in the post-WWII period.²¹

By the 1950s, Dickson Street was a highly developed residential zone (Figure 14 & Figure 15). The increased post-war student population of the 1960s and 1970s meant that residential zones in Newtown such as Dickson Street (Figure 16) became popular housing options for young people. The gradual demolition and subdivision of large estates such as *Holmwood* opened the suburb up to public housing, affordable housing, theatres and venues, and commercial properties in the 1980s.

Figure 14: Dickson Street, 1956 (Source: City of Sydney Archives).



Figure 15: Dickson Street, 1956 (Source: City of Sydney Archives).



²¹ *The Sun*, 3 Oct 1947. 'Boy Shot Near Home,' pg. 3.

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Figure 16: Dickson Street, 1965 (Source: City of Sydney Archives).



4.0 ARCHAEOLOGICAL ASSESSMENT

4.1 Methodology

4.1.1 Archaeological potential and significance

Historical archaeological potential is assessed by identifying former land uses and associated features through historical research and evaluating whether subsequent actions (either natural or human) may have impacted on evidence for these former land uses.

Consideration of archaeological research potential is required when undertaking a significance assessment of a historical archaeological site. The following assessment uses the guidelines prepared by Heritage NSW (formerly NSW Heritage Division): *Assessing Significance for Historical Archaeological Sites and 'Relics'* (2009).

The identified levels of archaeological potential referred to in this assessment are based on the following definitions:

Table 2: Archaeological potential definitions

Assessed Potential	Definition
Nil Potential	Where there is no evidence of historical development or use, or where previous impacts such as deep basement structures would have removed all archaeological potential.
Nil to Low Potential	Where there has only been low intensity historical activity, such as land clearance or informal land use, with little to no archaeological 'signature' expected; or where previous impacts were extensive, such as large-scale bulk excavation which would leave isolated and highly fragmented deposits.
Low Potential	Where research has indicated little historical development, or where there have been substantial previous impacts which may not have removed deeper subsurface remains entirely.
Moderate Potential	Where analysis has demonstrated known historical development with some previous impacts, but where it is likely that archaeological remains would survive with localised truncation and disturbance.
High Potential	Where there is evidence of multiple phases of historic development and structures, with minimal or localised twentieth-century development impacts, and where it is likely that archaeological resources would remain intact.

4.1.2 NSW heritage assessment guidelines

Determining the significance of heritage items or a potential archaeological resource is undertaken by utilising a system of assessment centred on the *Burra Charter* of Australia International Council on Monuments and Sites (ICOMOS). The principles of the charter are relevant to the assessment, conservation and management of sites and relics. The assessment of heritage significance is outlined through legislation in the Heritage Act and implemented through the *NSW Heritage Manual* and the *Archaeological Assessment Guidelines*.²²

²² NSW Heritage Office 1996; 25-27.

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If an item meets one of the seven heritage criteria (see Table 3 below), and retains the integrity of its key attributes, it can be considered to have heritage significance. The significance of an item or potential archaeological site can then be assessed as being of local or state significance. If a potential archaeological resource does not reach the local or state significance threshold, then it is not classified as a relic under the Heritage Act.

'State heritage significance', in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

'Local heritage significance', in relation to a place, building, work, relic, moveable object or precinct, means significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.²³

The overall aim of assessing archaeological significance is to identify whether an archaeological resource, deposit, site or feature is of cultural value. The assessment will result in a succinct statement of heritage significance that summarises the values of the place, site, resource, deposit or feature. The intactness and integrity of potential archaeological remains are key factors in assessing archaeological significance. Intactness refers to the physical condition of an item. It is particularly relevant to archaeological sites in the sense of 'Undisturbed' sites or areas which may be expected to yield well-provenances archaeological deposits amenable to investigation and interpretation. An archaeological site or other heritage place may also need to retain sufficient integrity that it is able to convey its significance to people in the present.²⁴

Table 3: NSW heritage assessment criteria

Criteria	Description
A – Historical Significance	An item is important in the course or pattern of the local area's cultural or natural history
B – Associative Significance	An item has strong or special associations with the life or works of a person, or group of persons, of importance in the local area's cultural or natural history
C – Aesthetic Significance	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area
D – Social Significance	An item has strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons
E – Research Potential	An item has potential to yield information that will contribute to an understanding of the local area's cultural or natural history
F – Rarity	An item possesses uncommon, rare or endangered aspects of the local area's cultural or natural history
G – Representativeness	An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places of cultural or natural environments (or the cultural or natural history of the local area)

²³ This section is an extract based on the Heritage Office, 2009. *Assessing Significance for Historical Archaeological Sites and Relics*. 6.

²⁴ NSW Heritage Office 2009; 9.

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4.2 Site inspection results

The study area is bounded by Holmwood Lane to the north, King Lane and King Street to the east, Dickson Street to the south, and Pearl Lane to the west in Newtown. It is currently occupied by residential terraces constructed in c. 1890 following the demolition of the Holmwood Estate. The current property is oriented north northwest by south southeast.

The property consists of a two-storey brick terrace with garden and garage at the rear end of the property (Figure 17). The northeast portion of the study area consists of a grassed garden area approximately 4 x 8 m with modern stone pavers and garden beds (Figure 21 & Figure 22). To the north of the garden is a garage (Figure 20) with concrete slab covering an area of about 5 x 8 m with a 200 mm strip drain separating the two areas (Figure 25 & Figure 26).

To the west of the study area in the adjoining lot that was 13a recent modifications and development have occurred. The development appears to have been a modern extension of the current terrace structure (Figure 27 & Figure 28).

