ADARD WIEGE			
	DEVELOPMENT ASSESSMENT REPORT		
Application No.	REV/2022/0028		
Address	9 Westbourne Street STANMORE NSW 2048		
Proposal	Section 8.2 review application of refused Determination		
	DA/2022/0034 dated 9 August 2022 for demolition of the existing structures, Torrens title subdivision of the site into 2 lots and		
	construction of a semi-detached dwelling with a garage and studio		
	above at rear to each lot with associated landscaping		
Date of Lodgement	14 October 2022		
Applicant	GAT and Associates Pty Ltd		
Owner	Monument (NSW) Pty Ltd		
	TCEM Investments Pty Ltd		
Number of Submissions	4		
Value of works	\$915,000.00		
Reason for determination at	Review of application determined by the Planning Panel		
Planning Panel	Chronic and the selection of the selection		
Main Issues	Streetscape/local character  Pulls and Ocale		
	Bulk and Scale		
	Overshadowing		
	Visual Privacy		
Recommendation	Approved with Conditions		
Attachment A	Recommended conditions of consent		
Attachment C Applicant's Cover Letter prepared by GAT & Associates			
	LOCALITY MAP		
Subject Site	Objectors		
Notified Area	Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for a Section 8.2 review application of refused Determination, DA/2022/0034, dated 9 August 2022. The application is for demolition of the existing structures, Torrens title subdivision of the site into 2 lots and construction of a semi-detached dwelling with a garage and studio above at rear to each lot with associated landscaping at 9 Westbourne Street Stanmore.

The application was notified to surrounding properties and 4 submissions were received.

The main issues that have arisen from the application include:

- Overshadowing impacts to neighbouring properties and solar access to the proposed dwellings.
- · Proposed building massing and setbacks.
- Façade design and streetscape presentation are inconsistent with the character of the street.
- Proposed garage and studio structures at the rear result in adverse visual impacts to adjoining sites and the character of the rear lane.
- Visual Privacy impacts.

Despite the issues noted above, it is considered that the proposed development is capable of generally complying with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Marrickville Local Environmental Plan 2011*, and Marrickville Development Control Plan 2011, subject to the imposition of conditions included in the recommendation.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development, given the context of the site and the desired future character of the precinct, are considered acceptable.

Given the above, subject to the imposition of appropriate terms and conditions, the application is considered suitable for approval.

## 2. Proposal

The application proposes demolition of the existing structures on the site, Torrens title subdivision of the existing lot into two (2) new allotments, and the construction of a three storey semi-detached dwelling on each new lot comprising:

- Living room, WC, kitchen and dining room on the ground floor that opens onto an alfresco area;
- Three bedrooms, an ensuite, bathroom, and laundry at the first floor;
- A bedroom and ensuite at the second floor;
- A detached single garage with studio above;
- An above-ground spa; and,
- Associated landscaping.

## 3. Site Description

The subject site is located on the southern side of Westbourne Street, close to the intersection of Westbourne Street and Cannon Lane, Stanmore. The site consists of one (1) allotment and is generally rectangular in shape with a total area of 374sqm and is legally described as 9 Westbourne Street Stanmore.

The site has a frontage to Westbourne Street of 12.9 metres and a secondary rear frontage of 12.9 metres to Westbourne Lane. The site currently supports a two storey detached dwelling house. The adjoining properties support a two storey detached dwelling house and a three storey semi-detached dwelling with a two storey garage with studio above at the rear.



## 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	Date & Decision
DA/2022/0034	Demolition of existing building. Torrens Title Subdivision of existing lot into 2 lots. Construction of a semi-detached dwelling with a garage and studio above at rear to each lot. Landscaping and associated works.	

The above-mentioned development application was recommended for a deferred commencement approval.

The Inner West Local Planning Panel refused the application for the following reason:

The Panel agrees with the concerns articulated in the assessment report regarding the proposed visual bulk of the building at the rear, the protrusion beyond the line of the adjoining dwellings, and the bulk of the rear studio building as seen from the laneway. Further, the architectural detailing, materials and colours are not compatible with the streetscapes and local character. The Panel notes that although not within a heritage conservation area, the proposal does not complement the prevailing local character which is a relevant consideration, and is a concern raised by the objectors.

The Panel considered the recommendation for approval, and supports the amendments listed in the draft Deferred Commencement conditions but considers that the changes required by the conditions are so substantive, that the final outcome including the resultant floor plans is uncertain. The Panel suggests that amended plans, consistent with the draft deferred commencement conditions and the requirements of the Marrickville Development Control Plan (DCP) should be re-lodged via a section 8.2 Review Application.

## Surrounding properties

Property	Application	Proposal	Date & Decision
7 Westbourne Street	Nestbourne DA/2022/0486 Alterations and additions to construct a first floor studio above the garage of each dwelling		
	MOD/2021/0543	S4.55 Application to REV/2021/0009. Modification involves various internal and external design changes.	23/05/2022 Approved
	REV/2021/0009	S8.2 Review Application of DA/2020/0827 for demolition of existing building. Torrens Title Subdivision of existing lot into 2 lots. Construction of a semi-detached dwelling with a garage to each lot. Landscaping and associated works.	12/10/2021 Approved
	DA/2020/0827	Demolition of existing building. Torrens Title Subdivision of land into 2 lots. Construction of a semi-detached dwelling with a secondary dwelling and garage to each lot. Landscaping and associated works.	22/02/2021 Refused

11 Westbourne Street	DA201100350.04	Under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 201100350 dated 15 October 2013 to add new glass bricks to side elevations and provide new lightwells and skylights to both approved dwellings	24/01/2014 Approved
	DA201100350.03	Under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No.201100350 dated 10 September 2013 to modify condition 1 to reflect a revised BASIX Certificate	15/10/2013 Approved
	DA201100350.02	Under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 201100350 dated 29 August 2012 to make changes to the approved development including removal of planter box at front of each dwelling, provision of glass blocks on the eastern and western side of dining rooms, enlargement of rear first floor balconies and construction of first floor level over approved garages to create a media room with ensuite	10/09/2013 Part Approval
	DA201100350.01	Under Section 96 of the Environmental Planning and Assessment Act to modify Determination No. 201100350 dated 7 November 2011 to enlarge the approved attics	29/08/2012 Approved
	DA201100350	To demolish the existing improvements, subdivide the land into two (2) allotments and erect a two (2) storey with attic dwelling house and a garage at the rear on each allotment	07/11/2011 Approved

## 4(b) Application history

Not applicable

## 4(c) Section 8.2 Review

The application was lodged under Section 8.2 of the *Environmental Planning and Assessment Act 1979*.

A development application for the *Demolition of existing building. Torrens Title Subdivision of existing lot into 2 lots. Construction of a semi-detached dwelling with a garage and studio above at rear to each lot. Landscaping and associated works was refused by the Inner West Local Planning Panel under Development Application No. DA/2022/0034 on 9 August 2022.* 

An assessment of the application against the requirements of Division 8.2 Reviews of the *Environmental Planning and Assessment Act 1979* is as follows:

Requirement	Proposal		
8.2 Determinations and decisions subject to review			
(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division—  (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),	The subject application relates to the review of a determination of an application for development consent by the Inner West Local Planning.		
<ul> <li>(b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),</li> <li>(c) the decision of a council to reject and not</li> </ul>			
determine an application for development consent.  (2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division—  (a) a complying development certificate,  (b) designated development,  (c) Crown development (referred to in Division 4.6).	The subject application does not relate to any of the applications noted in Clause 2.		
(3) A determination or decision reviewed under this Division is not subject to further review under this Division.	Noted.		
8.3 Application for and conduct of review			
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	Noted.		
<ul> <li>(2) A determination or decision cannot be reviewed under this Division—         <ul> <li>(a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or</li> </ul> </li> </ul>	The original application was determined on 09 August 2022. Pursuant to Section 8.10(1)(a) of the Environmental Planning and Assessment Act 1979, an		

	(b) after the Court has disposed of an appeal against the determination or decision.	appeal may be made to the Court 6 months after the date of determination.  The subject application was lodged on 14 October and has been reported to the Inner West Local Planning Panel for determination prior to the expiry of the appeal period.
(3)	In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.	The applicant has provided supporting information justifying the proposed changes to the subject application. It is considered that, notwithstanding the proposed amendments, the development remains substantially the same as that proposed in the original DA.
(4)	The review of a determination or decision made by a delegate of a council is to be conducted-  (a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or  (b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.	N/A
(5)	The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	The original DA was determined by the Inner West Local Planning Panel.  The current application is to be determined by the Inner West Local Planning Panel.
(6)	The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.	NA.
(7)	The review of a determination or decision made by a Sydney district or regional planning panel is also to be conducted by the panel.	NA.
(8)	The review of a determination or decision made by the Independent Planning Commission is also to be conducted by the Commission.	NA.
(9)	The review of a determination or decision made by a delegate of the Minister (other than the Independent Planning Commission) is to be conducted by the Independent Planning Commission or by another delegate of the Minister who is not subordinate to the delegate who made the determination or decision.	NA.

8.4 Outcome of review	
After conducting its review of a determination or decision,	As a result of the review, it is
the consent authority may confirm or change the	recommended that the
determination or decision.	consent authority changes
	the determination.
8.5 Miscellaneous provisions relating to reviews	
(1) The regulations may make provision for or with respect	Noted.
to reviews under this Division, including—	
(a) specifying the person or body with whom	
applications for reviews are to be lodged and by	
whom applications for reviews and the results	
of reviews are to be notified, and	
(b) setting the period within which reviews must be	
finalised, and (c) declaring that a failure to finalise a review within	
that time is taken to be a confirmation of the	
determination or decision subject to review.	
(2) The functions of a consent authority in relation to a	Noted.
matter subject to review under this Division are the	TVOICU.
same as the functions in connection with the original	
application or determination.	
(3) If a decision to reject an application for development	NA
consent is changed on review, the application is taken	
to have been lodged on the date the decision is made	
on the review.	
(4) If a determination is changed on review, the changed	Noted.
determination replaces the earlier determination on the	
date the decision made on the review is registered on	
the NSW planning portal.	
(5) Notice of a decision on a review to grant or vary	Noted.
development consent is to specify the date from which	
the consent (or the consent as varied) operates.	Noted
(6) A decision after the conduct of a review is taken for all	Noted.
purposes to be the decision of the consent authority.  (7) If on a review of a determination the consent authority	Noted.
(7) If on a review of a determination the consent authority grants development consent or varies the conditions of	Noted.
a development consent, the consent authority is	
entitled (with the consent of the applicant and without	
prejudice to costs) to have an appeal against the	
determination made by the applicant to the Court under	
this Part withdrawn at any time prior to the	
determination of that appeal.	
11, 2	<u> </u>

The application is supported by plans and documentation that have been amended in response to the previously recommended deferred commencement conditions and reasons for refusal. The response provided by the applicant to each deferred commencement condition is provided below.

a. The southern rear wall of the first floor rear bedroom of each dwelling labelled '12' on plan number 2114 DA.07 Rev 2 prepared by Piensa Architects and dated May 2022 must be setback a minimum of 12.4m from the rear boundary.

#### Response

The southern rear wall of the rear bedroom has been setback 12.4m from the rear boundary.

The first floor rear bathroom of each dwelling labelled '13' on plan number 2114 DA.07
 Rev 2 prepared by Piensa Architects and dated May 2022 must be deleted.

## Response

This requirement has not been met [justification provided, which is assessed in detail elsewhere in this report].

c. The southern rear wall of the second floor of each dwelling must be setback a minimum of 15.5m from the rear boundary.

## Response

The southern rear wall of the second floor has been setback 15.5 metres from the rear boundary.

d. The eastern and western elevation walls of the second floor bedrooms are to be setback 1.5metres from their respective side boundary.

#### Response

The external walls of the second floor have been set in 500mm from the side boundary for a length of 1.5m. This amendment is considered a positive alternative to the required condition.

e. The internal floor-to-ceiling height of the first floor studio above the garage must be a maximum of 2.4m. The roof over the studio must be lowered by 300mm accordingly.

Response

The internal floor-to-ceiling heights of the garage loft are amended to 2.4m.

f. The southern rear wall of each garage must be a maximum height of 40.374m AHD. Response

The southern rear wall of the garage, before it becomes roof form is at a maximum level of RL 39.888m.

g. The southern rear wall of each garage and studio structure must be of face brickwork for the full height of the wall.

#### Response

The southern wall of the garage is of face brick up to the maximum level of RL 9.888m with the exception of the garage door.

h. The metal slat 'trim' feature under the awning of the first floor street facing balcony of each dwelling must be deleted.

## Response

The metal under trims are retained in a modified manner [justification provided, which is assessed in detail elsewhere in this report].

i. The metal slat balustrading to the first floor balcony of each dwelling must not extend below the slab of the first floor.

## Response

The metal under trims are retained in a modified manner [justification provided, which is assessed in detail elsewhere in this report].

j. An amended schedule of materials and finishes adopting light colours that have a hue and tonal relationship with those existing in the street.

#### Response

An amended schedule of materials and finishes has been provided and provides lighter colours to respond to the locality.

An assessment of the amended proposal against the reasons for refusal issued under the original determination is provided below:

 The bulk and extent of the rear of the building is excessive, compared to the alignment of adjoining dwellings and will result in adverse visual impacts for neighboring properties. The proposal is contrary to cl 4.1.6 of Marrickville DCP 2011.

## Comment:

The proposal has been amended since the original application was determined. As outlined in detail elsewhere in this report (with the exception of the proposed studios over the garages), the revised scheme is considered to have no undue visual bulk impacts for neighbouring properties.

2. The proposed garage/loft is of an excessive height and scale contrary the provisions of Part 4.1 of Marrickville DCP 2011.

Whilst the design and height of the proposed garages/lofts has been reduced, the lofts over the garages are still considered to result in undue visual bulk impacts for neighbouring properties and the structures are considered to be uncharacteristic and incompatible with development in the vicinity.

3. The materials and finishes are unsympathetic to the character of the street, contrary to cl 4.1.9 of Marrickville DCP 2011

#### Comment:

The materials and finishes have been amended since the original application was determined. As outlined in detail elsewhere in this report, the amended materials and finishes are, in principle, considered to be sympathetic to the character of the area.

4. The building massing and setbacks of the dwelling and garages/loft are unsatisfactory having regard to adjoining development, contrary to cl 4.1.6 and of Marrickville DCP 2011.

## Comment:

The proposal has been amended since the original application was determined. As outlined in detail elsewhere in this report, while the massing and setbacks of the semi-detached dwellings of the revised scheme are considered acceptable, the massing and setbacks of the lofts over the garages are considered contrary to Part 4.1.6 of the MDCP 2011.

Overall, the revised design proposal submitted with the application under Section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to recommended conditions, is considered to result an acceptable development outcome for the site. The proposed development is considered to make a positive contribution to the streetscape and character of the area while having minimal environmental and amenity impacts.

## 5. Assessment

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

## 5(a) Environmental Planning Instruments

The application has been assessed 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 (Biodiversity and Conservation) 2021

The following provides further discussion of the relevant issues:

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

## Chapter 4 Remediation of land

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

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

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

A search of Councils records does not indicate any knowledge or incomplete knowledge of uses listed within Table 1 of the contaminated land planning guidelines.

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

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

## 5(a)(iii) 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 seeks the removal of vegetation from within the site that is identified on the Council Minor Works List of the DCP. The proposed removal of this vegetation is generally acceptable, subject to suitable replacement trees being planted.

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

## 5(a)(iv) Local Environmental Plans

## Inner West Local Environmental Plan 2022

The *Inner West Local Environmental Plan 2022 (IWLEP 2022)* was gazetted on 12 August 2022. As per Section 1.8A – Savings provisions, of this Plan, as the subject original 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 *EPA Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and Section 4.15(1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The original DA application was lodged on February 2022, on this date, the *IWLEP 2022* was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

Notwithstanding this, the amended provisions of the draft EPI do not alter the outcome of the assessment of the subject application.

## Marrickville Local Environmental Plan 2011 (MLEP 2011)

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

- Section 1.2 Aims of the Plan
- Section 2.3 Zone objectives and Land Use Table
- Section 2.6 Subdivision
- Section 2.7 Demolition
- Section 4.3 Height of buildings
- Section 4.4 Floor space ratio
- Section 4.5 Calculation of floor space ratio and site area
- Section 6.1 Earthworks
- Section 6.5 Development in areas subject to aircraft noise

## Section 1.2 - Aims of the Plan

The proposal satisfies the relevant aims of the Plan as, subject to the recommended conditions discussed elsewhere in this report, the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain.

## Section 2.3 Land Use Table and Zone Objectives

The site is zoned R2 Low Density Residential under the *MLEP 2011*. The *MLEP 2011* defines the development as:

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

The development is permitted with consent within the land use table. The development is consistent with the relevant objectives of the R2 zone as housing needs of the community within the low density residential environment are provided.

#### Section 2.6 – Subdivision

Section 2.6 of the *MLEP 2013* states that the land may be subdivided, but only with development consent. The application seeks consent for subdivision.

## Section 2.7 - Demolition

Clause 2.7 of the *MLEP 2011* states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition are included in Attachment A.

## Section 4.3 - Height of buildings & Section 4.4 - Floor space ratio (Development Standards)

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

Table 1: Development Standards

Standard	Proposal	non- compliance	Complies
Height of Building Maximum permissible: J - 9.5m	9.4m	N/A	Yes
Floor Space Ratio Maximum permissible: 1:1 or 187sqm (per lot)	Lot 1 (eastern) 1:1 or 185.8sqm  Lot 2 (western) 1:1 or 185.5sqm	N/A	Yes

## Section 4.5 - Calculation of floor space ratio and site area

The site area and floor space ratio for the proposal has been calculated in accordance with the clause.

## Section 6.1 – Earthworks

The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.

## Section 6.5 - Development in areas subject to aircraft noise

The site is located within the ANEF 25-30 contour. As such an Acoustic Report was submitted with the development application.

To ensure compliance with this section, a condition has been included in the recommendation to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.5 of the *MLEP* 2011 and Part 2.6 of the MDCP 2011, respectively.

## 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 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes, subject to conditions
-	<ul><li>see discussion</li></ul>
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	N/A
Part 2.6 – Acoustic and Visual Privacy	Yes, subject to conditions  – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.8 – Social Impact	N/A
Part 2.9 – Community Safety	Yes – see discussion
Part 2.10 – Parking	Yes – see discussion
Part 2.11 – Fencing	Yes, subject to conditions  – see discussion
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	N/A
Part 2.18 – Landscaping and Open Space	Yes – see discussion
Part 2.20 – Tree Management	Yes – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes – see discussion
Part 3 – Subdivision	Yes – see discussion
Part 4.1 – Low Density Residential Development	Yes – 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	N/A
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

## Part 2.1 – Urban Design

The proposal is not considered to adversely impact the definition between the public and private domain.

## Principle 9 outlines that

Urban design should understand, preserve, celebrate and continue to develop high quality and distinctive streetscape and townscape character. Section 2.1.2 provides a detailed description on the characteristics that form streetscapes and townscapes in

the area where this DCP applies, and Section 2.1.3 provides guidelines on fitting infill development into the area's streetscapes.

Whilst the proposed semi-detached dwellings are consistent and sympathetic with the character of the area, as outlined in further detail elsewhere in this report, the scale of the proposed loft structures over the garages is not compatible with the predominant character of development along the laneway.

## Part 2.6 – Acoustic and Visual Privacy

The windows along the side elevations to each semi-detached dwelling face onto blank walls of the adjoining properties.

Rear-facing ground floor windows to the semi-detached dwellings are appropriately screened by side boundary fencing.

Upper-level rear-facing windows of the semi-detached dwellings are appropriately set off the side boundaries and orientated towards the rear of the subject site. Additionally, bedroom windows have a sill height of 1.6m and bedrooms and bathrooms are considered low-traffic rooms that are unlikely to result in significant adverse privacy impacts.

The first-floor southern (rear) facing windows of the studio over each garage have sill heights of 1.7m and, as such, these windows are considered unlikely to result in any adverse privacy impacts.

However, the first floor north-facing windows of the studio over each garage, which are oriented towards the centre of the subject site, enable sightlines into areas of private open space and living rooms of adjoining sites, which is contrary to C3(v) as no privacy mitigation measures are provided. As such, this part of the proposed development is considered to be contrary to the relevant objectives of this part as follows:

- O1 As these windows do not ensure that adequate visual privacy is maintained for the residents of surrounding buildings.
- O2 As these windows are not designed and oriented to ensure adequate visual privacy for occupants.

Whilst privacy mitigation measures to these windows could be readily conditioned, as outlined elsewhere in this report, it is recommended to delete the loft structures over the garages via condition. Should the Inner West Local Planning Panel approve the loft structures over the garages, it is recommended to impose the following condition:

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating both Windows "Win 07" to the first floor north elevation (Plan Number DA.011 Rev 2, dated Sep 22, prepared by piensa, being amended in the following manner:

- a. Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level; **OR**
- b. Suitable externally fixed screening with a minimum block out density of 75% to a level of 1.6 metres above the floor level.

Note: The louvers are to individual opening more than 30mm wide and a total area of opening that is less than 30% of the surface area of the screen and made of durable materials. Louvered screens must be

securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in a downward or upward position.

Note: Given that deletion of the loft structures over the garages has been included in Attachment A (as outlined in detail elsewhere in this report), the aforementioned condition (privacy screening) has not been included in Attachment A.

Subject to recommended conditions, the proposal complies with controls concerned with aircraft noise.

## Part 2.7 – Solar Access and Overshadowing

## Overshadowing of neighbouring sites

This part of the MDCP 2011 sets objectives and controls that aim to maximise solar access and to reduce overshadowing impacts to proposed developments and neighbouring properties.

## Control C2 reads as follows:

C2 Direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation must:

- i. Not be reduced to less than two hours between 9.00am and 3.00pm on 21 June; or
- ii. Where less than two hours of sunlight is currently available on 21 June, solar access should not be further reduced. However, if the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:
  - a. The development potential of the site;
  - b. The particular circumstances of the neighbouring site(s), for example, the proximity of any residential accommodation to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;
  - c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and
  - d. Whether the sunlight available in March to September is significantly reduced, such that it impacts upon the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March/September period must be submitted in accordance with the requirements of C1;

Where less than two hours of sunlight is currently available on 21 June and the proposal is not reducing it any further, Council will still consider the merits of the case having regard to the above criteria described in points a to d.

The following assessment against C2 was conducted and provided as part of DA DA/2022/0034:

The subject site has a northwest-southeast orientation and, as such, any two storey development on the site will likely result in additional overshadowing of the neighbouring dwelling at no. 11 Westbourne Street, which is located directly southwest of the site.

No. 11 Westbourne Street is occupied by a three storey semi-detached dwelling. The living room is located at the front of this dwelling with a northern orientation, while the private open space (POS) is located to the south of the dwelling at the rear and is accessed via a sliding glass door on the southern elevation.

Elevational and plan shadow diagrams were submitted for June 21st and March/December. An assessment of the proposal against C2 is provided below.

i. Direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation must not be reduced to less than two hours between 9.00am and 3.00pm on 21 June.

## Windows of principal living areas

The submitted shadow diagrams demonstrate that the proposed development does not result in any additional overshadowing of the north-facing windows of the principal living area of no. 11 Westbourne Street.

## Principal areas of private open space

The shadow diagrams demonstrate that the principal area of POS of no. 11 Westbourne Street directly adjacent to the rear of the dwelling is significantly overshadowed by the existing dwelling. Currently, the POS receives less than 2 hours of direct solar access between 9.00am-3.00pm during midwinter, with less than 1sqm of POS receiving direct solar access between 11.00am-1.00pm during midwinter. The proposed development results in additional overshadowing of the POS such that no part of the POS receives any solar access between 9.00am-3.00pm during midwinter.

The shadow diagrams also demonstrate that the proposed development does not result in any additional overshadowing of the POS in December, and only minor additional overshadowing in March such that a minimum of 2 hours of direct solar access is retained between 9.00am-3.00pm during these times.

Given the above, it is considered that the proposed development has been appropriately designed to not result in significant adverse overshadowing and solar access impacts to the adjoining property at no. 11 Westbourne Street and the proposal satisfies the requirements of control C2 and the relevant objectives of this Part.

Neighbouring properties on Albany Road

In addition to the above, it is noted that the shadow diagrams indicate the proposed garage and studio structures at the rear of the site will result in additional overshadowing of the rear lane and southern neighbouring properties. The additional overshadowing between 9.00am-11.00am predominately falls over the road reserve of Westbourne Lane. However, the shadow diagrams indicate additional overshadowing between 10.00am-3.00pm falls over the rear of nos. 124, 126, and 128 Albany Road.

Nos. 124 and 126 Albany Road – the proposed development results in additional overshadowing of the rear of nos. 124 and 126 Albany Road between 10.00am-3.00pm and 12.00pm-3.00pm, respectively. This overshadowing predominately falls over the existing garages and sheds on these properties, and where the overshadowing extends beyond the existing structures it is considered likely that these areas would already experience overshadowing caused by the structures and fencing of these properties. As such, the proposed development is not considered to result in any significant adverse impacts to nos. 124 and 126 Albany Road.

No. 128 Albany Road – the proposed development results in minor additional overshadowing of the rear POS of this property between 10.00am-12.00pm. However, it is considered these areas would already be overshadowed by the existing boundary fencing of this property and as such the proposed development is not considered to result in any significant adverse impact to no. 128 Albany Road.

## Comment REV/2022/0028

The shadow diagrams submitted as part of DA/2022/0034 have been reviewed as part of the subject application and the previously conducted and provided assessment is considered accurate and satisfactory.

However, it is noted that, given that the height of the garages/lofts at the rear has been reduced, the amended proposal will have a lesser impact on existing solar access of neighbouring sites. In addition, given that it is recommended to delete the loft structures over the garages, overshadowing impacts will be further reduced.

## Solar access of subject site

The following was noted as part of DA/2022/0034:

In addition to the above, C8 of Part 2.7 reads as follows:

C8 Where site orientation permits, new buildings and additions must be sited and designed to maximise direct solar access to north-facing living areas and outdoor recreation areas such that:

- i. At least one habitable room (other than a bedroom) must have a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9.00am and 3.00pm on 21 June.
- ii. Private open space receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.

The site has a northwest-southeast orientation with a north-western frontage to Westbourne Street. As such, the POS of each new dwelling is located at the rear towards the south-eastern end of the site. The principal living area of each dwelling is located at the front of the site and has a north-western orientation. A secondary living area comprising the kitchen and dining room are provided adjacent to the POS area at the rear of the dwelling.

The windows of the principal living area of each dwelling will receive a minimum of 2 hours of direct solar access between 9.00am-3.00pm during midwinter.

The orientation of the site makes compliance with C8(ii) difficult to achieve in this case, and the submitted shadow diagrams indicate the POS of each dwelling does not receive any direct solar access between 9.00am-3.00pm during midwinter. However, additional shadow diagrams for March and December 21st demonstrate the POS of each allotment will receive a minimum of 2 hours of direct solar access to greater than 50% of the total surface area of the POS areas between 9.00am-3.00pm during these times.

Given the above, the proposed development is considered acceptable with regard to the requirements of control C8 and the objectives of this Part.

## Comment REV/2022/0028

The previously provided justification for the non-compliance with C8 is considered accurate and satisfactory.

## Part 2.9 - Community Safety

The proposal satisfies the relevant provisions of this Part as follows:

- The principal entrance to the dwellings is visible from the street; and,
- The dwellings and studios above have been designed to overlook the street and rear lane.

## Part 2.10 - Parking

The proposal satisfies the relevant provisions of this Part as follows:

- Each new allotment is provided with one on-site car parking space, which meets the minimum requirements.
- Each parking space is capable of complying with relevant Australian Standards; appropriate conditions are included in the recommendation.

## Part 2.11 - Fencing

The design and style of the proposed fences at the front are sympathetic with fences in the streetscape.

Control C18 reads as follows:

Front and side fences forward of the building line, must be no more than 1.2 metres in height above footpath level, unless a lower height is characteristic of the street. Front fences of up to 1.5 metres in height may be permitted to allow for sloping land.

The height of the proposed front fences, given the topography of the street, varies between 1.5 and 1.9m in height; hence, the proposed front fence does not comply with C18.

Front fence heights and styles along Westbourne Street vary. The height of the front fence at No 11 and No 11A Westbourne Street, which is shown in Figure 3, varies between 1 and 1.3 metres (with the exception of the brick piers at the side boundaries).



Figure 3: Front fence at No. 11 and 11a Westbourne Street

The front fence at No. 7 Westbourne Street has been recently demolished and no fence was approved as part of REV/2021/0009 and MOD/2021/0543 (Figure 4).

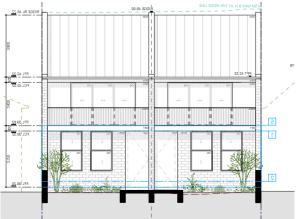


Figure 4: Approved front elevation 7 Westbourne Street.

While the finished level of the lawn behind the proposed front fence at No. 9 Westbourne Street (RL35.822) is above the adjacent footpath level, the proposed height of the front fence is considered unnecessary. As such, it is recommended to impose the following condition:

The height of the front fence at the western boundary must not exceed 1.2 metres in height above the level of the adjacent footpath. Given the slope of the land, the fence height, above the level of the finished footpath can gradually increase; however, must not exceed 1.5 metres in height above the finished footpath level at any point.

Subject to the imposition of this condition, the proposed front fence is consistent with the relevant objectives of this part as follows:

- O4 As the front fence will be sympathetically scaled and proportioned,
- O5 As the front fence will not be obtrusive and will not distract from the building and streetscape.

## Part 2.18 - Landscaping and Open Space & Part 2.20 - Tree Management

The following controls of Part 2.18 apply:

- C11 Landscaped area
   The entire front setback must be of a pervious landscape with the exception of driveways and pathways.
- C12 Private open space
  - i. The greater of 45m2 or 20% of the total site area with no dimension being less than 3 metres, must be private open space.
  - ii. A minimum 50% of private open space must be pervious.

With regard to the above, the following is noted:

- The size of the proposed lots is 187sqm. As such, private open space of, at least, 45sqm is required for each lot. The proposed areas of private open space are 45sqm in size and in excess of 50% of the private open space of each dwelling consists of landscaped area.
- The entire front setbacks consist of pervious areas with the exception of the pathways.

Given that the size of the proposed lots is less than 300sqm, pursuant to control C11 of Part 2.20, a minimum of one tree is required on each lot.

The submitted plans indicate that one tree will be planted in each open space at the rear; hence, the proposal complies with C11.

To ensure that the trees are in accordance with Council's tree management controls and policies, Council's Arborist has provided conditions, which have been included in Attachment A.

## Part 2.25 – Stormwater Management

Subject to recommended conditions provided by Council's Development Engineer, which have been included in Attachment A, the proposed development is consistent with the relevant objectives of this part as follows:

 O1 – The proposed development will not adversely impact the urban environment from the effects of otherwise uncontrolled surface stormwater flows resulting

- O2 To minimise or negate disruption and/or danger to both pedestrian and vehicular traffic that may be caused by otherwise uncontrolled surface stormwater flows resulting from frequent storm events.
- O3 To protect the quality of receiving waters, adjacent and downstream land-use and the rights of adjacent and downstream landowners.

#### Part 3 – Subdivision

Part 3 of the MDCP 2011 does not contain minimum lot width or area requirements for residential subdivisions but relies on performance-based controls that aim to ensure that new lots facilitate development that is compatible with the immediate area.

The assessment of the S8.2 Review Application, demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

The application proposes to subdivide the property into two (2) new allotments. The streetscape and immediate locality are generally characterised by a mix of single and two storey dwellings on a mix of narrow and wide lots. Table 1 illustrates the proposed lot dimensions and the approximate dimensions of lots within the street:

Table 2: Lot width and area of properties along Westbourne Street.

Property	Width	Area
1 Westbourne	5.3m	172.1sqm
3 Westbourne	6.6m	220.5sqm
7 Westbourne	6.09m	187sqm
7 Westbourne	6.09m	187sqm
9 Westbourne (E)	6.096m	187sqm
9 Westbourne (W)	6.096m	187sqm
11 Westbourne	6.1m	188.7sqm
11A Westbourne	6.1m	188.7sqm
13 Westbourne	6m	186.4sqm
15 Westbourne	6.3m	192.9sqm
17 Westbourne	6.6m	195.9sqm

Property	Width	Area
2 Westbourne	6.2m	177.8sqm
4 Westbourne	10.6m	320sqm
6 Westbourne	11.9m	370.6sqm
8 Westbourne	12.3m	379.8sqm
10 Westbourne	6.2m	190.5sqm
12 Westbourne	6.2m	189.5sqm
14 Westbourne	11.7m	368.8sqm
16 Westbourne	6.2m	191.6sqm
18 Westbourne	6.2m	189.8sqm
20 Westbourne	6.2m	192.1sqm

The table above shows that adjoining properties range between 5.3m to 12.3m in width and 177.8sqm to 379.8sqm in area.

The subdivision would result in each new allotment being 6.096m in width and 187sqm in area, which is within the range of the prevailing cadastral pattern.

The shape of the allotments, being generally rectangular and fronting Westbourne Street, demonstrates the compliance of the proposal with the subdivision requirements.

The assessment of the application against other relevant controls in the MDCP 2011 demonstrates that the lots satisfy controls C6 and C7.

Given the above, the proposal complies with the controls of this part of the MDCP 2011

## Part 4.1 – Low Density Residential Development

## Part 4.1.4 Good Urban Design Practice

Subject to the deletion of the loft structures over the garages, the height, bulk, and scale of the development complement existing developments in the street and the architectural style of the proposal is in keeping with the character of the area.

## Part 4.1.5 Streetscape and Design

The overall height and bulk of the proposed dwellings, as presented to Westbourne Street, is considered to be generally consistent with and complementary to the existing streetscape.

The proposed dwellings have been appropriately designed to address the principal street frontage and are orientated to complement the existing pattern of development found in the street.

Whilst the facades of the dwellings have been generally divided into bays or units that are appropriate to the scale of the building proposed and that of adjoining development, the metal trim features under the first floor balcony awnings and slabs is not a dominant feature of development in the vicinity, and not considered to complement, or embellish the streetscape character, or positively interpret and translate characteristics of the locality. Specifically, it is noted that the two adjoining developments (existing and approved) do not have similar detailing. As such, it is recommended to impose the following design change condition, which has been included in Attachment A:

The metal 'trim' features under the awnings of the first floor balconies and under the slabs of the first floor balconies must be deleted.

## Part 4.1.6 Built form and character

The proposed front and side setbacks are consistent with the prevailing pattern of development in the street and the proposed development, subject to recommended conditions, has acceptable amenity impacts to adjoining dwellings.

The proposed site coverage is consistent with the pattern of development of the street and allows adequate provision to be made for on-site stormwater infiltration, deep soil landscaping, tree planting, and private open space.

The massing and rear setbacks, compared with the initial proposal, have been amended and are considered acceptable for the following reasons:

- The southern rear wall of the first floor rear bedroom has been set back by 12.4m from the rear boundary and aligns with the setback of the adjoining dwelling at No. 7 Westbourne Street. Whilst the first floor rear setback protrudes beyond that of No. 11 Westbourne Street, this protrusion is marginal, i.e., 300mm, and not discernible from the public domain as the western side wall of the rear bedroom to the western lot is set back by 2.2 metres from the rear building alignment of No. 11 Westbourne Street.
- Whilst the first floor rear bathroom of each dwelling, labelled '13' on plan number 2114
  DA.07 Rev 2, has not been deleted, it is considered that the bathrooms do not result
  in undue visual bulk impacts to surrounding sites. In this regard, the applicant's

justification to retain the bathrooms is considered reasonable, which has been reiterated below:

The first floor rear bathroom has been retained, as it is consistent with the adjacent proposed balcony of No. 7 Westbourne Street which is enclosed by side walls, and is covered by a roof and has a 1.2m high solid balustrade. The proposed bathroom provides a consistent window sill height and opaque glass louvres which match the appearance of this adjoining balcony. The similar relationship of these elements can be seen in drawing no. DA20 of the architectural plans prepared by Monument Design Partnership + Piensa Architects. Furthermore, on the western elevation, the proposed bathroom adjoins a full width rear balcony to No. 11 Westbourne Street that extends further than the proposed rear setback of the bathroom. Compliance with the adjoining rear building lines, building heights, and setbacks demonstrate that the bathrooms do not result in excessive bulk and scale.

- The southern rear wall of the second floor has been set back 15.5 metres from the rear boundary, which is consistent with the previously recommended deferred commencement condition.
- While the eastern and western elevation walls of the second floor bedroom have not been set back 1.5metres from their respective side boundary, the side setbacks have been set in 500mm from the side boundary for a length of 1.5m. This is considered acceptable as, given that the second floor is set back further from the rear than the first floor, the second floor will be not readily discernible from the open space of adjoining sites. In addition, it is considered that strict adherence to the recommended deferred commencement condition would not result in a substantial reduction of visual bulk compared to the proposed design. In addition, as argued by the applicant, "amending the design as previously recommended, i.e., setting the walls the requirement of 1.5m side setbacks at this level is excessive and would not result in a better planning outcome, and would result in an unfunctional habitable space".

Overall, the proposed development, as amended, is considered to complement the bulk and scale of other development in the area and the proposed setbacks and site coverage are generally consistent, or compatible, with other development in the streetscape.

## 4.1.7 Car Parking

- The garage and car parking space provided to each dwelling complies with the design requirements and minimum dimensions for car parking within Part 2.10 of MDCP 2011.
- The garages are located to the rear of the site and are safely and conveniently located for use
- The location of the driveway to each dwelling is suitable within the laneway and will not impact traffic or parking.

With regard to the studios over the garages, the following was noted in the original assessment report:

However, the overall bulk and scale of the proposed garage and studio structures, particularly the two storey presentation, is considered to be inconsistent and incompatible with the existing and desired future character of the lane. The structures are considered to be a dominant element on the site when compared to other structures in the lane, therefore resulting in adverse visual bulk impacts. Additionally, the proposed materiality, including the use of cladding to the upper portion of the rear building wall facing the lane, is considered to exacerbate the perceived scale of the structures. In this regard, the proposal is not considered to satisfy the relevant provisions of this Part in its current form.

Notwithstanding, it is considered that the structures are capable of satisfying the provisions of this Part subject to design changes. In this regard, a deferred commencement condition has been included in the recommendation requiring the following changes:

- The internal floor-to-ceiling height of the first floor studios must be a maximum of 2.4m. The roof over the first floor must be lowered by 300mm accordingly.
- The southern rear wall of the garage and studio structures must be a maximum height of 40.374m AHD.
- The southern rear wall of the garage and studio structures must be of face brickwork for the full height of the wall.

With regard to plans submitted as part of the subject section 8.2 application, the following is noted:

- The internal floor to ceiling heights of the first floor studios does not exceed 2.4m.
- The southern rear wall of the garage and studio structures (before it becomes roof form) has a maximum height of 39.888m AHD.
- While the southern wall of the garage and studio structure is of face brick on the ground floor, the first floor southern wall has not been amended to face brick. The first floor is still proposed to be of 'express seam cladding'.

Whilst the material and colour of the first floor southern wall could be readily amended via condition, the following is noted.

Control C31 of Part 4.1.7.5 reads as follows:

Loft structures over garages at the rear of a site may be acceptable subject to:

- i. Compliance with overall height, FSR, landscaping and parking requirements of this DCP and MLEP 2011;
- ii. There being minimal adverse impact on amenity of the subject property, neighbouring properties and the public domain;
- iii. The bulk and scale of the overall structure not being dominant compared with other rear lane structures or the houses in the locality; and
- iv. The structure not adversely affecting the character of the street or laneway.