Figure 17. Street view of 13 Dickson Street (view north)



Figure 18. Backyard and garage (view north)



Figure 19. Rear end of the property to be impacted (view south)



Figure 20. Section of property to be impacted (view west)



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Figure 21. Backyard and garden beds (view east)



Figure 22. Modern stone paving (view southwest)



Figure 23. Exterior tiled patio (view south)

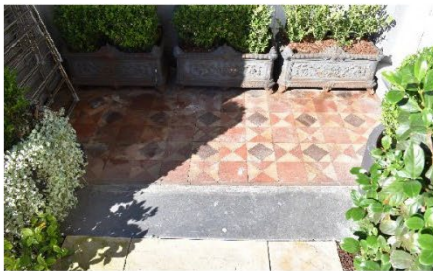


Figure 24. Strip drain separating the garden from the garage (view south)



Figure 25. Strip drain separating the garden from the garage (view south)



Figure 26. Concrete slab flooring for garage (view east)



Figure 27. Portion of property proposed to be demolished (view west)

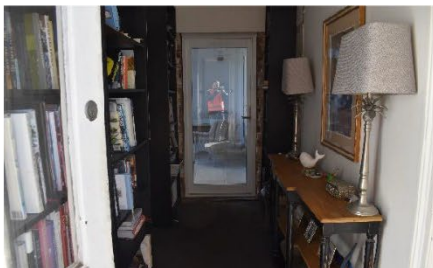


Figure 28. Recent development at 13a Dickson Street, west of the study area (view north)



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4.3 Previous archaeological studies

Cracknell & Lonergan Architects and Heritage Consultants August 2003. Archaeological Excavation Permit Exception Application 15a Dickson Street, Newtown. Prepared for Tectonic Developments

Archaeology and Heritage Pty Ltd requested an Exception from the need for an archaeological excavation permit for 15a Dickson Street in 2003, two properties west of the study area. The proposed works involved site clearing and excavation in preparation for the construction of a dwelling on the site of 15a Dickson Street. The site was described as a vacant allotment with no structure on it so preparation of the site prior to construction would entail no demolition of buildings but clearing of the vegetation.

The report argued that the potential archaeological remains were not archaeologically significant, and that the proposed new house at 15a Dickson Street would have a minimal impact on the land.

Archaeology And Heritage Pty November 2003. 15a Dickson Street, Newtown Archaeological Assessment. Prepared for Tectonic Developments.

Archaeology and Heritage Pty prepared an Archaeological Assessment for 15a Dickson Street in 2003. The proposed works involved the construction of a new house along the southern half the study area. It was concluded that the study area was within a site of local significance and using the criteria established under Part 3A of the NSW Heritage Act 1977 was considered locally significant under Criterion (e). The site was assessed as having archaeological potential that may reveal remains of the 1880s front bay window addition to Holmwood, the large estate which stood mainly to the west of the study area. Also, it was believed that the study area may also contain evidence of the carriageway and lawn of the Holmwood estate, which first appeared on a plan from 1842. Other remains not found on any plans such as wells, garden walls, and so on, were also flagged.

Archaeology and Heritage Pty Ltd, November 2003, 15a Dickson Street, Newtown, Section 140 Archaeological Excavation Permit Application for Archaeological Monitoring. Prepared for Tectonic Developments.

Based on the assessment outlined in the previous section, a S140 excavation application was submitted to Heritage Division (now Heritage NSW, Department of Premier and Cabinet). It was recommended that archaeological monitoring during excavation take place to record any archaeological remains of the bay window, lawn and carriageway.

Archaeology And Heritage Pty 2006. Excavation Permit Exception Application for 15 Dickson Street Newtown on behalf of Scott Xavier.

Archaeology and Heritage Pty prepared an Excavation Permit Exception Application for 15 Dickson Street in 2006. The proposed works involved the excavation and construction of a new swimming lap pool 11 m long, 1.7 m wide, and 1 m below ground level. It was advised that the Holmwood bay window extension on the site, would not be impacted by the development if excavations did not exceed more than 1.1 metres below ground level. It was suggested that since 1893 when The Towers were completed, the ground level on the side of the house where the pool was to be built had been raised by the addition of garden soil and plants and a pathway going down the side of the house. Therefore, it was concluded that the ground level would be too high to come into contact with any archaeological remains.

4.4 Land use phases and archaeological potential

4.4.1 Phase 1: Early land grants (c.1794 - 1835)

European settlement of the area began in the late 18th century because of a growing need for appropriate farmland and desire to form chain of farms between Sydney and Parramatta. Potential archaeological remains associated with phase 1 would be linked to the initial establishment of land grants, the clearance of land, and the construction of timber yard structures.

It is unlikely that the study area was ever substantially developed prior to the construction of Holmwood.

Early land use was likely limited to land clearance, the introduction of informal roads and light agricultural uses, such as grazing of cattle. Whilst it is possible that the study area had been cleared of vegetation by this time it is unlikely that any substantial landform modification took place. Potential remains associated with the construction of boundary fence lines between land grants and paddocks would likely take the form of remnant timber and post holes. Large areas of land clearance may have occurred within this phase, and there may be evidence of backfilled tree boles as a result of the land clearance. While these undocumented former structures may have existed, these are archaeologically ephemeral and are unlikely to have been preserved due to the heavy degree of ground disturbance present within the study area.

There is **nil-low** potential for archaeological remains associated with Phase 1 to be present within the study area.

4.4.2 Phase 2: *Bello Retiro* later known as the Holmwood Estate (c.1835 – 1890)

Mapping overlays show that the Holmwood estate main building constructed in 1835, does not extend into the current study area. However, the study area does overlie the front yard and circular carriageway of the former estate (Figure 9).