In this regard, the following is noted:

- i. The proposal complies with the height, FSR, landscaping and parking requirements of the MDCP 2011 and MLEP 2011.
- ii. Whilst the proposed structures are marginally lower, and less bulky, than the two storey rear lane structures at No. 11 Westbourne Street, these are considered to result in adverse visual bulk impacts to neighbouring properties and the subject site when viewed from private open space areas, which can be discerned from looking at the neighbouring rear structures from the exiting private open space at No. 9 Westbourne Street (Figure 5). In addition, the visual bulk is exacerbated by the relatively small separation between the proposed dwelling houses and garages with studios above, which is similar to that of the development at No. 11 Westbourne Street (Figure 6).
- iii. Whilst the bulk and scale of the proposed overall structure is less than the bulk and scale of the laneway structures at No. 11 and 11a Westbourne Street, compared with other development along the rear lane, the proposed structures are considered to be out of character with otherwise single storey developments along the laneway; two storey buildings are generally set back from the laneway boundaries of properties along Westbourne Lane.
- iv. As noted above, the properties at No. 11 and No. 11a Westbourne Street have two storey structures at the rear, development along the laneway consists of, predominantly, single storey structures, mostly garages with low-pitched gable roofs or skillion roofs concealed behind parapets. As such, the proposed two storey structures are considered to adversely impact the character of the street/lanescape.



Figure 5: Rear structure at No. 11 Westbourne Street - viewed from POS at No. 9 Westbourne Street.



Figure 6: Separation between rear structures and dwellings at No. 9 Westbourne Street (proposed separation similar).

Given the above, the proposed studios over the garages are not considered to be consistent with the following objectives of Part 4.1 of the MDCP 2011:

- O4 As this part of the proposal is considered to adversely impact the amenity of surrounding properties, i.e., visual bulk, and the two storey development at the laneway is considered to result in adverse impacts to the laneway as the bulk and scale is not a characteristic feature of the laneway.
- O7 As the two storey structures at the rear do not positively respond to the charterer and context of the immediate locality.

As such, it is recommended to impose the following design change condition, which has been included in Attachment A:

- a. The first floor studios over the garages must be deleted.
- b. The internal floor-to-ceiling height of the garages must be a maximum of 2.4m.
- c. The southern rear wall of the garage structures (before it becomes roof form) must be a maximum height of 39.749m AHD.
- d. The roof over the garages must be amended to:
  - i. A gable roof with the gable ends facing east and west with a pitch not exceeding 25 degrees, **OR**
  - ii. A skillion roof sloping from south to north, concealed behind a parapet. The parapet must not exceed RL39.888

Note: With regard to d(ii), this would reduce the floor to ceiling height of the garage of the eastern lot to approximately 2.2 metres, which is the minimum required to comply with relevant Australian Standards.

## Part 9 – Strategic Context

The site is located within the Stanmore North Precinct. The relevant desired future character for this precinct is:

- 3. To maintain distinctly single storey streetscapes that exist within the precinct.
- 5. To protect significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.
- 6. To preserve the predominantly low density residential character of the precinct.
- 8. To ensure that the provision and location of off-street car parking does not adversely impact the amenity of the precinct.

## With regard the above:

- Westbourne Street contains a mix of single and two storey development. As such, the
  proposed development is consistent, and compatible, with the scale of other
  development in the streetscape.
- As outlined in detail elsewhere in this report, the proposed subdivision is consistent
  with the prevailing cadastral pattern in the street and the proposed development,
  subject to recommended conditions, will not have an adverse impact on the
  streetscape and neighbouring sites.
- The proposal is for a pair of semi-detached dwellings, which is permissible with consent in the R2 zone, and consistent with other development in the precinct. The development will not increase the density of the precinct.
- The proposed off-street parking will not adversely impact the amenity of the precinct.

Given the above, the proposed development (excluding the studios above the garages) is consistent with the desired future character statement.

## 5(e) The Likely Impacts

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

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

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

## 5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. Four (4) submissions were received.

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

- Overshadowing see Section 5(d)
- Streetscape see Section 5(d)
- Bulk and scale see Section 5(d)
- Privacy see Section 5(d)

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

Issue: Impact on outlook from neighbouring properties

<u>Comment</u>: The proposed development will not impact significant views. Only outlook to the sky, trees and other development will be impacted, which is not protected under relevant policies.

Issue: Increased density

<u>Comment</u>: As outlined elsewhere in this report, the proposed development is permissible with consent in the R2 low density residential zone and will not increase the density of the area. The proposed studios over the garages, while recommended to be deleted via condition, are not self-contained dwellings. These are ancillary development to, and used in conjunction with, the dwelling houses.

<u>Issue</u>: Insufficient information submitted with regard to overshadowing and bulk and scale impacts

<u>Comment</u>: The submitted plans and information are considered adequate to conduct a comprehensive assessment with regard to amenity and streetscape impacts. These impacts have been discussed in detail elsewhere in this report.

## 5(h) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

## 6(a) Internal

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

- Development Engineer
- Urban Forest

## 6(b) External

- Nil

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$20,000.00 would be required for the development under the Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

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

Subject to deletion of the first floor studios above the garages and the resultant reduction in bulk and scale at the rear, the development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

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

## 9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Application No. REV/2022/0028 for Section 8.2 review application of refused Determination DA/2022/0034 dated 9 August 2022 for demolition of the existing structures, Torrens title subdivision of the site into 2 lots and construction of a semi-detached dwelling with a garage at rear to each lot with associated landscaping at 9 Westbourne Street, STANMORE, subject to the conditions listed in Attachment A below.

## Attachment A - Recommended conditions of consent

#### **CONDITIONS OF CONSENT**

## **DOCUMENTS RELATED TO THE CONSENT**

## 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2114 DA.03 Rev 2	Subdivision Plan	Sep 2022	Piensa Architects
2114 DA.04 Rev 2	Demolition Plan	Sep 2022	Piensa Architects
2114 DA.06 Rev 2	Ground Floor	Sep 2022	Piensa Architects
2114 DA.07 Rev 2	First Floor	Sep 2022	Piensa Architects
2114 DA.08 Rev 2	Loft Floor	Sep 2022	Piensa Architects
2114 DA.09 Rev 2	Roof Plan	Sep 2022	Piensa Architects
2114 DA.010 Rev 2	Elevation   North Streetscape	Sep 2022	Piensa Architects
2114 DA.011 Rev 2	Elevation   South + Internal	Sep 2022	Piensa Architects
2114 DA.012 Rev 2	Elevation   East + West	Sep 2022	Piensa Architects
2114 DA.013 Rev 2	Sections   Long	Sep 2022	Piensa Architects
2114 DA.014 Rev 2	Section   Short	Sep 2022	Piensa Architects
2114 DA.015 Rev 2	Window/Door Schedule	Sep 2022	Piensa Architects
2021-458	Acoustic Report	25/11/2021	Acoustic Noise & Vibration Solutions P/L
1258945M	BASIX Certificate	19/11/2021	Greenworld Architectural Drafting
210996 C00.0- C02.02 Rev D	Stormwater Drainage Plans	08/12/2021	Engineering Studio

As amended by the conditions of consent.

#### **DESIGN CHANGE**

#### 2. Design Change

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

- a. The height of the front fence at the western side boundary must not exceed 1.2 metres in height above the level of the adjacent footpath. Given the slope of the land, the fence height, above the level of the finished footpath can gradually increase towards the eastern side boundary; however, must not exceed 1.5 metres in height above the finished footpath level at any point.
- b. The first floor studios over the garages must be deleted and:
  - i. The internal floor-to-ceiling height of the garages must be a maximum of 2.4m.
  - ii. The southern rear wall of the garage structures (before it becomes roof form) must be a maximum height of 39.749m AHD.
  - iii. The roof over the garages must be amended to:
    - A gable roof with the gable ends facing east and west with a pitch not exceeding 25 degrees, OR
    - A skillion roof sloping from south to north, concealed behind a parapet. The parapet must not exceed RL39.888.

#### **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: \$18,200.00 Inspection Fee: \$350.00 Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

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

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

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

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

#### 4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate/ issue of a Subdivision Certificate/ before commencing works written evidence must be provided to the Certifying Authority that a monetary contribution of \$20,000.00 indexed in accordance with the Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 11 November 2022.

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

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

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

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

Public Amenities Type:	Contribution \$
Recreation Facilities	17,504.61
Community Facilities	1,943.80
Traffic Facilities	159.44
Plan Administration	392.16
TOTAL	20,000.00

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

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

#### Payment methods:

The required contribution must be paid either by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

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

## 5. Long Service Levy

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

#### **GENERAL CONDITIONS**

## 6. Noise Levels and Enclosure of Pool/spa Pumping Units

Noise levels associated with the operation of the pool/spa pumping units must not exceed the background noise level (L90) by more than 5dBA above the ambient background within habitable rooms of adjoining properties. Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed within a building so as not to create an offensive noise as defined under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

#### 7. 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.

#### 8. 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.

#### 9. Standard Street Tree Protection

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

#### 10. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

#### 11. Works Outside the Property Boundary

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

#### PRIOR TO ANY DEMOLITION

#### 12. Hoardings

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

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

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

#### 13. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the adjoining properties at No. 7 and No. 11 Westbourne Street to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

## 14. Advising Neighbours Prior to Excavation

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

## 15. Construction Fencing

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

#### PRIOR TO CONSTRUCTION CERTIFICATE

#### 16. Dilapidation Report - Pre-Development - Minor

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

# 17. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. C02.01 Rev D prepared by Engineering Studio and dated 08/12/2021, as amended to comply with the following;
- Stormwater runoff from all roof areas within the property being collected in a system
  of gutters, pits and pipeline and be discharged, together with overflow pipelines from
  any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to
  Council's piped drainage system via the OSD/OSR tanks as necessary;
- Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP:
- Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- 5. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- 6. The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 years ARI/100years ARI).
- 7. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- Details of the 100-year ARI overflow route in case of failure\blockage of the drainage system must be provided;

- 10. As there is no overland flow/flood path available from the rear and central courtyards to the Westbourne Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
  - Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
  - 2. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building; and
  - 3. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- 11. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings;
- 12. No nuisance or concentration of flows to other properties;
- An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- 14. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the lot:
- 15. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- 16. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- 17. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- 18. Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system; and
- 19. No impact to street trees.

# 18. Public Domain Works - Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- The public domain along all frontages of the site inclusive of footpath paving, kerb, landscaping, etc. must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- 2. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;

- Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary; and
- 4. Installation of stormwater outlet to the kerb and gutter.

All works must be completed prior to the issue of an Occupation Certificate.

# 19. Parking Facilities - Domestic

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

- A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004; and
- The external form and height of the approved structures must not be altered from the approved plans.

# 20. Power Pole Relocation

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the power and any Ausgrid services are relocated to a position clear of the proposed vehicular crossing.

# 21. Alignment Levels - Rear Lane

The internal vehicle hardstand area shall be redesigned such that the level at the boundary shall match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above Alignment Levels. Amended plans shall be submitted to and approved by Council before the issue of the Construction Certificate. The garage slab must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.

# 22. Sydney Water - Tap In

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

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

# 23. Acoustic Report - Aircraft Noise

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

# 24. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

# 25. Bin Storage Area - Residential

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

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

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

# **DURING DEMOLITION AND CONSTRUCTION**

#### 26. 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.

# 27. Survey Prior to Footings

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

# 28. Documentation of Demolition and Construction Waste

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

# PRIOR TO OCCUPATION CERTIFICATE

# 29. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- 1. Light duty concrete vehicle crossing(s) at the vehicular access location(s);
- The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- 3. The existing concrete footpath across the frontage of the site must be reconstructed; and
- 4. Other works subject to the Roads Act 1993 approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

#### 30. 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.

# 31. Protect Sandstone Kerb

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

# 32. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer that:

- The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- 2. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-asexecuted plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

# 33. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention. The Plan must set out the following at a minimum:

- 1. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

# 34. Parking Signoff - Minor Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street

parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

# 35. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

# 36. Torrens Title Subdivision to Occur before Occupation

Prior to the issue of an Occupation Certificate for any dwelling on the site, the certifying authority is to be provided with evidence that the subdivision that forms part of this consent has been registered with the NSW Land Registry Services.

#### 37. Aircraft Noise

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

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

# 38. Section 73 Certificate

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

# PRIOR TO SUBDIVISION CERTIFICATE

# 39. Separate Drainage Systems

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a plan detailing that separate drainage systems must be provided to drain each proposed lot.

# 40. Civil Engineer Verification

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with written verification from a suitably experienced Civil Engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans.

#### 41. Torrens Title Subdivision

Prior to the issue of a Subdivision Certificate, the Certifying Authority must verify that the physical works within this consent have been constructed.

#### 42. Section 73 Certificate

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

# 43. Separate Stormwater

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

# 44. Release of Subdivision Certificate

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

# **ON-GOING**

# 45. Operation and Management Plan

The Operation and Management Plan for the on-site detention and/or on-site retention/reuse, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

# 46. Bin Storage

All bins are to be stored within the site.

# **ADVISORY NOTES**

# **Permits**

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- 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 Sections 69-86 of the Environmental Planning and Assessment Regulations 2021.

# Notification of commencement of works

At least 7 days before any demolition work commences:

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

# Storage of Materials on public property

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

#### **Toilet Facilities**

The following facilities must be provided on the site:

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

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

# Infrastructure

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

# Other Approvals may be needed

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

# Failure to comply with conditions

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

#### Other works

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

#### **Obtaining Relevant Certification**

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

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

# **Disability Discrimination Access to Premises Code**

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

# National Construction Code (Building Code of Australia)

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

#### Notification of commencement of works

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

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

# **Dividing Fences Act**

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

#### Swimming Pools

Applicants are advised of the following requirements under the Swimming Pools Act 1992:

- a. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
- c. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
- d. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the Swimming Pool Regulation 2008.
- f. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the Swimming Pools Act 1992 at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

# **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);
- Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

# Noise

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

# **Amenity Impacts General**

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

# **Construction of Vehicular Crossing**

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

# Lead-based Paint

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

# Dial before you dig

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

#### **Useful Contacts**

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

www.basix.nsw.gov.au

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 Payments 131441

Corporation

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. 131 555

NSW Office of Environment and

Heritage

www.environment.nsw.gov.au

Sydney Water 13 20 92

www.sydneywater.com.au

Waste Service - SITA 1300 651 116

**Environmental Solutions** 

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.

# **Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m2 of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

#### Street Numbering

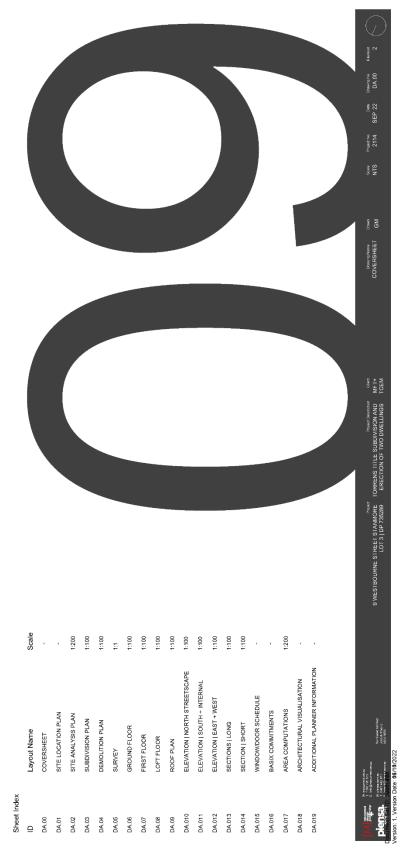
If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

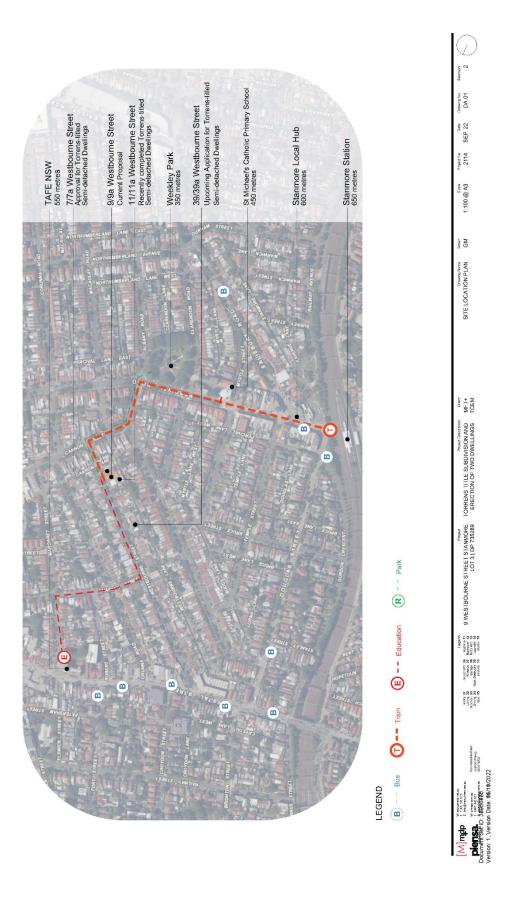
# Notice to Council to deliver Residential Bins

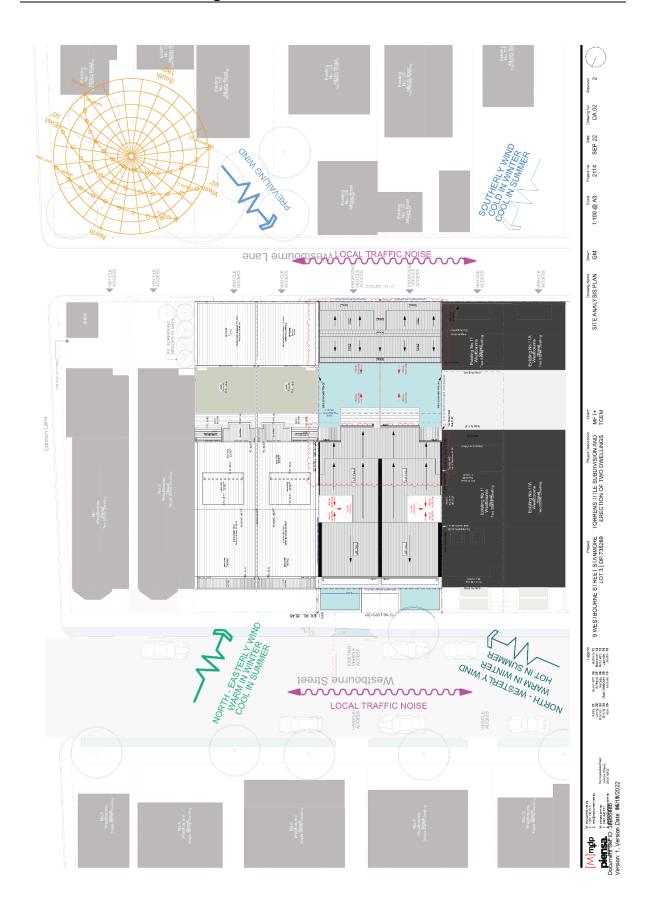
Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery.