Archaeological evidence associated with this location may include yard surfaces associated with the old carriage way and entrance to the property. Evidence of the formal gardens and/or retaining walls and landscaping may be preserved in this location. These remains may include former soil deposits, deposits or material associated with the construction and demolition of the Holmwood Estate containing discarded artefactual material.

Estates like Holmwood were typically associated with several outbuildings. These are likely to have been where any animals were kept, servants lived, cisterns, wells or external bathrooms were located, equipment was stored and where rubbish burning/disposal took place. Historical sources also indicate that a stable was located within the estate. However, outbuildings were typically located to the rear of the main residence, and out of site from any formal gardens. Therefore, archaeological evidence of these types of structures are unlikely to be located within the study area.

Archaeological evidence associated with this phase is likely to have been impacted by later 19th century residential development. Additionally, 20th century modifications to the rear end of the property such as the installation of the garage and concrete slab may have further impacted any potential remains. Based on the history of the study area and disturbance that has occurred in the area, the majority of archaeological remains have most likely been removed as well as any physical remnants of the former estate.

There is **low** potential for archaeological remains associated with Phase 2 to be present within the study area.

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4.4.3 Phase 3: Post 1890 residential development

The demolition of the Holmwood Estate to the west of the study area was most likely followed by ground excavation to construct Holmwood Lane to the north of the study area as well as further disturbance associated with surrounding residential development. Archaeological evidence associated with these remains may include building material associated with the demolition of the estate.

Archaeological evidence associated with the construction and occupation of the current house c.1890 may include discarded artefacts within yard deposits and garden soils, rubbish pits, former utilities and structural evidence associated with a privy or outhouse.

Therefore, there is **low** potential that buried archaeological remains associated with Phase 3 would be present.

4.4.4 Summary of potential archaeological remains within the study area

Table 4 provides an overview of potential for archaeological material to be located within and near to the study area.

Table 4. Potential archaeological remains within the study area

Phase	Potential archaeological remains	Disturbance	Archaeological potential
Evidence associated with early agricultural land use:			
1 (1794 – 1835)	<ul style="list-style-type: none"> Evidence of land clearance and early agricultural use i.e. tree boles, introduced soil amendments Fencelines/postholes 	Moderate	Nil to low
Evidence associated with the early construction and occupation of Holmwood including:			
2 (1835-1890)	<ul style="list-style-type: none"> Truncated landscape features including evidence of the former circular drive, plantings, fences, paths, drains, former drainage/utilities, retaining walls and gardens 	Moderate	Low
Evidence associated with late 19 th century occupation:			
3 (1890 - present)	<ul style="list-style-type: none"> Demolition deposits associated with Holmwood Artefact bearing deposits i.e. yard scatters, rubbish pits Footings of privies/outbuildings 	Moderate	Low

4.5 Assessment of archaeological significance

The assessment of the significance of the potential archaeological resource contained within the study area against the NSW heritage assessment criteria is outlined in Table 5 below.

Table 5. Assessment of Archaeological Significance against the NSW Heritage Act criteria

Criterion	Discussion
A) an item is important in the course, or pattern, of NSW's cultural or natural history (or the local area)	The study area was part of the original land grant made to William Field in 1794, that was later purchased by Spark who later developed <i>Bello Retiro</i> later known as the Holmwood Estate. The study area is unlikely to contain evidence of this original land grant but has potential to contain evidence of the later estate.
	It is noted the location of structures and development relating to Phase 2 is known through available historical resources, and it is unlikely that any relics would be in the study area due to previous disturbance. Later development such as residential properties dating to the 1890s (Phase 3) are well documented with extant examples remaining within Newtown.
	Archaeological evidence of former landscaping and the circular drive is unlikely to reach the local significance threshold under this criterion. If in situ artefact bearing deposits associated with Phase 2 are present within the study area, these remains would reach the threshold for local significance under this criterion.
B) an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the local area)	The study area is associated with the early land grant to William Field, and the Holmwood Estate constructed by William Fanning. Both prominent individuals who contributed to the development of the local area. However, the potential archaeological resource is unlikely to contribute significantly to our knowledge of these individuals.
	The potential archaeological resource does not meet the local significance threshold under this criterion.
C) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	Although it is recognised that exposed <i>in situ</i> archaeological remains may have distinctive/attractive visual qualities, only rarely are these considered 'important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW. If intact and substantial archaeological remains in association with artefact bearing deposits were identified within the study, they have the potential to reach the local significance threshold under this criterion. However, the study area has low potential to contain archaeological resources of this type. Potential archaeological remains including wall footings would represent building techniques in use in the nineteenth or early twentieth century but are unlikely to possess any outstanding aesthetic or technical merit.
	Archaeological evidence of former landscaping and the circular drive is unlikely to reach the local significance threshold under this criterion.
	The potential archaeological resource does not meet the local significance threshold under this criterion.
D) an item has strong or special association with a particular community or cultural group in NSW for social, cultural or	Archaeological remains associated with the early land grants and the early development of Newtown in the mid nineteenth century would have social significance for local historical societies and the local community.