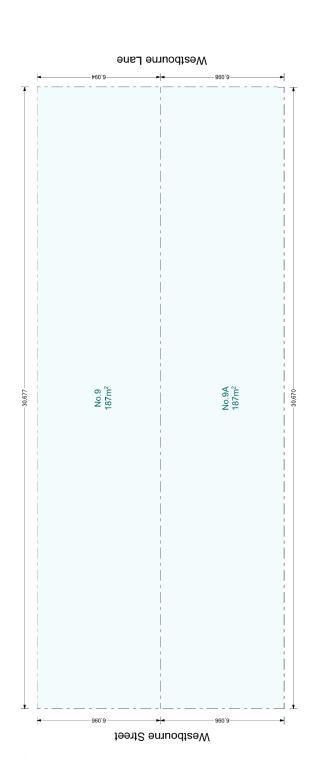
Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

# **Attachment B – Plans of proposed development**

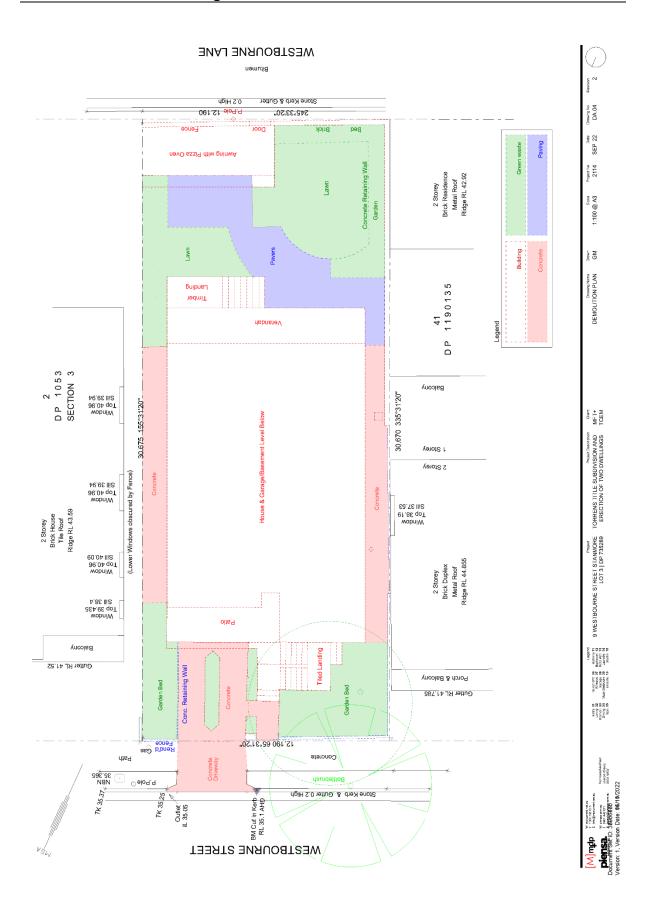


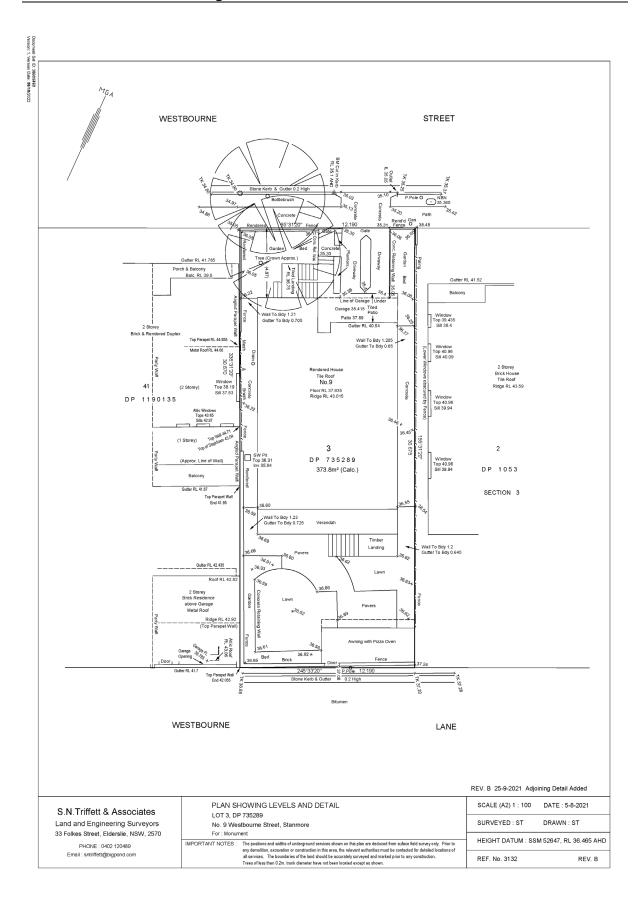


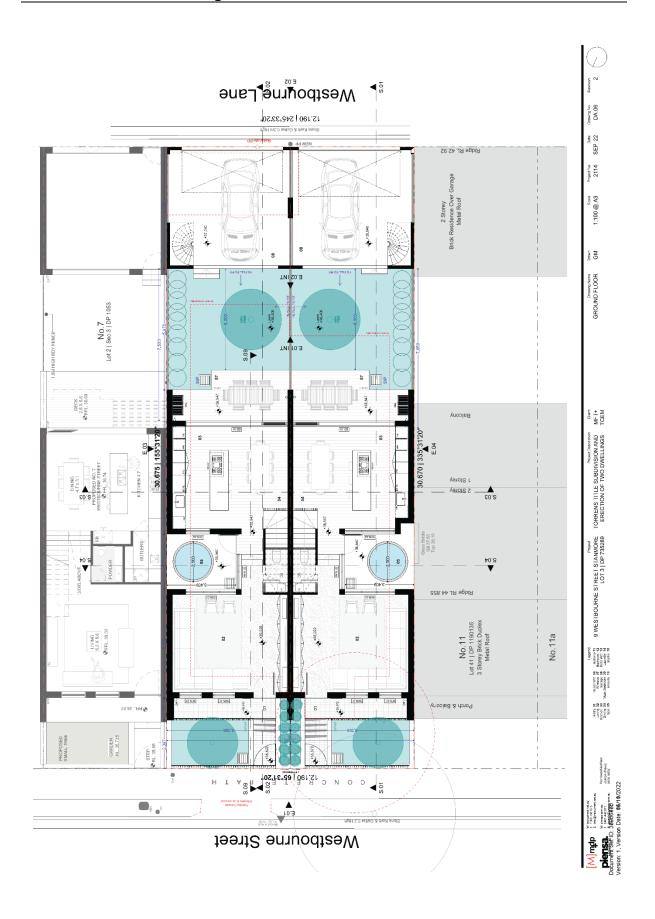






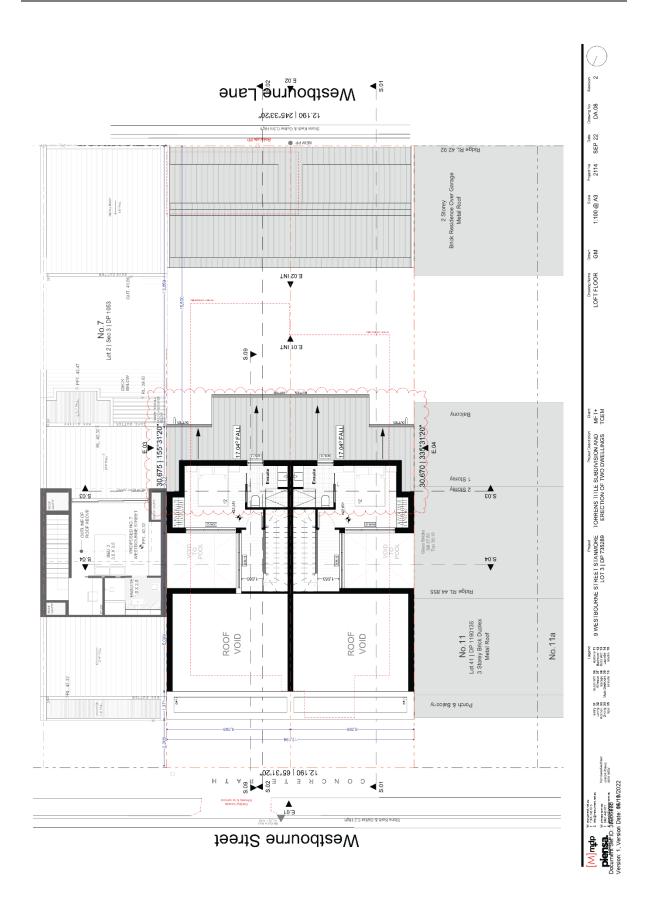


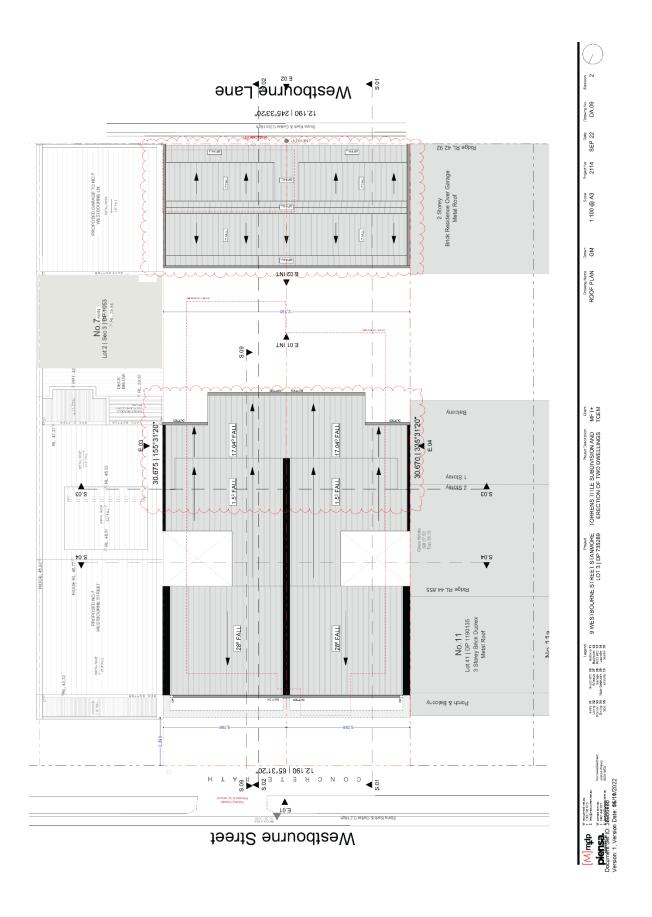




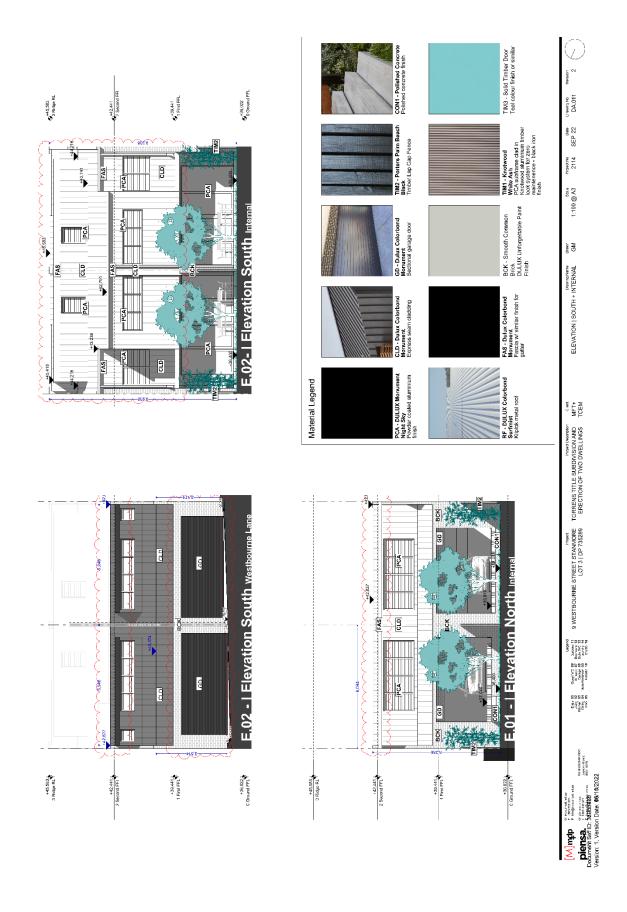


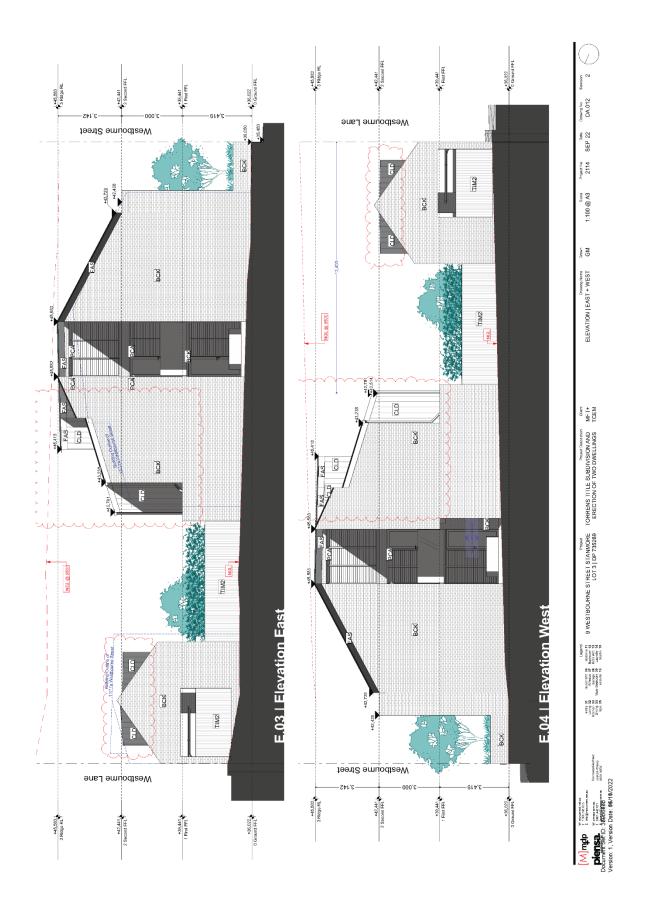
**PAGE 167** 



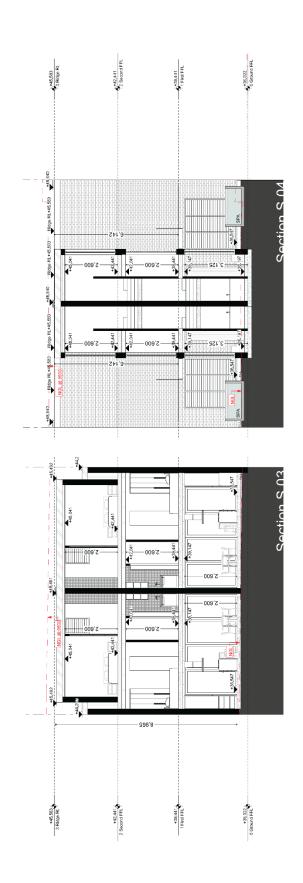








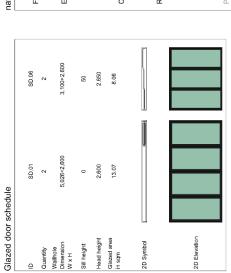




Project No 2114

Window schedule													
Q	WIN.01	WIN.01-0	WIN.02	WIN.02	WIN.03	WIN.04	WIN.05	WIN.06	WIN.07	WIN.08	WIN.09	WIN.10	WIN.11
Glass Type	Clear	Obscure	Clear	Clear	Clear	Clear	Obscure	Clear	Clear	Clear	Clear	Clear	Obscure
Window Type	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre	Louvre
Quantity	4	2	2	5	4	-	2	2	2	2	2	2	2
Wallhole Dimensions 1,100×2,200 1,100×1,850 W x H	,100×2,200	1,100×1,850	2,476×2,500	2,476×2,500	1,713×2,500 1,200×2,500 1,790×1,400	1,200×2,500	1,790×1,400	2,700×1,000	3,496×1,500	3,496×712	600×712	2,713×2,500	800×1,200
Sill height	800	800	625	100	100	100	1,200	1,600	006	1,688	1,688	100	1,400
Head height	3,000	2,650	3,125	2,600	2,600	2,600	2,600	2,600	2,400	2,400	2,400	2,600	2,600
Glazed area in sqm	2.42	2.04	6.19	6.18	4.28	3.00	2.51	2.70	5.24	2.49	0.43	6.78	96.0
2D Symbol							e e			; ;			
2D Elevation													

Floor slab	Concrete ground floor Timber first & attir floors	Glazing	Thermally broken Al. double glazed - High solar gain Low-E glass: To etainwell glazing
			- Type A (U-Value: 3.1, SHGC: 0.39)
Exterior walls	Brick veneer wall with foil + R2.5 batts in cavity to plasterboard lining, or wall system reaching a total R-value (R3.62)		- Type B (U-Value: 3.1, SHGC: 0.49)
	Lightweight clad wall with foil + R2.5 batts in cavity to plasterboard		Double glazed - High solar gain Low-E, with aluminium framing:
	lining, or wall system reaching a total		To Unit 2 kitchen sliding door
	R-value (R3.16).		<ul> <li>Type A (U-Value: 4.3, SHGC: 0.47)</li> </ul>
	Modelled with default medium colour finishes. As per stamped plans		- Type B (U-Value: 4.3, SHGC: 0.53)
Ceiling	R4.0 ceiling insulation to all ceilings to roof		
	1x1400mm ceiling fan to second floor stairwells		Single clear glass, with aluminium framing:
	Modelled with sealed LED downlights & wet area exhaust fans		Modelled to all ensuites/bathrooms
			- Type A (U-Value: 6.7, SHGC: 0.57)
Roof	Metal roofs with 'Anticon 90' glasswool/foil under (or similar R2.0 rated product), modelled with light colour finishes, and as		- Type B (U-Value: 6.7, SHGC: 0.70)
	unventilated		High solar gain Low-E glass, with aluminium framing: To remaining glazing
			- Type A (U-Value: 5.4, SHGC: 0.49) - Type B (U-Value: 5.4, SHGC: 0.58)
Please refer to	Please refer to NatHFRS individual certificates for further details		ILValue & SHGC are combined plass and frame figures





Project No 2114

Scale

GM

BASIX Commitments

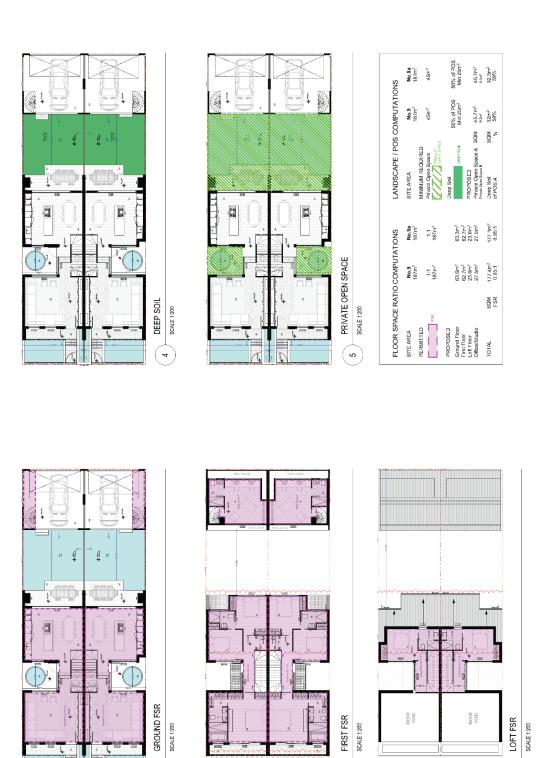
Notes	commitments, "applicant" means the person carry cost must identify each deathso, building and co	specifications accompanying the appropriate controller controller company development certificate, for the proposed development, using the some certificing letter or reference as is given to that developing building or common area in this certificate.	3. The rote applied the proposed development incident the exection of cluding for tool rescited and recreated the purpose (see of a building to both recommend and an arranged of the distribution between the purposes). Cereminants in the certificate which are specified to spile to a "common ever" of a building of the development, apply only to that part of rescited to apply to a "common ever" of a building of the development, apply only to that part of	in execuse or compared to consider a representation propose.  If the certificials into a certificial propose is a committeed to a develop or building, and this factor profess considering or building or building in the development, then that content and not be a certificial representation for a committee of the profess or building.	5. It water or other rating is specified in a commitment, this is a minimum rating.	<ol> <li>All adventures and registers to the healthful users have constituted of any, must be maked in accordance with the requirements of all applicable registery antifoldes NOTE (VR) Health does not recommend the distributioning, register to prints from usine the condition in the plant and an activities of the resident in a new contraction of any contraction of any contraction of any contraction of any contraction.</li> </ol>	THE OF THE PARTY IN THE PARTY PROFILE VERYOR.	Pegend	1. Commitments demailed with a "w" in the "Grow on DA plane" column must be shown on the plane accompanying the Geneticanest applicable in the proposed development (if a	development application is to be doped for this proposed development.  2. Crimininesis alterities and a "v" in the "Carour on Cacoto" prims and appear or owner most be shown in the plans and operations in a construction.	certificate / complying development certificate for the proposed development.	<ol> <li>Commission persons and a         very property of the commission of the control of a company of the commission of the commiss</li></ol>	The material is a control of the con			Certificate number: 1258945M	Date of issue: Friday 19 November 2021																																			
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(I) Water	<ul> <li>(i) The applicant insist comply with the controllments listed below it carrying and the development of a closeling listed to assist below.</li> <li>(ii) The applicant insist comply with the controllments listed below (controlled in the controlled or and a listed point of the controlled in the controlled in the controlled or and a listed controlled or the controlled or and a listed controlled or the controlled or and a listed controlled or a listed controlled or and a listed controlled</li></ul>	If the majorited spaces, earning in the new energy as present an according to the covering time are at majorited separation to be consistent within the "Asset of greden end learn" but the coveling appendied in the "Description of Project" boths;	(c) it a large a specified in this halo believe for a trainer of appliance to be required in the excellegithm of the opposition threat obtains that a second of the control of the opposition threat obtains that a control of the opposition threat of the opposition threat obtains the opposition threat the opposition threat of the opposition of the opposit	where instituted far a coveling in the "More including or or desention" column of the rights ballow.  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(ii) The applicant areat feet to dwaling, each atternative water supply system, with the appetited size, lessed for that dwalling in a subset sold and after the supply system, with the open seed or the second or the supply system of the system of	any other stiems two aster supply system, and to overloss as specified. Each system must be connected as specified.	Alitolet All All Int. All Alitoh	washers (max volume)	4 ctar 8 star 8 star	1 (Amile)		Alternative water source	Dwelling no. Alternative water Size Configuration Landscape Tollet Laundry Pool connection connection connection connection connection connection	the contract of the contract can all faces at least	1) (min 2000 of square makes as a post of square makes of square makes) (min 2000 of square makes of real makes) (min 2000 of square makes of real makes)	O D square monta of gal dan and laten area.			(I) Checky	(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a stable below	(b) The applicant must make exching water system appoined to the develope notes some below, so that the developes hot water is supplied by that system. If the table opposites a central hat expendence the development than development that	certor system to the develop, so that the develop's hall eakly to supplied by that certoral system.  (c) The applicant must make make a each balthoom, Applied and bandar of the develop. The veribition system specified for that room in	the tode before, Each auch verification system much have the operation occupal specified for it in the labble.	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(as) the attain condute and coun specified for that downing in the "Appliances & other attaining measured" construct the 1909 below.	(bb) each appliance for which a rating to specified for that dwelling in the "Appliance & other efficiency measures" column of the flable, and organic that the appliance has that minimum rating; and	(c) any dathes oping line specified for the dwelling in the "Applaintee & other efflating measures" calumn of the table.	<ul> <li>(i) if specified in the table, the applicant must carry out the development so that each refrigorable space in the dwelling is "viet vioringles".</li> </ul>	(i) The applicant must install the photovolate system specified for the dwelling under the Photovolate operant heading of the	-according sharpy, column or the space palse, and controlling spaces in a maximal space asystem.		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Project No 2114

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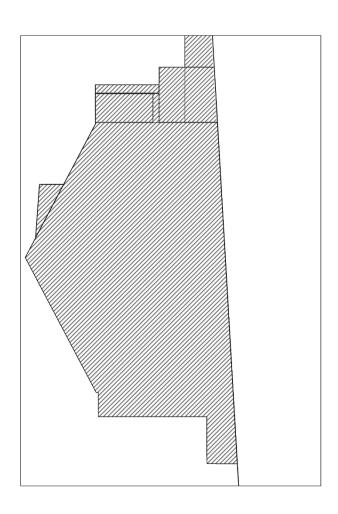








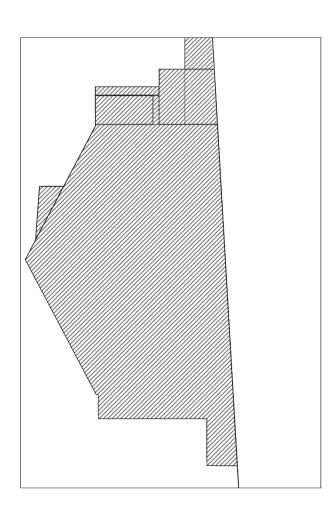
SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st



Shadow from existing buildings		Architects	Project	Job N. Sh2690_2b
Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd			
IES	NSW 2089	Monument Design Partnership	9 Westbourne Street,	26/05/2022
ows from existing or proposed vegetation have not been considered.  ows calculated according to information provided from survey and lectural drawings.	Fax (02)8003 9708		Galliole, NOV	Scale 1:100 printed @ A3

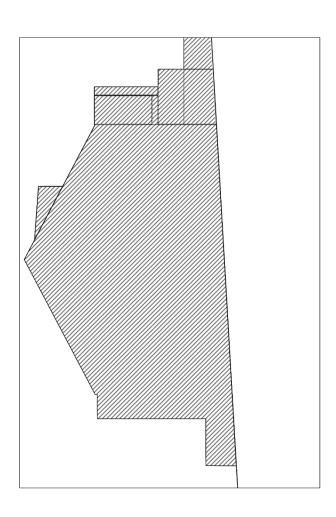
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SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st



	Shadow from existing buildings	MI NE DEC	Architects	Project	Job N. Sh2690_2b
	Additional shadow from proposed buildings	PO Box 860	Monument Design	Proposed development at	
NOTES	v.	Neutral Bay NSW 2089	Partnership	9 Westbourne Street,	26/05/2022
Shadow: Shadow: architect	Shadows from existing or proposed vegetation have not been considered. Shadows calculated according to information provided from survey and architectural drawings.	Fax (02)8003 9708		Stanmore, NSW	Scale 1:100 printed @ A3

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st

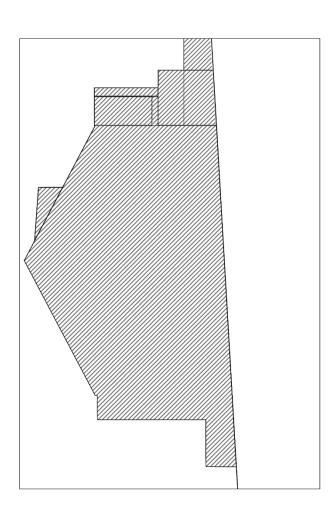


	DIGITAL LINE PIX 144	Architects	Project	Job N. Sh2690_2b
spindings	PO Box 860 Neutral Bay NSW 2089	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
e not been considered. ded from survey and	Phone (02)9953 2312 Fax (02)8003 9708		Stanmore, NSW	Scale 1:100 printed @ A3

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Shadow from existing buildings Additional shadow from proposed

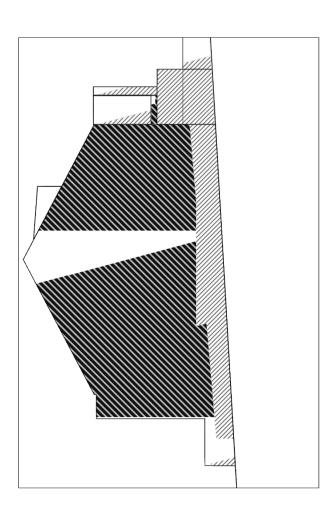
SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st



12.00 noon

Shadow from existing Additional shadow from	Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
NOTES	_	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
Shadows from existing or proposed v Shadows calculated according to info architectural drawings.	rhadows from existing or proposed vegetation have not been considered, the according to information provided from survey and rohitectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st



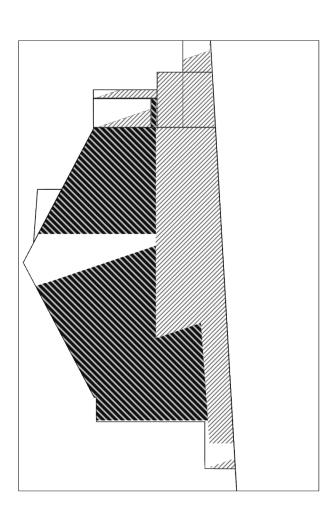
	DIGITAL LINE PIV Ltd	Architects	Project	Job N. Sh2690_2b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)8953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
sidered.	Fax (02)8003 9708			Scale 1:100 printed @ A3

Shadow from existing buildings Additional shadow from proposed buildings

> Document Set ID: 37056765 Version: 1 Version Date: 11/11/2022

**PAGE 184** 

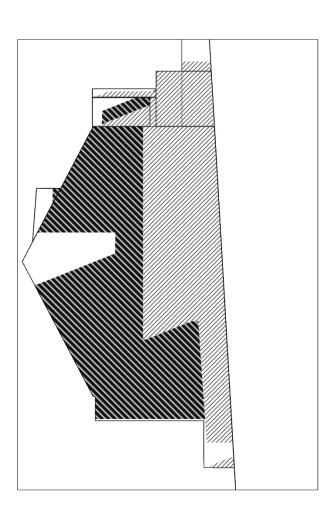
SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET DECEMBER 21st



DIGITAL LINE Ply Ltd
Architects Monument Design Partnership
DIGITAL LINE PIY LId PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312 Fax (02)9003 9708

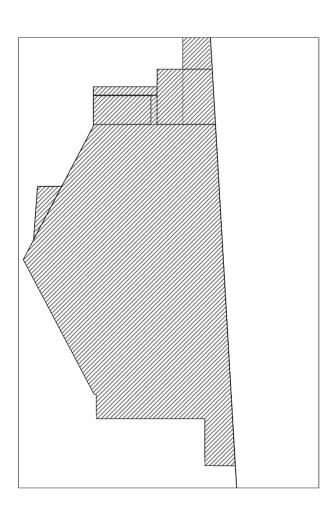
Shadow from existing buildings Additional shadow from proposed buildings

SHADOW DIAGRAM WEST ELEVATION OF No 7 WESTBOURNE STREET DECEMBER 21st



Shadow from existing buildings Additional shadow from proposed buildings 7

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET JUNE 21st

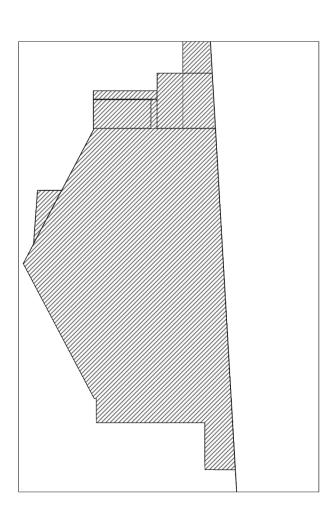


		Architects	Project	Job N. Sh2690_2b
buildings	DIGITAL LINE Pty Ltd PO Box 860 Neutral Bay NSW 2089	Monument Design	Proposed development at	26/05/2022
	Phone (02)9953 2312	raturersuip	Stanmore NSW	201001202
e not been considered. led from survey and	Fax (02)8003 9708			Scale 1:100 printed @ A3

Document Set ID: 37056765 Version: 1 Version Date: 11/11/2022

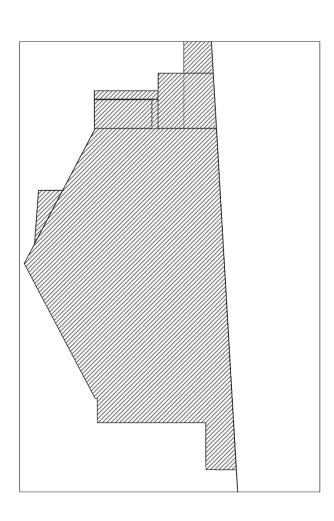
Shadow from existing buildings Additional shadow from proposed by

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET JUNE 21st



Shadow from existing buildings Additional shadow from pronosed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
		Monument Design Partnership	Proposed development at 9 Westbourne Street, Stronger MSW	26/05/2022
ows from existing or proposed vagetation have not been considered.  The according to information provided from survey and extural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

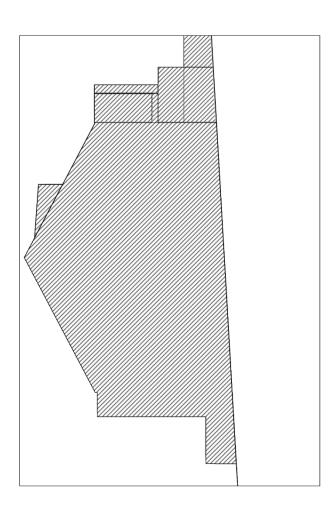
SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET JUNE 21st



11.00 am

Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE PIY LIA	Architects	Project	Job N. Sh2690_2b
TES	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
ows from existing or proposed vegetation have not been considered. ows calculated according to information provided from survey and tectural drawings.	Fax (02)8003 9708		otalillide, Ivovv	Scale 1:100 printed @ A3
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SHADOW DIAGRAM WEST ELEVATION OF Ng 7 WESTBOURNE STREET JUNE 21st



12.00 noon

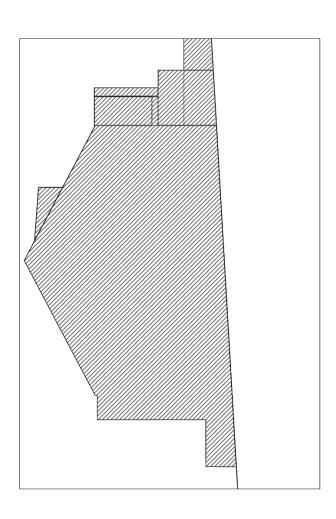
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s Spring of	PO Box 860 Neutral Bay NSW 2089 Phone (02)8952 3412	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
e not been considered. ded from survey and	Fax (02)8003 9708		otanmore, Novv	Scale 1:100 printed @ A3

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Document Set ID: 37056765 Version: 1. Version Date: 11/11/2022

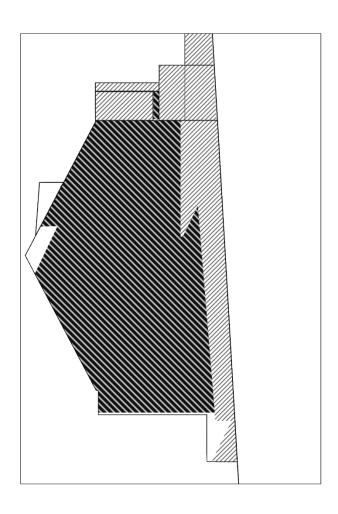
Shadow from existing buildings Additional shadow from proposed

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET JUNE 21st



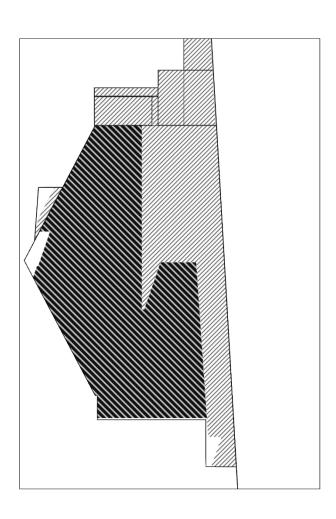
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rai shadow iroin proposed buildings	PO Box 860	Monument Design	Proposed development at	
	Neutral Bay NSW 2089 Phone (02)9953 2312	Partnership	9 Westbourne Street,	26/05/2022
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SHADOW DIAGRAM WEST ELEVATION OF Ng 7 WESTBOURNE STREET JUNE 21st



	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street, Standard NSW	26/05/2022
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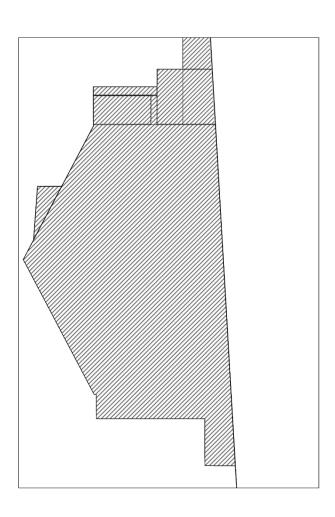
SHADOW DIAGRAM WEST ELEVATION OF Ng 7 WESTBOURNE STREET JUNE 21st



DIGITAL LINE PIV Ltd	Architects	Project	Job N. Sh2
PO Box 860 Neutral Bay NSW 2089 Phone (02)0953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
Fax (02)8003 9708		Stanmore, NSW	Scale 1:100 printed @ A3

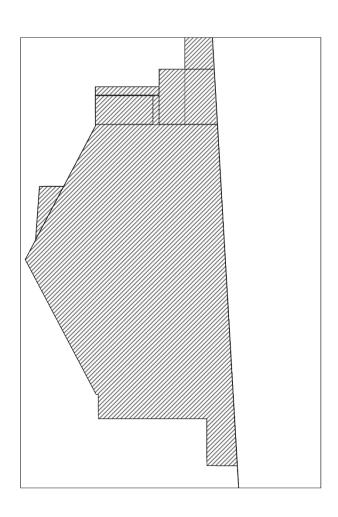
Shadow from existing buildings Additional shadow from proposed buildings

SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



Shadow from existing buildings Anditional shadow from promoted buildings	DIGITAL LINE PIX Ltd	rchitects	Project	Job N. Sh2690_2b
		Monument Design Partnership	Proposed development at 9 Westbourne Street, Stranger, MSM	26/05/2022
ows from existing or proposed vegetation have not been considered.  ows calculated according to information provided from survey and lectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

SHADOW DIAGRAM WEST ELEVATION OF Nº 7 WESTBOURNE STREET MARCH 21st

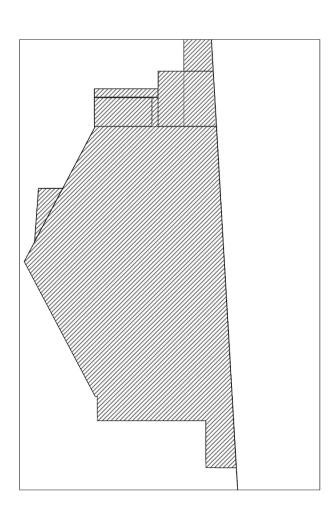


Shadow from existing buildings Additional shadow from pronosed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
		Monument Design Partnership	Proposed development at 9 Westbourne Street, Stronger MSW	26/05/2022
ows from existing or proposed vagetation have not been considered.  The according to information provided from survey and extural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

Document Set ID: 37056765 Version: 1 Version Date: 11/11/2022

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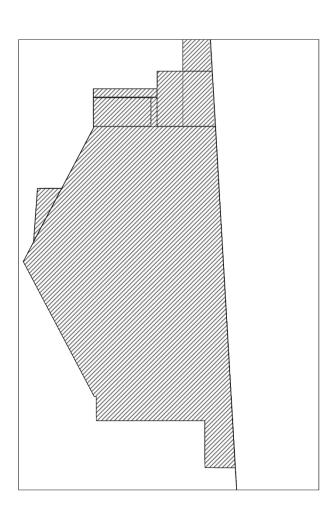
SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street, Stephane	26/05/2022
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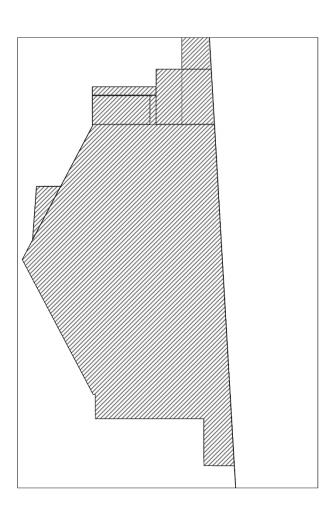
SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