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Criterion	Discussion
spiritual reasons (or the local area)	<p>The history of this study area reflects the merchant and upper class of Newtown, and other prestigious addresses. It is noted that the location of structures and development relating to Phase 2 is known through available historical resources, and it is unlikely that any relics would be in the study area due to previous disturbance.</p> <p>A substantial and intact potential archaeological resource associated with Phase 1 or Phase 2 of the development of the study area would have local significance under this criterion, although it is unlikely that remains dating from this phase survive.</p>
E) an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the local area)	<p>Potential archaeological remains associated with Holmwood may have the ability to yield information relating to early nineteenth century building and landscaping techniques; however, these topics are already well-researched and new information is unlikely. Archaeological evidence of former landscaping and the circular drive is unlikely to reach the local significance threshold under this criterion.</p> <p>The study area has limited potential to contain in situ artefact-bearing deposits within garden soils or demolition material. Archaeological analysis of artefacts have the potential to recover data that may be utilised in the analysis the lifestyles of upper-class families and servants in the mid-to-late nineteenth century. Many of these families were leading entertainers and socialites in early Sydney; deposits may therefore provide information about domestic and social activities that occurred at the property that may not be included in available documentary resources.</p> <p>Potential intact archaeological remains, especially intact artefact bearing deposits associated with the occupation of Holmwood during the mid-to-late nineteenth century and early twentieth century, may reach the local significance threshold under this criterion. However, it is noted that the study area has limited potential to contain remains of this type.</p> <p>If in situ artefact bearing deposits associated with Phase 2 are present within the study area, these remains would reach the threshold for local significance under this criterion.</p>
F) an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the local area)	<p>Archaeological sites in Sydney are becoming increasingly rare due to the rapid pace of continuing commercial and private development. Intact archaeological remains dating to the earliest land grants in the area (Phase 1) and local estates (Phase 2) would be rare, as the majority of later development has removed any traces of this phase, although it is noted that the study area has undergone previous disturbance including construction of Holmwood Lane and late 19th century residential development. It is unlikely that rare archaeological remains associated with any development phase will be located within the study area.</p> <p>The potential archaeological resource does not meet the local significance threshold under this criterion.</p>
G) an item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or cultural or natural environments (or the local area)	<p>It is expected that potential archaeological remains, including wall footings, garden features, driveway features or landscaping would be representative of mid-to-late Georgian era landscaping techniques. If intact archaeological remains associated with Holmwood are identified within the study area, they would represent principal characteristics of a large property owned and occupied by a successful entrepreneurial family and subsequent wealthy families in the mid-to-late nineteenth century. Overall, the archaeological resource is unlikely to be consisted <i>important in demonstrating the principal characteristics</i> of a class of NSW's cultural or natural places.</p>

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Criterion	Discussion
	<p>1890s residential development is representative of the expansion of Newtown during the nineteenth century. The potential archaeological remains within the study area are likely to be representative of residential properties typically found in suburban contexts. Although any remains are likely to demonstrate the principal characteristics of this type of site, it is unlikely that they would be considered to be particularly representative.</p> <p>The potential archaeological resource does not meet the local significance threshold under this criterion.</p>

4.6 Statement of significance – Potential archaeological resource

Potential archaeological remains from Phase 1 would be associated with early exploration and agricultural activities. However, there is no documentary evidence to suggest that the study area was developed during this period. In addition, significant landscape modifications and ground disturbing works in the study area over time would have likely removed any evidence of these ephemeral archaeological remains.

Potential later archaeological remains from Phase 2 would be associated with early residential development and the construction of *Bello Retiro* later known as the Holmwood Estate. The study area has been assessed as generally having low potential to contain locally significant archaeological 'relics' associated with early to mid-19th century development in the form of intact yard surfaces, artefact bearing backfill and/or occupation deposits.

There is low potential for the study area to contain locally significant archaeological 'relics' in the form of intact artefact bearing backfill and/or occupation deposits associated with the late 19th century residential development of the study area. If high-yield artefact-bearing deposits, such as those often found in backfilled cisterns or rubbish dumps, survive intact, they may reach the local significance threshold through their ability to provide information regarding the life-ways of the previous occupants of the study area.

The study area has also been assessed as having low potential to contain locally significant archaeological 'works' in the form of structural remains. Remains of this type would provide evidence of the structural development of the study area.

4.7 Summary of archaeological potential and significance

A summary of the archaeological potential and significance of archaeological remains in and near the study area is provided in Table 6.

Table 6: Summary of potential and significance of archaeological remains near to the study area

Phase	Archaeological potential	Potential	Significance
1 (1794 – 1835)	Evidence associated with early agricultural land use: <ul style="list-style-type: none"> Evidence of land clearance and early agricultural use i.e. tree boles, introduced soil Nil to low amendments Fencelines/postholes 		N/A
2 (1835-1890)	Evidence associated with the early construction and occupation of Holmwood including: <ul style="list-style-type: none"> Truncated landscape features including evidence of the former circular drive, plantings, fences, paths, drains, former drainage/utilities, retaining walls and gardens 	Low	Local
2 (1890)	Evidence associated with late 19 th century occupation: <ul style="list-style-type: none"> Demolition deposits associated with Holmwood Artefact bearing deposits i.e. yard scatters Privies/outbuildings 	Low	Local (intact artefact bearing deposits)

5.0 ARCHAEOLOGICAL IMPACT ASSESSMENT

5.1 Introduction and methodology

An impact assessment for direct, indirect, and archaeological impact that may result from the proposed works is provided in this section.

To consistently identify the potential impact of the proposed works, the terminology contained in Table 7 has been referenced throughout this document. This terminology, and corresponding definitions, are based on those contained within guidelines produced by the International Council on Monuments and Sites (ICOMOS).