12.00 noon

Shadow from existing buildings Anditional shadow from promoted buildings	DIGITAL LINE PIX Ltd	rchitects	Project	Job N. Sh2690_2b
		Monument Design Partnership	Proposed development at 9 Westbourne Street, Stranger, MSM	26/05/2022
ows from existing or proposed vegetation have not been considered.  ows calculated according to information provided from survey and lectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

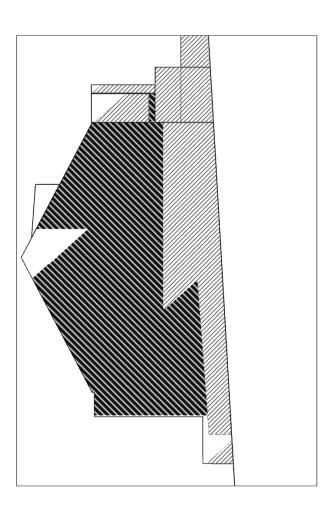
SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



Shadow from existing buildings Additional shadow from promosed buildings	DIGITAL LINE PIV Ltd	Architects	Project	Job N. Sh2690_2b
		Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
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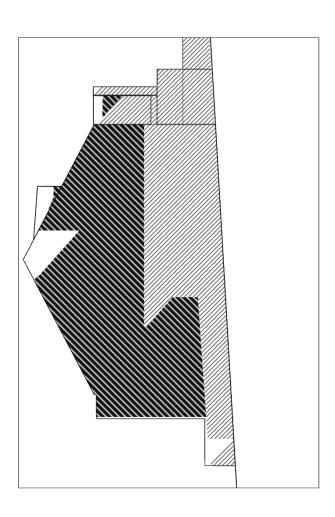
SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



2.00 pm

Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_2b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street, Gramore New	26/05/2022
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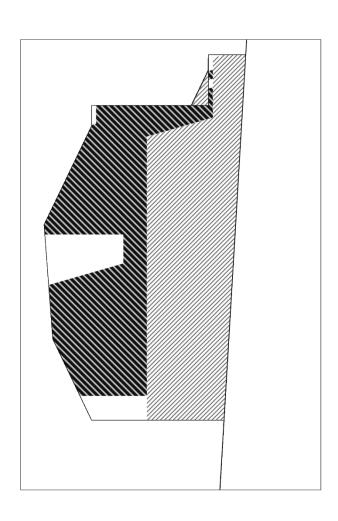
SHADOW DIAGRAM WEST ELEVATION OF № 7 WESTBOURNE STREET MARCH 21st



DIGITAL LINE Ply Ltd
Architects Monument Design Partnership
DIGITAL LINE PIY LId PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312 Fax (02)9003 9708

Shadow from existing buildings Additional shadow from proposed buildings

SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st

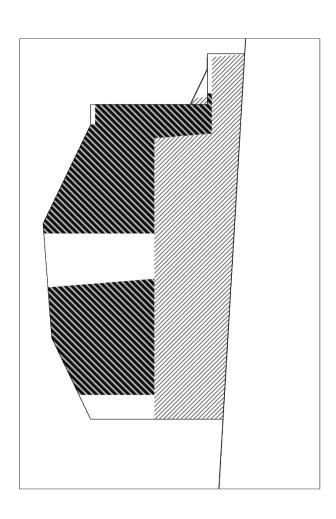


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Proposed develores 9 Westbourne S	
Monument Design Partnership	
PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708

Shadow from existing buildings Additional shadow from proposed buildings

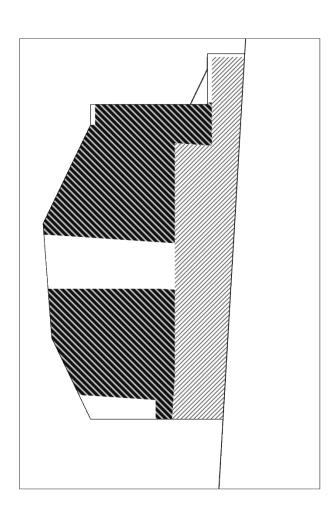
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st



Job N. Sh2690	26/05/2022	Scale 1:100 printed @ A3
Project	Proposed development at 9 Westbourne Street, Standard NSW	
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708
Shadow from existing buildings Additional shadow from proposed buildings	ES	ows from existing or proposed vegetation have not been considered. ows calculated according to information provided from survey and ectural drawings.

SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st



Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
		Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
ows from existing or proposed vegetation have not been considered, ows calculated according to information provided from survey and tectural drawings.	Fax (02)8003 9708		Orallico, NOV	Scale 1:100 printed @ A3

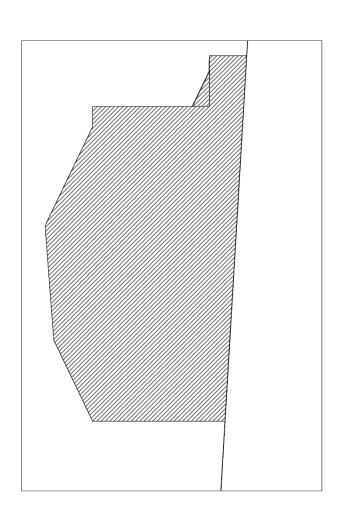
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st

12.00 noon

Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
		Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
ows from existing or proposed vegetation have not been considered, ows calculated according to information provided from survey and tectural drawings.	Fax (02)8003 9708		Orallico, NOV	Scale 1:100 printed @ A3

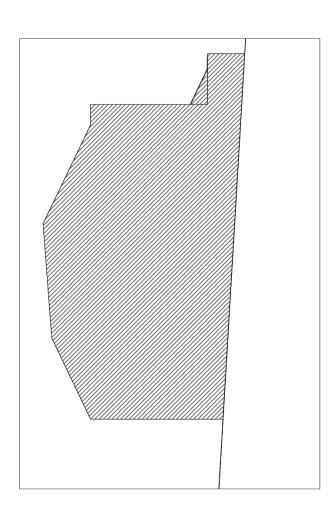
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st



Job N. Sh2690_3b	26/05/2022	Scale 1:100 printed @ A3
Project	Proposed development at 9 Westbourne Street, Stamore NSW	
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708
Shadow from existing buildings  Additional shadow from proposed buildings	NOTES	Shadows from existing or proposed vegetation have not been considered. Shadows ractuated according to information provided from survey and architectural drawings.

SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st

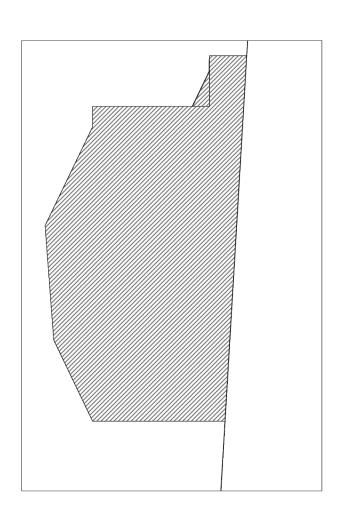


Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
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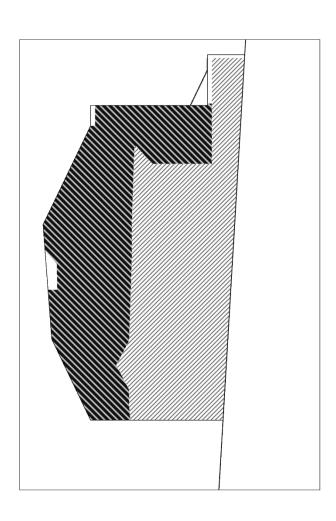
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET DECEMBER 21st



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Job N. Sh2	26/05/2022	Scale 1:100 printed @ A3
Project	Proposed development at 9 Westbourne Street,	
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708
Shadow from existing buildings  Additional shadow from proposed buildings	S	Shadows from existing or proposed vegetation have not been considered. Shadows calculated according to information provided from survey and architectural drawings.
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET JUNE 21st

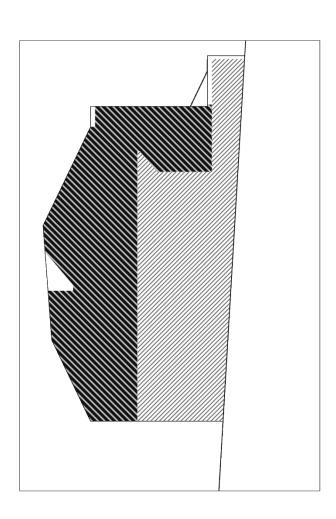


Job N. Sh2690	26/05/2022	Scale 1:100 printed @ A3
Project	Proposed development at 9 Westbourne Street, Stammer NSW	Callings, NOV
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neufral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708
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Shadow from existing buildings Additional shadow from proposed buildings

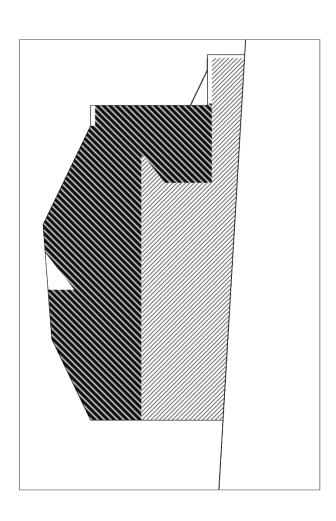
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SHADOW DIAGRAM EAST ELEVATION OF № 11 WESTBOURNE STREET JUNE 21st



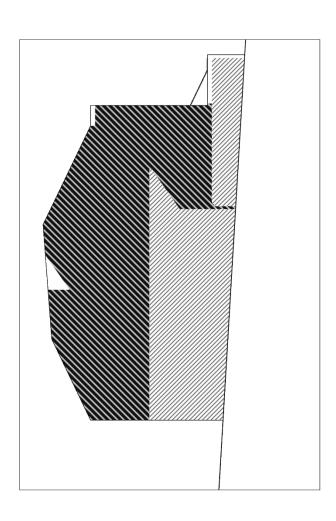
Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh26
	PO Box 860 Neutral Bay NSW 2089 Phone (17)39453 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
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SHADOW DIAGRAM EAST ELEVATION OF № 11 WESTBOURNE STREET JUNE 21st



Shadow from existing buildings	DIGITAL LINE PIY Ltd	Architects	Project	Job N. Sh2690_3b
ES SERVICE CONTROL OF THE CONTROL OF	0	Monument Design Partnership	Proposed development at 9 Westbourne Street, Stranger, MSW	26/05/2022
ows from existing or proposed vegetation have not been considered.  ows calculated according to information provided from survey and lectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

SHADOW DIAGRAM EAST ELEVATION OF № 11 WESTBOURNE STREET JUNE 21st



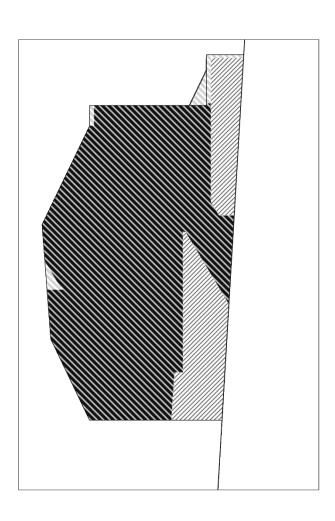
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Job N. Sh2690_3b	26/05/2022	Scale 1:100 printed @ A3
Project	Proposed development at 9 Westbourne Street, Stanger NSW	
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708

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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET JUNE 21st

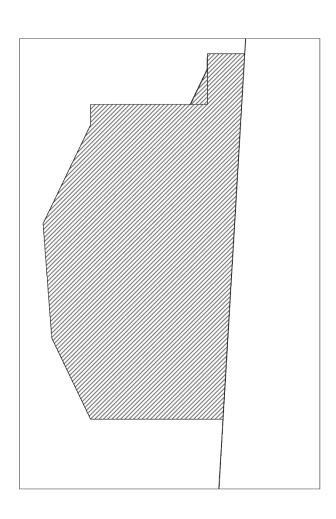


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Project	Proposed development at 9 Westbourne Street, Stanmore New	, MAN (1)
Architects	Monument Design Partnership	
DIGITAL LINE Pty Ltd	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Fax (02)8003 9708

Shadow from existing buildings Additional shadow from proposed buildings

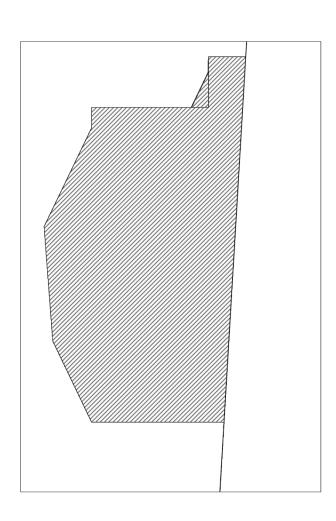
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SHADOW DIAGRAM EAST ELEVATION OF № 11 WESTBOURNE STREET JUNE 21st



Shadow from existing buildings  Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
NOTES		Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
Shadows from existing or proposed vegetation have not been considered. Shadows rabutated according to information provided from survey and architectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

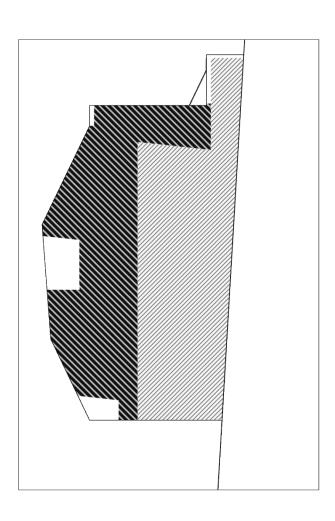
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET JUNE 21st



5 5	Shadow from existing buildings  Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd PO Box 860	Architects Monument Design	Project Proposed development at	Job N. Sh2690_3b
		Neutral Bay NSW 2089 Phone (02)8953 2312	Partnership	9 Westbourne Street,	26/05/2022
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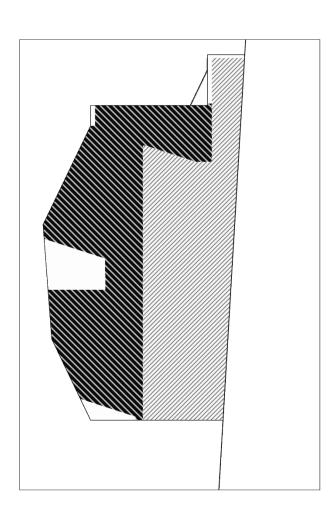
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



Shadow from existing buildings	DIGITAL LINE Ply Ltd	Architects	Project	Job N. Sh2690_3b
Additional stratow from proposed outsings	6	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
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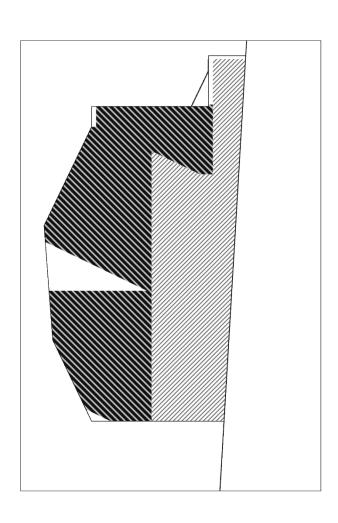
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



10.00 am

Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh26
ES	PO Box 860 Neutral Bay NSW 2089 Phone (02)8953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street,	26/05/2022
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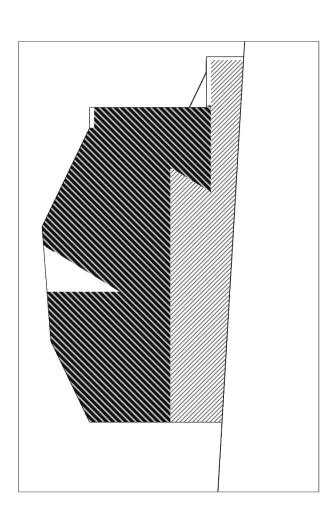
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



11.00 am

SH-17

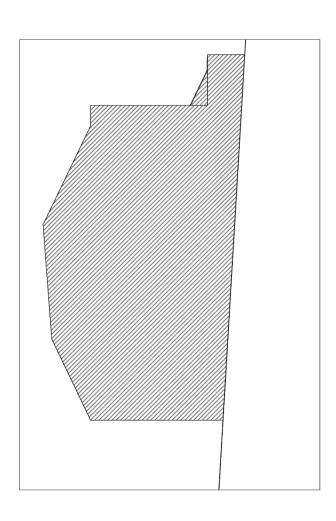
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



12.00 noon

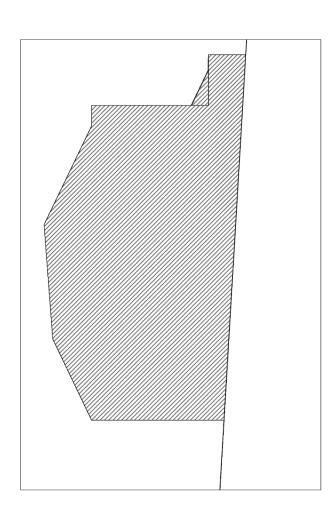
	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street, Standard NSW	26/05/2022
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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE PIV Ltd	Architects	Project	Job N. Sh2690_3b
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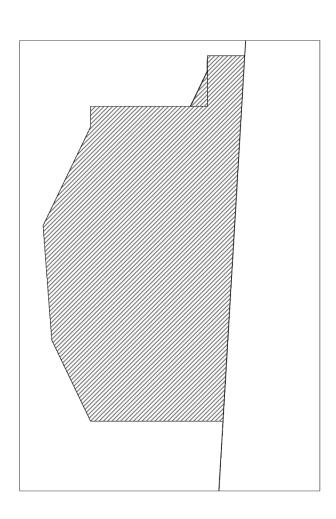
SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st



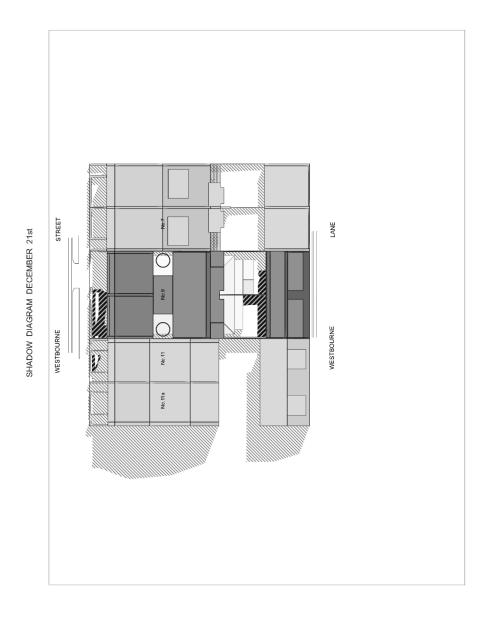
Shadow from existing buildings Additional shadow from proposed buildings	DIGITAL LINE Pty Ltd	Architects	Project	Job N. Sh2690_3b
TES	PO Box 860 Neutral Bay NSW 2089 Phone (02)9953 2312	Monument Design Partnership	Proposed development at 9 Westbourne Street, Stanmore New	26/05/2022
dows from existing or proposed vegetation have not been considered, dows calculated according to information provided from survey and intectural drawings.	Fax (02)8003 9708			Scale 1:100 printed @ A3

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SHADOW DIAGRAM EAST ELEVATION OF Nº 11 WESTBOURNE STREET MARCH 21st

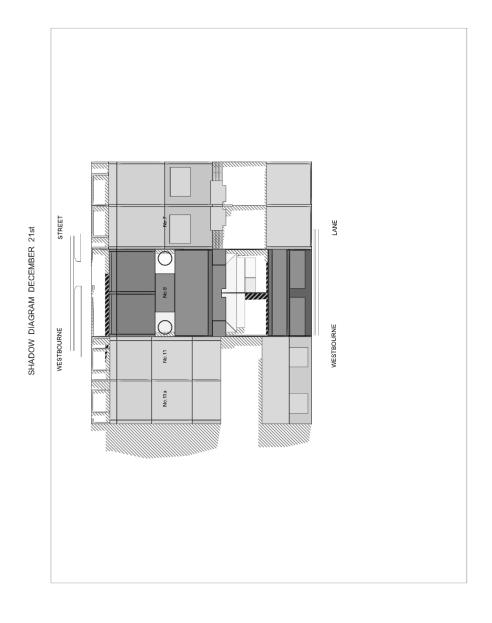


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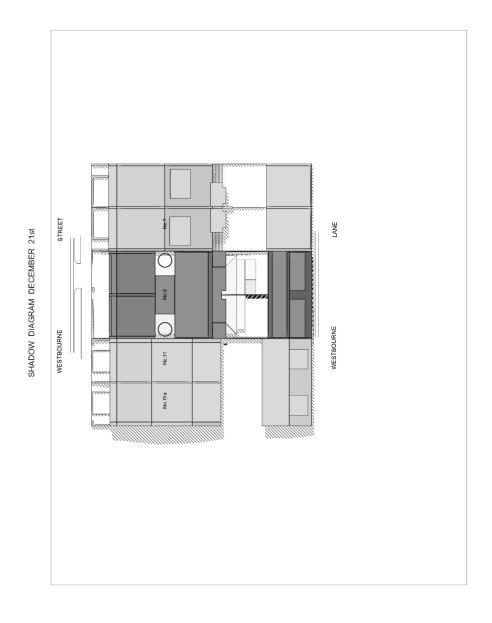


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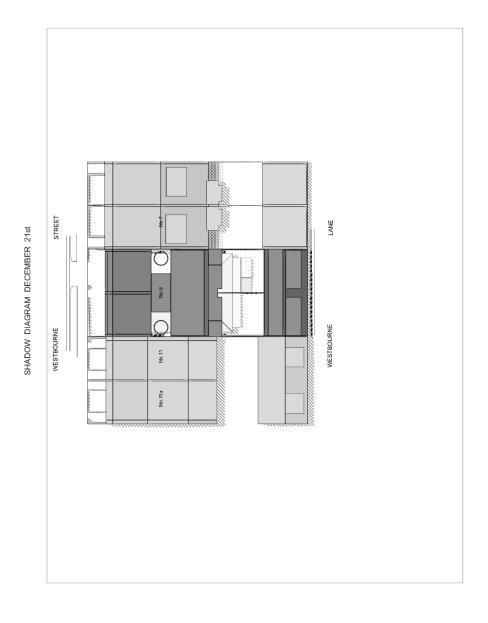


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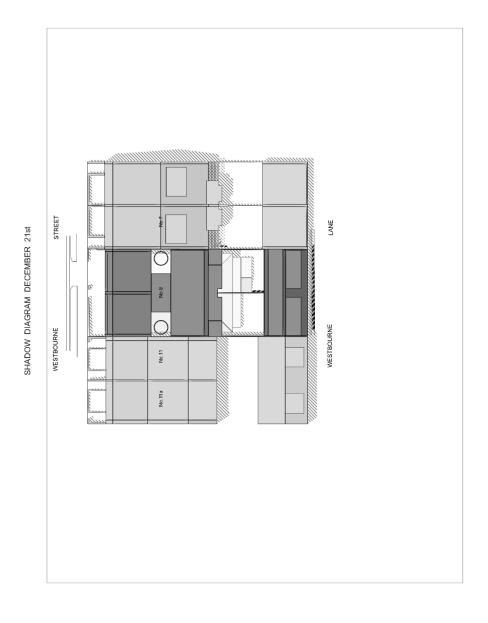
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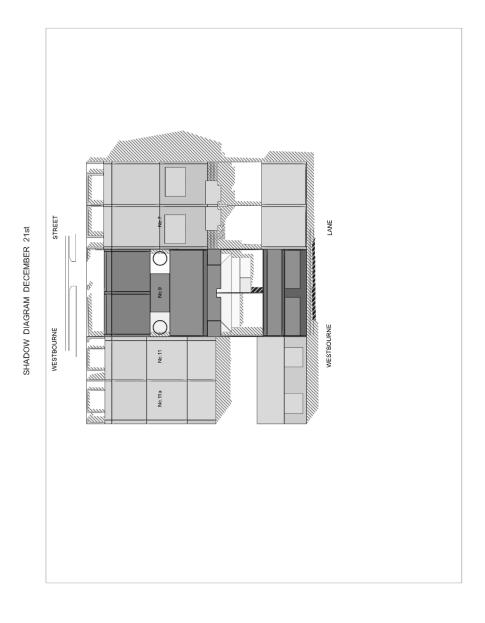


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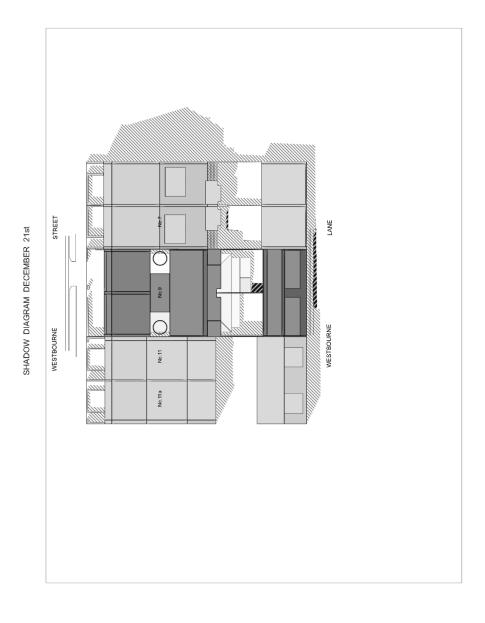


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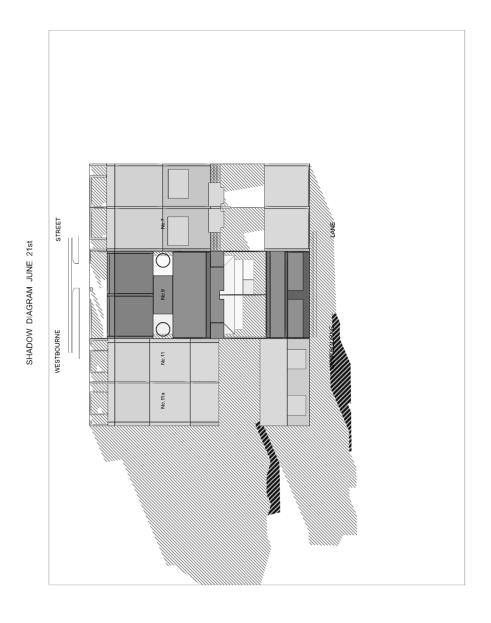
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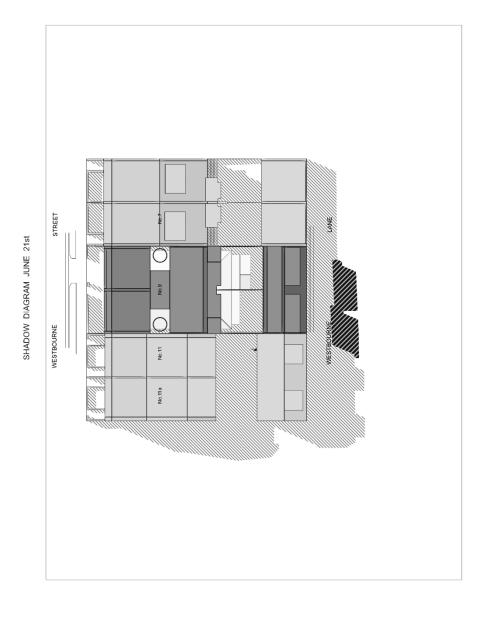


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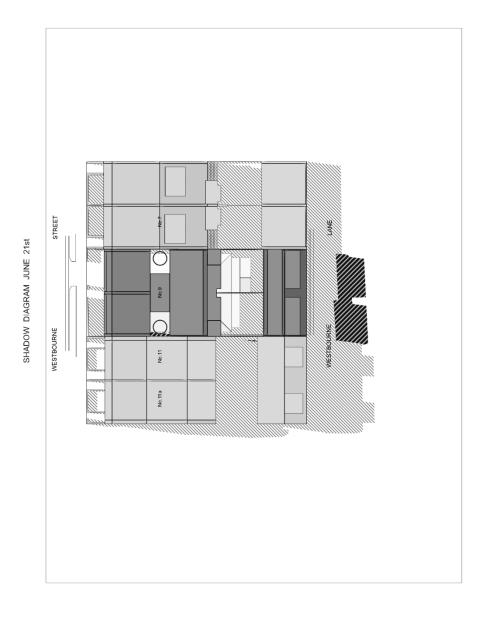
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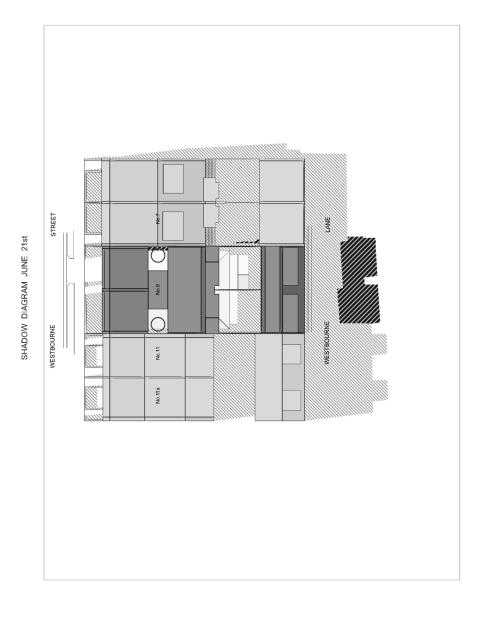
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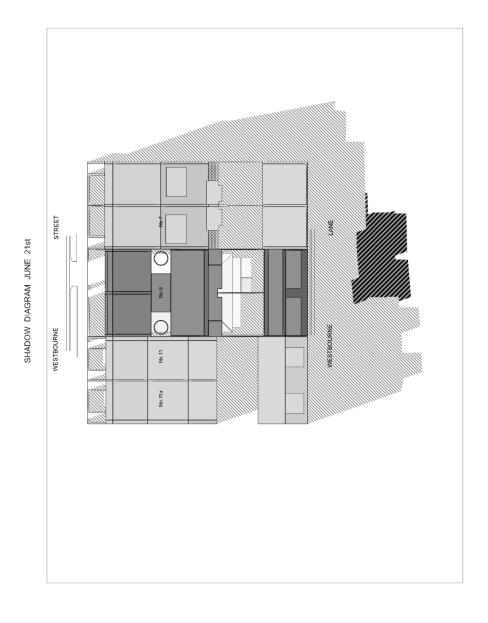
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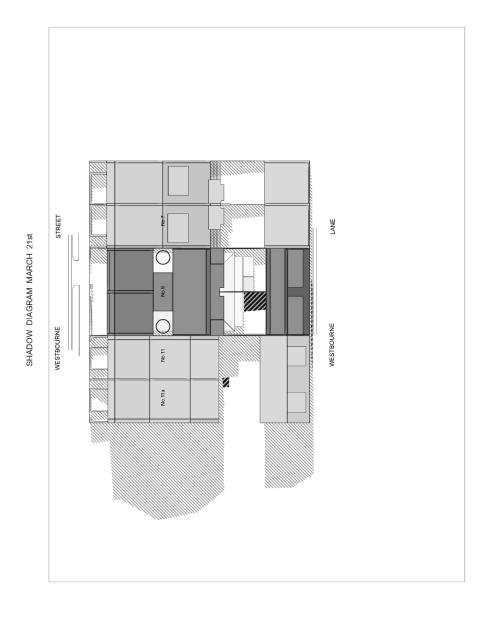
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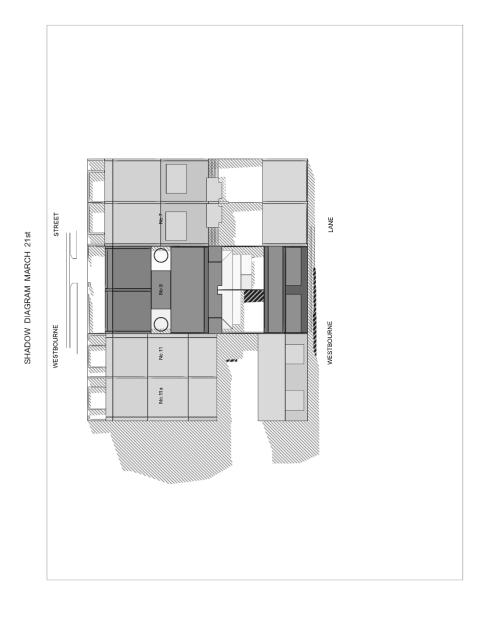
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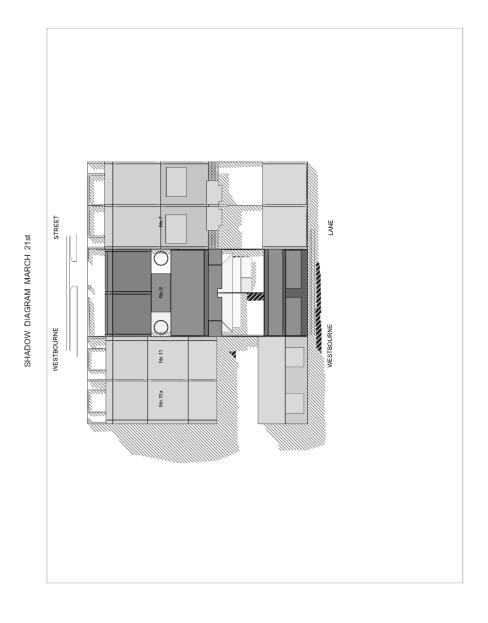
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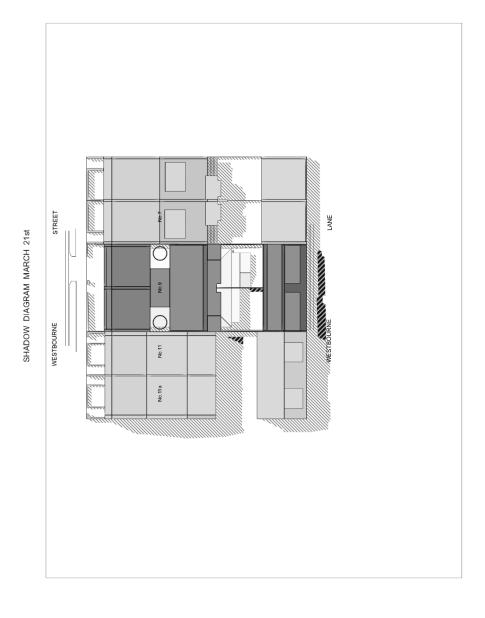
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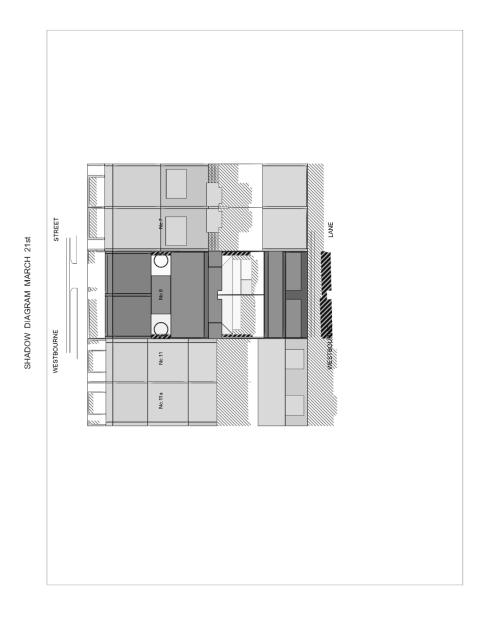
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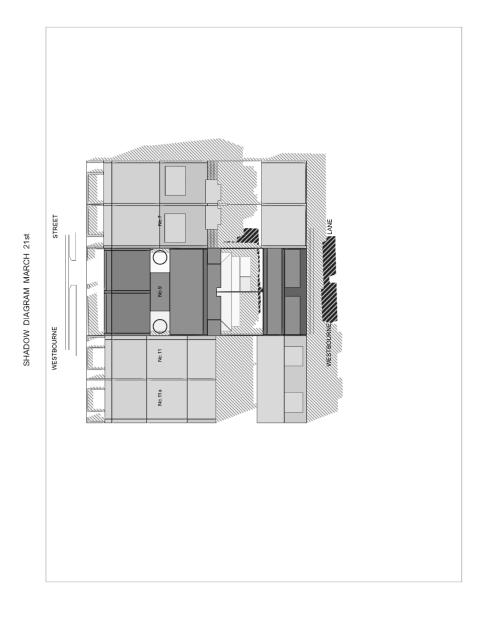


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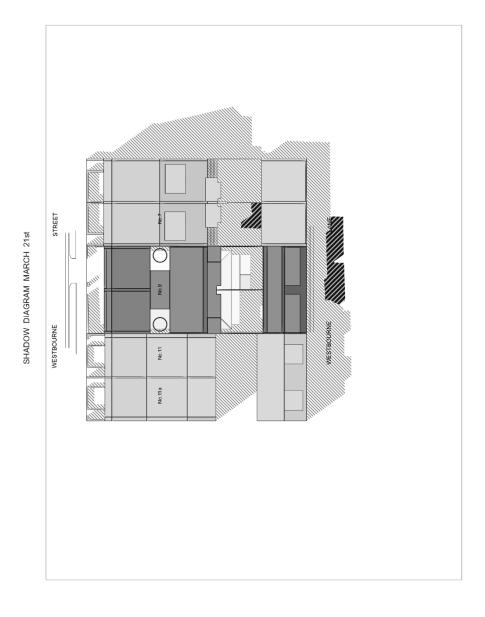


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# **Attachment C- Section 4.6 Exception to Development Standards**



26 September 2022

Inner West Council PO Box 14 Petersham NSW 2049

Email: council@innerwest.nsw.gov.au

Attention: Town Planning

Dear Sir/Madam

RE: DA/2022/0034

9 Westbourne Street, Stanmore SECTION 8.2 SUBMISSION

# **INTRODUCTION**

This report has been prepared in support of a Section 8.2 Review regarding DA/2022/0034, which was refused by the Inner West Local Planning Panel on 9 August 2022.

The development application was described as "Demolition of existing building. Torrens Title Subdivision of existing lot into 2 lots. Construction of a semi-detached dwelling with a garage and studio above at rear to each lot Landscaping and associated works".

The submission of this application includes amendments that respond to the reasons for refusal. Consequently, Council can now be in a position to support the development proposal. The following amended information is submitted with the proposal:

 Amended Architectural Plans prepared by Monument Design Partnership + Piensa Architects dated September 2022.

The original application was recommended for approval by the assessment officer by way of deferred commencement. The deferred commencement included several design change conditions to be made prior to the approval becoming an active consent.

The Inner West Local Planning Panel decided against the recommendation of deferred commencement, due to the uncertainty of the result of the required changes, and subsequently recommended that a Section 8.2 be submitted to the Council that responds to the draft deferred commencement conditions and requirements of the Marrickville Development Control Plan.