Table 7. Terminology for assessing the magnitude of heritage impacts

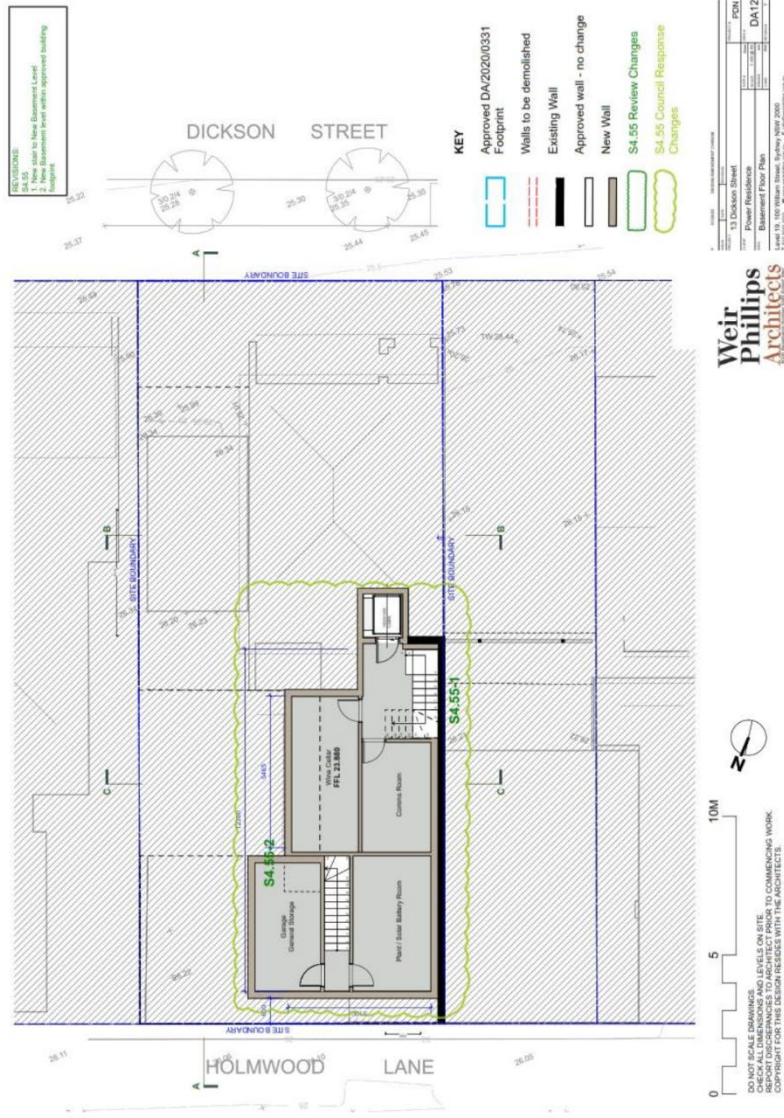
Grading	Definition
Major	<p>Actions that would have a long-term and substantial impact on the significance of a heritage item. Actions that would remove key historic building elements, key historic landscape features, or significant archaeological materials, thereby resulting in a change of historic character, or altering of a historical resource.</p> <p>These actions cannot be fully mitigated.</p>
Moderate	<p>Actions involving the modification of a heritage item, including altering the setting of a heritage item or landscape, partially removing archaeological resources, or the alteration of significant elements of fabric from historic structures.</p> <p>The impacts arising from such actions may be able to be partially mitigated.</p>
Minor	<p>Actions that would result in the slight alteration of heritage buildings, archaeological resources, or the setting of an historical item.</p> <p>The impacts arising from such actions can usually be mitigated.</p>
Negligible	<p>Actions that would result in very minor changes to heritage items.</p>
Neutral	<p>Actions that would have no heritage impact.</p>

5.2 Proposed works

The DA modification is for the construction of a new basement in the rear of the property. This would require excavation of 6 x 13 metres, to a depth of approximately 3m, as shown in Figure 29.

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Figure 29: Detail of proposed works. Source: Weir Phillips Architects



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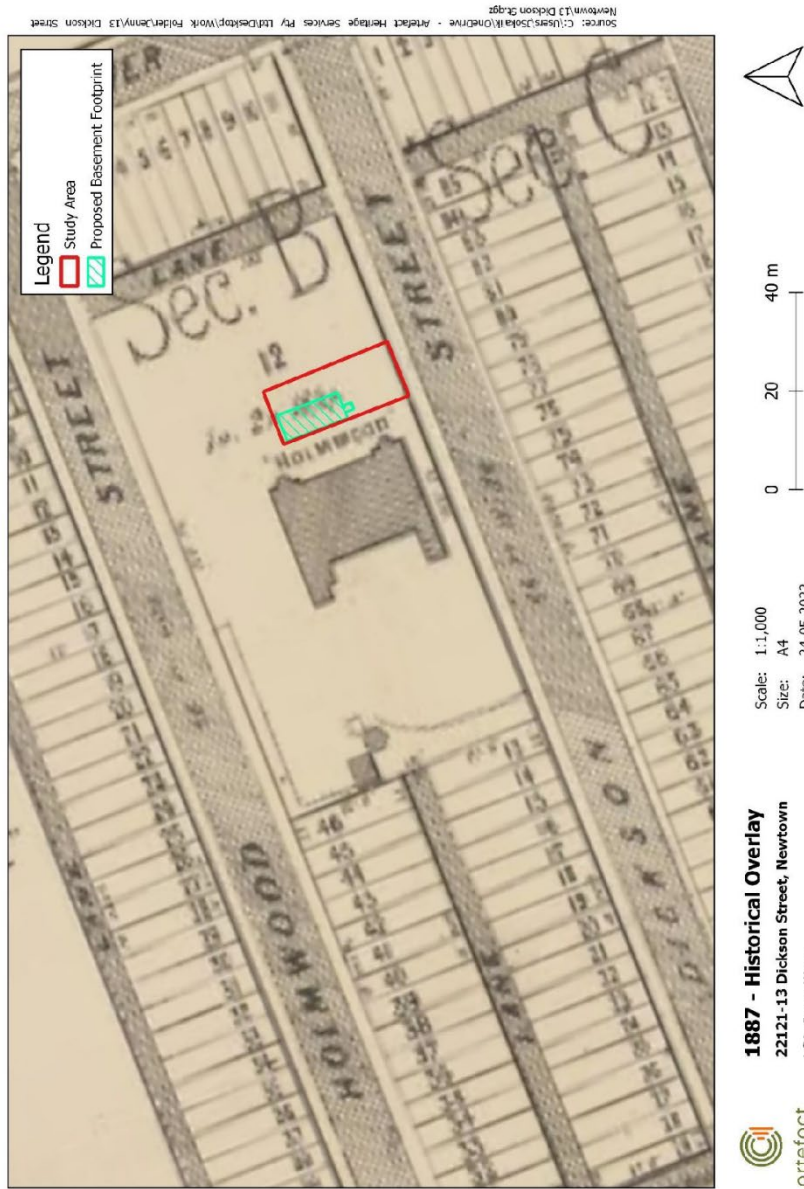
5.3 Assessment of archaeological impact