The draft deferred commencement conditions listed in the draft conditions of consent of DA/2022/0034 are listed below:

- Sydney Office
   Suite 15, Level 1
   469-475 Parramatta Rd
   Leichhardt NSW 2040
- Brisbane Office
   3A Cambridge Street
   West End QLD 4101
- t. 02 9569 1100
- f. 02 9569 1103
- e. gat@gatassoc.com.au
- w. www.gatassoc.com.au

TOWN PLANNERS = BASIX/ENERGY ASSESSORS

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- a) The southern rear wall of the first floor rear bedroom of each dwelling labelled '12' on plan number 2114 DA.07 Rev 2 prepared by Piensa Architects and dated May 2022 must be setback a minimum of 12.4m from the rear boundary.
- b) The first floor rear bathroom of each dwelling labelled '13' on plan number 2114 DA.07 Rev 2 prepared by Piensa Architects and dated May 2022 must be deleted.
- c) The southern rear wall of the second floor of each dwelling must be setback a minimum of 15.5m from the rear boundary.
- d) The eastern and western elevation walls of the second floor bedrooms are to be setback 1.5metres from their respective side boundary.
- e) The internal floor-to-ceiling height of the first floor studio above the garage must be a maximum of 2.4m. The roof over the studio must be lowered by 300mm accordingly.
- f) The southern rear wall of each garage must be a maximum height of 40.374m AHD.
- g) The southern rear wall of each garage and studio structure must be of face brickwork for the full height of the wall.
- The metal slat 'trim' feature under the awning of the first floor street facing balcony of each dwelling must be deleted.
- The metal slat balustrading to the first floor balcony of each dwelling must not extend below the slab of the first floor.
- j) An amended schedule of materials and finishes adopting light colours that have a hue and tonal relationship with those existing in the street.

The proposal has been generally amended in line with these conditions, as demonstrated below:

- a) The southern rear wall of the rear bedroom has been setback 12.4m from the rear boundary.
- b) This requirement has not been met, this is explained under the 'key amendments' section of this report.
- c) The southern rear wall of the second floor has been setback 15.5 metres from the rear boundary.
- d) The external walls of the second floor have been set in 500mm from the side boundary for a length of 1.5m. This amendment is considered a positive alternative to the required condition as explained under the 'key amendments' section of this report.
- e) The internal floor-to-ceiling heights of the garage loft are amended to 2.4m.
- f) The southern rear wall of the garage, before it becomes roof form is at a maximum level of RL 39.888m.
- g) The southern wall of the garage is of face brick up to the maximum level of RL 39.888m with the exception of the garage door.
- h) The metal under trims are retained in a modified manner, as explained under the 'key amendments' section of this report.
- The metal under trims are retained in a modified manner, as explained under the 'key amendments' section of this report.
- An amended schedule of materials and finishes has been provided and provides lighter colours to respond to the locality.

The amendments made have either met the requirements of the draft deferred commencement conditions or provided a suitable alternative where the conditions are not met.

Additionally, the Panel in their decision noted the following:

"The Panel agrees with the concerns articulated in the assessment report regarding the proposed visual bulk of the building at the rear, the protrusion beyond the line of the adjoining dwellings, and the bulk of the rear studio building as seen from the laneway."

Document Set ID: 36966464 Version: 1. Version Date: 06/10/2022 It has been established throughout the original application, that the massing of the dwelling is enlarged at the rear due to the provision of internal courtyards that double as lightwells. This is provided to avoid the enclosure of a set of glass blocks that provides natural light to the living areas of No. 11 Westbourne Street, Stanmore (direct neighbour to the west). Maintaining the internal courtyard/lightwells uphold the filtering of natural light through to this window on the boundary of No. 11 Westbourne Street and does not impact amenity to living areas.

Additionally, the internal courtyards allow the filtering of natural light through to the internal portions of the ground, first and the second floor levels to create an improved amenity for an allotment that has key living/dining areas orientated to the south.

The proposal has been amended to generally respect the consistent building line while incorporating redesigns to ensure any perceived additional bulk is recessed internally through stepping effects to reduce visual impact to neighbouring dwellings.

# **REVIEW OF DETERMINATION**

Section 8.2 of the Environmental Planning and Assessment Act 1979, states:

#### "8.2 Determinations and decisions subject to review

- (1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:
  - (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
  - (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
  - (c) the decision of a council to reject and not determine an application for development consent.
- (2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division:
  - (a) a complying development certificate,
  - (b) designated development,
  - (c) Crown development (referred to in Division 4.6).
- (3) A determination or decision reviewed under this Division is not subject to further review under this Division.

### 8.3 Application for and conduct of review

(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.

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- (2) A determination or decision cannot be reviewed under this Division:
  - (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or
  - (b) after the Court has disposed of an appeal against the determination or decision.
- (3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.
- (4) The review of a determination or decision made by a delegate of a council is to be conducted:
  - (a) by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or
  - (b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision.
- (5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.
- (6) The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.
- (7) The review of a determination or decision made by a Sydney district or regional planning panel is also to be conducted by the panel.
- (8) The review of a determination or decision made by the Independent Planning Commission is also to be conducted by the Commission.
- (9) The review of a determination or decision made by a delegate of the Minister (other than the Independent Planning Commission) is to be conducted by the Independent Planning Commission or by another delegate of the Minister who is not subordinate to the delegate who made the determination or decision.

# 8.4 Outcome of review

After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

# 8.5 Miscellaneous provisions relating to reviews

- (1) The regulations may make provision for or with respect to reviews under this Division, including:
  - (a) specifying the person or body with whom applications for reviews are to be lodged and by whom applications for reviews and the results of reviews are to be notified, and
  - (b) setting the period within which reviews must be finalised, and
  - (c) declaring that a failure to finalise a review within that time is taken to be a confirmation of the determination or decision subject to review.

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- (2) The functions of a consent authority in relation to a matter subject to review under this Division are the same as the functions in connection with the original application or determination.
- (3) If a decision to reject an application for development consent is changed on review, the application is taken to have been lodged on the date the decision is made on the review.
- (4) If a determination is changed on review, the changed determination replaces the earlier determination on the date the decision made on the review is registered on the NSW planning portal.
- (5) Notice of a decision on a review to grant or vary development consent is to specify the date from which the consent (or the consent as varied) operates.
- (6) A decision after the conduct of a review is taken for all purposes to be the decision of the consent authority.
- (7) If on a review of a determination the consent authority grants development consent or varies the conditions of a development consent, the consent authority is entitled (with the consent of the applicant and without prejudice to costs) to have an appeal against the determination made by the applicant to the Court under this Part withdrawn at any time prior to the determination of that appeal."

This development application was refused by the Inner West Local Planning Panel and is not a complying development certificate, designated development, or a Crown development. Therefore, the determination of the review of the development application can be dealt with under Section 8.2 of the Environmental Planning & Assessment Act, 1979.

In accordance with Section 8.3, a review of the determination is sought. Per subclause (2), a determination cannot be reviewed after the period within which any appeal may be made to the court has expired if no appeal was made. This period as per Section 8.10 (1)(a) of the Act is six (6) months. The application was refused on 9 August 2022, allowing up to until 9 February 2023 for the application to be determined. Per subclause (3), only minor changes have been proposed that address the reasons for refusal, and no other amendments are proposed. Thus the development is still substantially the same as the original application determined by Council.

In regard to the reason for the submission of the application, we are of the opinion that the resubmitted information has adequately addressed the reasons for refusal as indicated by Council in the Inner West Local Planning Panel Minutes dated 9 August 2022.

### **SUBJECT SITE & CONTEXT**

The subject site is located on the southern side of Westbourne Street. The site is legally defined as Lot 3 of Deposited Plan 735289 and is commonly referred to as No. 9 Westbourne Street, Stanmore.

The subject site is rectangular in shape. The site provides for a frontage to Westbourne Street of 12.19m while to Westbourne Lane a secondary frontage of 12.19m is provided. Both side

Document Set ID: 38966464 Version: 1, Version Date: 06/10/2022 boundaries measure 30.67m. The site provides for a total area of  $374m^2$ . Refer to Figure 1 Site Location Map below.



Figure 1 Site Location Map

Source: NSW Legislation website

The subject site at present contains a part one (1) and part two (2) storey detached rendered dwelling with tiled roof. The site has an existing outbuilding adjoining the rear boundary along Westbourne Lane. Refer to Figures 2-10 for photos of the site and surrounds.

The site is subject to a moderate fall from the rear to the front ranging from RL 37.24 on the rear boundary to RL 35.30 at the front boundary line, representing a fall of 1.94m through the depth of the site.

Development in the area is typically characterised by low to medium density residential development. Dwellings in the immediate locality comprise a mix of single and two storey dwellings which are both attached and detached in their form. A varied lot width along Westbourne Street and Westbourne Lane results in a mixture of rear building alignments with some wider lots comprising carports, garages and/or loft spaces above garages on the laneway frontage.

Immediately adjoining the subject site to the east, at No. 7 Westbourne Street is a part one/two storey detached dwelling house with tiled roof . This site has recently gained development approval under a Section 8.2 review (REV/2021/0009) of the refusal of DA/2020/0827 for "demolition of existing building. Torrens Title Subdivision of existing lot into 2 lots, construction of a semi-detached dwelling with a garage to each lot, landscaping and associated works". Adjoining the subject site to the west at No. 11-11a Westbourne Street is a two storey terrace

Document Set ID: 35906767 Version: 1, Version Date: 06/10/2022 style dwelling with rear garage and first floor loft. The terrace is constructed of brick with metal roof.

The proposed development at No. 9 has been designed to reflect the newer built forms approved and constructed at No. 7 and No. 11-11a Westbourne Street.

Older housing stock along Westbourne Street includes a series of single storey dwellings and cottages, as well as two-storey terraces. Newer housing stock along Westbourne Street include contemporary two-three storey semi-detached terraces with rear lane accessed garages and lofts, as illustrated in Figures 9 and 10.

Located approximately 250m to the north of the subject site is Parramatta Road providing links to bus services and retail/commercial development. Approximately 350m to the south west of the site is Weekley Park, which provides for a large expanse of green open space within walking distance of the site.

The subject site is zoned R2 Low Density Residential. The proposed development is permissible with consent in this zone under the Marrickville Local Environmental Plan 2011.



Figure 2 No. 39 Westbourne Street, subject site,

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Figure 3 Eastern neighbour, No. 7 Westbourne Street – to be demolished for two (2) new terrace houses under REV/2021/0009.



Figure 4 Western neighbours, No. 11-11a Westbourne Street, a similar two (2) storey terrace development with rear garage and loft.

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Figure 5 Development on the northern side of Westbourne Street, No. 6 and 4 (L-R rendered detached dwellings.



 $Figure\ 6\ Rear\ of\ the\ subject\ site\ as\ viewed\ from\ Westbourne\ Lane$ 

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 $\textit{Figure 7 Rear lofts atop garages at No.\,11-11a Westbourne Street, Stanmore}$ 



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Figure 8 Rear of No. 7 We stbourne Street as viewed from We stbourne Lane.







Figure 9 Examples of multi storey loft structures along Westbourne Lane.







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#### **SUBMISSION**

This application seeks the reconsideration of DA/2022/0034 under the provisions of Section 8.2 of the Environmental Planning and Assessment Act, 1979. Minor amendments have been incorporated into the design.

This submission will refer to the key amendments and reasons for refusal.

#### **Key Amendments**

The following key amendments have occurred following the refusal of the original development application:

- The first-floor rear building line has been brought in 450mm to be in line with the rear building line of the rear bedroom of No. 7 Westbourne Street. This amendment is per the proposed deferred commencement condition (a).
- The rear building line of the attic level has been brought in to provide a 15.5m rear setback. This amendment is per the proposed deferred commencement condition (c).
- The external walls of the second floor have been set in 500mm from the side boundary
  for a length of 1.5m. This amendment is considered a positive alternative to the
  required deferred commencement condition (d) as explained below.
- The internal floor-to-ceiling height of the first floor studios has been decreased to a
  maximum of 2.4m. This amendment is per the proposed deferred commencement
  condition (e).
- The southern rear wall of each garage has been reduced to a maximum RL of 39.888m.
   This amendment is per the proposed deferred commencement condition (f).
- The proposed materials and finishes of the façade have been amended to provide clear breaks between the proposed metal slats, and an amended scheme of colours and finishes. This amendment is per the proposed deferred commencement condition (j).

This submission will refer to the issues of refusal and provide a comment on the admenments submitted as part of this Section 8.2 Application.

### Reasons for Refusal

 $Outlined\ below\ are\ the\ reasons\ for\ refusal\ provided\ by\ Council\ with\ corresponding\ responses.$ 

1. The bulk and extent of the rear of the building is excessive, compared to the alignment of adjoining dwellings and will result in adverse visual impacts for neighbouring properties. The proposal is contrary to cl 4.1.6 of Marrickville DCP 2011.

Key amendments have been made to reduce the bulk and extent of the rear of the building to be more in line with the alignment of neighbouring properties. The first floor rear building line has been amended to provide a minimum rear setback of 12.4m, in line with the approved first floor rear setback of the rear bedrooms of No. 7 Westbourne Street.

It was considered in determination by Council that the first floor rear bathrooms result in an increase in bulk and scale at the rear of the building and were required to be deleted under draft deferred commencement condition (b). The first floor rear bathroom has been retained, as it is consistent with the adjacent proposed balcony of No. 7 Westbourne Street which is enclosed by

Document Set ID: 36066464 Version: 1, Version Date: 06/10/2022 side walls, and is covered by a roof and has a 1.2m high solid balustrade. The proposed bathroom provides a consistent window sill height and opaque glass louvres which match the appearance of this adjoining balcony. The similar relationship of these elements can be seen in drawing no. DA20 of the architectural plans prepared by Monument Design Partnership + Piensa Architects. Furthermore, on the western elevation, the proposed bathroom adjoins a full width rear balcony to No. 11 Westbourne Street that extends further than the proposed rear setback of the bathroom. Compliance with the adjoining rear building lines, building heights, and setbacks demonstrate that the bathrooms do not result in excessive bulk and scale. Please refer to Figure 11.

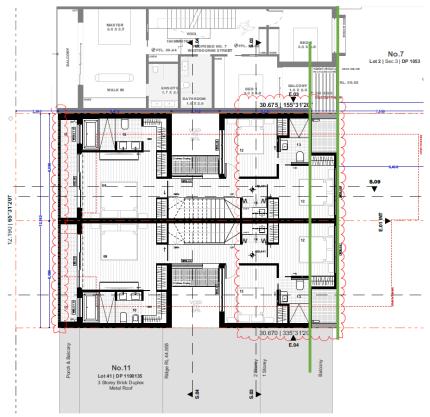


Figure 11 Alignment of the proposed rear of the first floor, in line with No. 7 Westbourne Street.

The rear building line of the attic level has an increased rear setback of 15.5m in line with deferred commencement (c). This has further decreased perceived bulk and scale.

The side setbacks of the attic level of the dwellings have been set in 500 mm from the side boundary for a length of 1.5m. While this amendment is not strictly as per deferred commencement condition (c), it is considered that the requirement of 1.5 m side setbacks at this level is excessive and would not result in a better planning outcome, and would result in an unfunctional habitable space.

Document Set ID: 36966464 Version: 1, Version Date: 06/10/2022 Stepping in the attic level for a portion of the side setback creates a recessive stepping effect, that improves the articulation of the dwelling when viewed from the rear. Reference is made to DA. 18 & 19 of the amended architectural drawings. The 3D perspective demonstrates this stepping effect from viewing points within the proposed rear yards and the rear yards of neighbouring dwellings. The additional portions left on the built form contrary to the deferred commencement conditions do not result in adverse amenity impacts, such as loss of solar access, or loss of visual or acoustic privacy, and do not protrude when viewed from the rear yards of these dwellings as they integrate well with neighbouring built form.

It is considered that this reason for refusal has been addressed by either complying with the draft deferred commencement conditions or providing alternative solutions that provide a better planning outcome as the functionality and amenity of the proposed dwellings are considered while respecting the amenity of neighbouring properties.

 The proposed garage/loft is of an excessive height and scale contrary the provisions of Part 4.1 of Marrickville DCP 2011.

This reason for refusal relates solely to draft deferred conditions (e), (f), and (g) which required the internal floor-to-ceiling height of the loft to be reduced to 2.4m; the southern wall of the garage to have a maximum height of 40.374m; and the southern wall of the garage up to 40.374m to be face brick for its full height.

As per the amended architectural plans prepared by Monument Design Partnership + Piensa Architects, all of these changes have been incorporated, albeit slightly modified, as the southern wall height is to a maximum of 39.888m. In this regard, it is considered that the proposed garage/loft is therefore not of an excessive height and scale.

3. The materials and finishes are unsympathetic to the character of the street, contrary to cl 4.1.9 of Marrickville DCP 2011.

This reason for refusal relates solely to draft deferred commencement conditions (h), (i), and (j) which required the materials and finishes to be altered to better relate to the character of the street, this included the metal slat under trims to be deleted from the ground and first floor balconies.

The colour scheme of the proposed dwellings has been amended to provide a lighter and more neutral tone to the streetscape. This incorporates a beige tone that encompasses the entirety of the face brick to the street frontage and metal cladding to the rear of the site. The roof form has also been amended to provide a lighter metal roof form.

This lighter tone contrasts to the red brick approved at No. 7 Westbourne site under REV/2021/0827, and the white render and dark brick extremities constructed at No. 11 Westbourne Street. This colour pallet provides a common ground within these two dwellings and therefore a sense of consistency across six (6) semi-detached dwellings.

In relation to draft deferred commencement conditions (h), and (i), the metal slat balustrading has been broken up by the first floor slab to clearly define the levels of the proposed dwellings. This allows the façade of the proposed dwellings to be clearly read as individual bays with consistency to adjoining dwellings, which is consistent with the requirements of C3 of section 4.1.4 of the MDCP.

Document Set ID: 36066464 Version: 1. Version Date: 06/10/2022 The metal slat under trims of the ground floor and first floor balconies been retained as they relate to the existing character of similar dwellings along Westbourne Street, including, No. 13, 17, 19, 24, 33, 35, 46, 48, 50, 51, 57, 59, 60, and 63 Westbourne Street. These dwellings have examples of decorative metal under trims, and wooden picket under trims. The proposed metal under trims is a modern interpretation of the decorative metal under trims and wooden picket under trims. The under trims present a consistent finish to the balustrading through the façade that softens the harder, more solid elements. Of the 60 dwellings along this portion of Westbourne Street, approximately 15 present similar under trims to that proposed. It is considered that the under trims are sympathetic to the past building designs of dwellings throughout Westbourne Street.

It is considered that the proposed materials and finishes are sympathetic to the character of the street as demonstrated above.

It is considered that this reason for refusal has been addressed.

4. The building massing and setbacks of the dwelling and garages/loft are unsatisfactory having regard to adjoining development, contrary to cl 4.1.6 and of Marrickville DCP 2011.

As has been addressed above, the building massing and setbacks of the dwellings, and the garage/lofts have been adequately addressed by either complying with the draft deferred commencement conditions, or providing additional information to demonstrate that, the proposed massing is not inappropriate in respect to adjoining dwellings. It is further demonstrated that the proposal is consistent with adjoining setbacks.

The proposed schedule of materials and finishes has been amended to provide a lighter and more natural external finish to better transition through the adjoining properties and provide softened undertones that would not adversely stand out when viewed from the public domain or adjoining sites. This has been incorporated into the 3D perspectives from the rear yard of the site and adjoining properties, which demonstrates that the proposed dwellings are recessive to the adjoining properties.

### CONCLUSION

The proposal has been adequately amended in relation to the deferred commencement conditions, and subsequently address the reasons for refusal. Where an alternative solution is proposed to that requested in the draft deferred commencement conditions, this has been justified within this report. The proposed design has satisfactorily considered the constraints of the site and provides a positive design that generally respects the rear building line of the neighbouring dwellings while being stepped in and recessive internally to limit the perception of additional bulk and scale when viewed from neighbouring sites.

We are of the opinion that Council is now in a position to approve the subject application.

Should you have any further questions please do not hesitate to contact me.

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Kind regards

James Corry Town Planner GAT & Associates 4312

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