This assessment has found that the area proposed for basement excavation is unlikely to have contained structural remains associated with any historical phase. Historical overlays of the study area have not identified any substantial developments associated with the former Holmwood Estate within the study area other than it overlays the former front yard of the property. Therefore, the likelihood that the works will impact on archaeological resources with the potential to reach the local significance threshold is limited.

Considering the low historical activity during Phase 2 and the ground disturbing activities during Phase 3, it is expected that potential archaeological remains within the study area would generally be limited to minor and isolated finds.

Therefore, the proposed works are unlikely to impact on archaeological 'relics' as defined by the relics provisions of the *Heritage Act 1977*. Overall, the proposed excavation works are not anticipated to have an impact on potential archaeological remains or 'relics' above the magnitude of negligible.

Figure 30: Proposed works in relation to the Holmwood Estate



6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

This AA has made the following conclusions:

- The study area is located within the 'Holmwood Archaeological Site,' which is listed on Schedule 5 Part 3 of the Marrickville LEP 2011 as item A-18-11. The study area is also within the 'Holmwood Estate HCA,' listed on the Marrickville LEP 2011 as C15
- The study area has low potential to contain archaeological remains of local significance associated with the construction and occupation of Holmwood (Phase 2), and early occupation of the current property (Phase 3), including:
 - Remains of former landscaping features including original circular drive, fences, paths, drains, former drainage/utilities, retaining walls and gardens (Phase 2)
 - Former utilities (Phase 2 and 3)
 - Rubbish pits and isolated artefacts (Phase 3)
 - Structural evidence associated with unknown Phase 3 privies/outbuildings.
- Proposed basement excavation works are unlikely to impact on significant archaeological resources due to its location in the frontage of the former house. The overall impact of the proposal on the listed archaeological site and potential archaeological resource associated with Holmwood is therefore assessed as being negligible, as summarised in Table 8:

Table 8: Summary of potential archaeological impact

Phase	Archaeological potential	Potential	Significance	Project impact
1 (1794 – 1835)	Evidence associated with early agricultural land use: <ul style="list-style-type: none"> • Evidence of land clearance and early agricultural use i.e. tree boles, introduced soil amendments • Fencelines/postholes 	Nil to low	N/A	Nil
2 (1835-1890)	Evidence associated with the early construction and occupation of Holmwood including: <ul style="list-style-type: none"> • Truncated landscape features including evidence of the former circular drive, plantings, fences, paths, drains, former drainage/utilities, retaining walls and gardens 	Low	Local	Negligible
2 (1890)	Evidence associated with late 19 th century occupation: <ul style="list-style-type: none"> • Demolition deposits associated with Holmwood • Artefact bearing deposits i.e. yard scatters • Privies/outbuildings 	Low	Local (intact artefact bearing deposits)	Negligible

6.2 Recommendations

It is recommended that the following mitigation measures are implemented prior to and during project excavation works:

Table 9: Recommendations and mitigation measures

Mitigation measure	Description
s139(1B) Excavation Permit Exception	Prior to works occurring a s139(1B) Excavation Permit Exception granted under section 139(4) of the <i>Heritage Act 1977</i> would need to be obtained from Heritage NSW. A s139(1B) is applicable as the excavation works would not affect the significant areas of the known archaeological site. This document should be submitted with the exception application.
Archaeological management during excavation works	It is recommended that a program of archaeological monitoring, in accordance with the Work Method Statement outlined in this document (see Appendix A), is implemented during basement excavation works to confirm that no archaeological remains survive in this location. Where substantial intact archaeological relics of State or local significance not identified in this AA are unexpectedly discovered during excavation, work must cease in the affected area and Heritage NSW must be notified in writing in accordance with Section 146 of the <i>Heritage Act 1977</i> . Depending on the nature of the discovery, additional assessment and possibly an excavation permit may be required prior to the recommencement of excavation in the affected area.
Heritage induction	All relevant construction staff, contractors and subcontractors must be made aware of their statutory obligations for archaeological resources under the <i>NSW Heritage Act 1977</i> and best practice as outlined in The Burra Charter (Australia ICOMOS 2013) to ensure no archaeological remains are impacted during the proposed works without appropriate mitigation measures in place. This will be implemented through a heritage induction carried out prior to works commencing and throughout the works program.
Aboriginal archaeology	Should Aboriginal objects be uncovered during the construction program works should cease immediately and Heritage NSW is to be notified in accordance with Section 89A of the <i>National Parks and Wildlife Act 1974</i> . Further approval would be required to impact, harm or remove Aboriginal objects.
Design modifications	Any modifications, including minor corrections, clarifications, amendments, or additional works beyond the scope of those works assessed in this report would require further assessment. If works are inconsistent with the s139 exception and/or other project approvals, additional approvals may be required.

7.0 APPENDIX A: WORK METHOD STATEMENT – ARCHAEOLOGICAL MONITORING

7.1 Introduction

The following section details the recommended archaeological methodology proposed for the basement excavation works.

7.1.1 Monitoring methodology

The archaeological methodology for monitoring would include the following:

- An archaeologist would be in attendance during basement excavation works and would continue to be in attendance until natural stratigraphy is encountered or until disturbance or some other reason indicates that the archaeological potential of the location is nil
- During this process, should potential archaeological remains be identified, the archaeologist would stop works to investigate and record or protect the remains as required. Localised stoppages in the excavation works may be required to facilitate this process
- Should artefacts from secure or *in situ* significant archaeological contexts and/or archaeological 'relics' be identified, notification under s146 of the Heritage Act will be required. Approval from Heritage NSW may be required to impact archaeological 'relics' (see Section 7.1.2)
- All potential archaeological 'works' should be archivally recorded.

7.1.2 Archaeological 'relics' and s146 notification

In the event that significant and intact remains not identified in previous assessments are encountered during works, all excavation works would cease, the remains be protected, and further assessment undertaken. Should archaeological 'relics' be unexpectedly identified during any excavation work, Heritage NSW would be notified of the discovery of a relic in accordance with Section 146 of the NSW *Heritage Act 1977*.

Additional archaeological management may be required prior to works being able to proceed. Additional approvals may be required should the project require impact to significant 'relics' (as defined by the Relics Provisions of the NSW Heritage Act 1977).

7.1.3 Archaeological recording

The archaeological archival recording would be undertaken in accordance with best practice and Heritage NSW guidelines as follows:

- A standard context recording system would be employed. The locations, dimensions in plan and characteristics of all archaeological features and deposits would be recorded on a sequentially numbered register
- Scaled section drawings where appropriate

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- Scaled trench plans would be drawn showing the location of archaeological features revealed by excavation
- Digital photography, in RAW format, using photographic scales and photo boards where appropriate
- The location of the archaeological find would be surveyed or planned as appropriate.

7.1.4 Research questions

It is not anticipated that the excavation works would result in a large amount of data for research purposes. However, the following research questions would guide the archaeological investigation:

- Do archaeological remains of the carriageway or gardens survive in this location
- Is there any other archaeological evidence to indicate that the site of Holmwood has been incorrectly or correctly located, as based on historical plans?

7.1.5 Post-excavation analysis and reporting

Following the completion of archaeological monitoring program, assuming no significant archaeological remains are identified, a clearance letter would be provided.

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8.0 REFERENCES

- Archaeology And Heritage Pty November 2003. *15a Dickson Street, Newtown Archaeological Assessment*. Prepared for Tectonic Developments
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- Heritage Branch, Department of Planning, 2009. *Assessing Significance for Archaeological Sites and Relics*
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- Teale, R. 2006. 'Fanning, William (1816–1887),' Australian Dictionary of Biography, Australian National University, accessed on 24 May 2022 via <<https://adb.anu.edu.au/biography/fanning-william-3497>>.
- Turnbull, C. and Valiotis, C. 2001. *A Thematic History of Greek Settlement in New South Wales*. Sydney: NSW Heritage Office and Centre for Community History, pg. 1-5.
- Marrickville Council, 2011. *Marrickville Development Control Plan 2011. 9.14. Strategic Context, Camden*. Sydney: Marrickville Council
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Attachment E – Draft conditions in the event of approval by Panel

DRAFT 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
DA01-D	Site and Roof Plan	3 September 2020	Weir Phillips
DA02-E	Ground Floor Plan	2 October 2020	Weir Phillips
DA03-D	First Floor Plan	3 September 2020	Weir Phillips
DA04-D	North Elevation	3 September 2020	Weir Phillips
DA05-D	South Elevation	24 September 2020	Weir Phillips
DA06-E	East Elevation	2 October 2020	Weir Phillips
DA07-D	West Elevation	24 September 2020	Weir Phillips
DA08-D	Section A	24 September 2020	Weir Phillips
DA09-D	Section B & Section C	24 September 2020	Weir Phillips
DA10-B	Materials & Finishes Schedule	27 April 2020	Weir Phillips
DA01 G	Site and Roof Plan	01/06/2022	Weir Phillips
DA12 G	Basement Plan	01/06/2022	Weir Phillips
DA02 G	Ground Floor Plan	01/06/2022	Weir Phillips
DA03 G	First Floor Plan	01/06/2022	Weir Phillips
DA04 G	North Elevation	01/06/2022	Weir Phillips
DA05 G	South Elevation	01/06/2022	Weir Phillips
DA06 G	East Elevation	01/06/2022	Weir Phillips

<i>DA07 G</i>	<i>West Elevation</i>	<i>01/06/2022</i>	<i>Weir Phillips</i>
<i>DA08 G</i>	<i>Section A</i>	<i>01/06/2022</i>	<i>Weir Phillips</i>
<i>DA09 G</i>	<i>Section B & Section C</i>	<i>01/06/2022</i>	<i>Weir Phillips</i>
<i>DA10 G</i>	<i>Materials & Finishes Schedule</i>	<i>01/06/2022</i>	<i>Weir Phillips</i>
DA30 B	Concept Drainage Plan	8 October 2020	Weir Phillips
L01 B	Landscape Plan	8 October 2020	Weir Phillips
L02 B	Landscape Plant Schedule	8 October 2020	Weir Phillips

As amended by the conditions of consent.

(Amended – XXXX – MOD/2022/0522)

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the person acting on this consent must submit to Council details of the following:

1. An amended Landscape Plan to Council's satisfaction illustrating the green roof above the carport and part of the dwelling with planting specifications.
2. Details demonstrating the existing internal stair is to be carefully dismantled and adapted (with extra material) to serve as the new stair; and
3. An amended Schedule of Materials reflecting the below:
 - Metal roof and rainwater goods – Colorbond Basalt
 - Rendered and painted brick – Resene "Thistle" or "Fawn Green"
 - Wrought iron fence and cast iron panels and trim – Resene "Olive Green" or "Scrub (Green)", or "Ivy Green" (gloss)
 - Timber joinery, windows and doors – Resene "Alabaster"

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$2,209.00
Inspection Fee:	\$236.70

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 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 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Marrickville Section 94/94A Contributions Plan 2014*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:

\$15,822.00

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either in cash; by unendorsed bank cheque (from an Australian Bank only); via EFTPOS (Debit only); or credit card (to a maximum of \$10,000 - Note: A 1% credit card transaction fee applies to all credit card transactions). It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*. 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.**

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 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.

7. Boundary Alignment Levels

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

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, including any absorption trench or rubble pit drainage system, 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.

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. Rock Anchors

This consent does not grant consent for any rock anchors on the road reserve or Council land.

(Amended – XXXX – MOD/2022/0522)

12. Dry-weather Flows

Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

(Amended – XXXX – MOD/2022/0522)

13. Unexpected Finds (Heritage NSW)

The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery. Reason: Archaeological relics are protected under s.139 of the Heritage Act 1977. Notification of the unexpected discovery of known or suspected relics is a statutory requirement under s146 of the Heritage Act 1977.

(Amended – XXXX – MOD/2022/0522)

PRIOR TO ANY DEMOLITION

14. 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.

15. Advising Neighbors Prior to Excavation

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

16. 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.

17. Recording of Building

Prior to any demolition on the site or the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that Council has received a full archival record of the building and landscape elements to be demolished/altered.

The photographic archival recording is to be submitted in a digital format only and is to include the following:

- a. Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b. Coloured photographs of:
 - i. each elevation,
 - ii. each structure and landscape feature;
 - iii. views to the subject property from each street and laneway or public space.

PRIOR TO CONSTRUCTION CERTIFICATE

18. Construction Methods to Minimise Impact on Trees

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details certified by a suitably qualified Arborist demonstrating that the footings of the approved wall within 2 metres of the *Morus alba* (Mulberry) located at 11 Dickson Street will utilise tree sensitive construction techniques (such as isolated pier or pier and beam construction) if woody tree roots with a diameter greater than 20mm are encountered during excavation.

Prior to the issue of a Construction Certificate, the Certifying Authority must verify that no proposed underground services are located beneath the canopy of any prescribed tree/s located on the subject site and adjoining sites (including trees located within the public domain).

19. 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.

20. Structural Certificate for retained elements of the building

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

21. 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

22. 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.

23. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a registered landscape architect demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#) including but not limited to using species selected from the suggested species list, water proofing and drainage.

DURING DEMOLITION AND CONSTRUCTION

24. Tree Protection

To protect the following tree, trunk protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
-	<i>Morus alba</i> (Mulberry) / 11 Dickson Street

25. Canopy and Root Pruning

Canopy pruning of the following tree which is necessary to accommodate the approved building works must be undertaken by a qualified Arborist or Horticulturist.

Tree No.	Botanical/Common Name
-	<i>Morus alba</i> (Mulberry) / 11 Dickson Street

The person acting on this consent has approval under Council's Tree Management Controls to achieve a clearance of the structure. Pruning is limited to those branches that will come into direct contact the built structure.

26. Limited Root Pruning

No tree roots of 20mm or greater in diameter located within the specified radius of the trunk of the following tree must be severed or injured in the process of any works during the construction period unless approved in writing prior by an Arborist (qualification AQF Level 5):

Tree No.	Botanical/Common Name	Radius in metres
-	<i>Morus alba</i> (Mulberry)	2 m

All excavation within the specified radius must be carefully undertaken by hand held tools avoiding damage to, or severance of, woody roots that are not approved for pruning. If tree roots less than 20mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

27. 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.

PRIOR TO OCCUPATION CERTIFICATE

28. 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 1 x 45 litre size (container size at planting) tree, which will attain a minimum mature height of six (6) metres and a minimum canopy spread of four (4) metres, must be planted in a suitable location within the property at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as on Council's Tree Minor Works list in the DCP Tree Management Controls will not be accepted as suitable replacements.

If the tree is found dead before it attains a height where it is protected by Council's Tree Management Controls, it must be replaced with the same species.

29. 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.

30. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

31. 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.

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

32. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

ON-GOING**33. Green Roofs, Walls and Facades Establishment**

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate 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 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

Disability Discrimination Access to Premises Code

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

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.

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.

Dividing Fences Act

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

Permits from Council under Other Acts

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;

- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

Noise

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

Amenity Impacts General

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

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig	1100		www.dialprior toyoudig.com.au
Landcom	9841 8660		To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441		www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406		www.foodnotify.nsw.gov.au
NSW Government			www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555		www.environment.nsw.gov.au
Sydney Water	13 20 92		www.sydneywater.com.au
Waste Service - Environmental Solutions	SITA 1300 651 116		www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)			www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50		www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.