



DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2023/0578
<b>Address</b>	207A Australia Street NEWTOWN
<b>Proposal</b>	Partial demolition of existing structures and ground, first and second floor alterations and additions to a dwelling house
<b>Date of Lodgement</b>	19 July 2023
<b>Applicant</b>	Frank Takos
<b>Owner</b>	Ms Stephanie Mooney Mr Eamon B Mooney
<b>Number of Submissions</b>	Initial: 0
<b>Value of works</b>	\$130,000.00
<b>Reason for determination at Planning Panel</b>	Section 4.6 variation exceeds 10%
<b>Main Issues</b>	Floor Space Ratio
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance

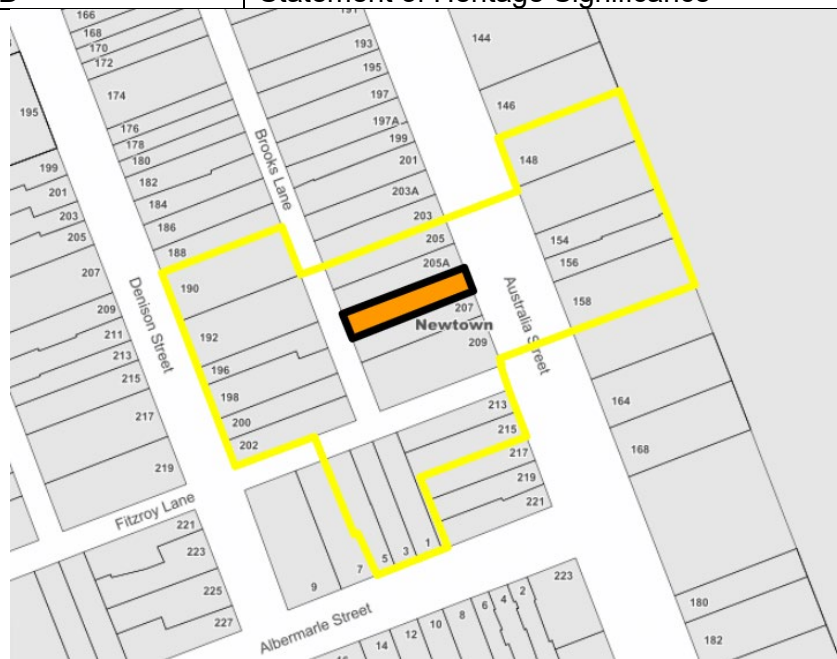


Figure 1: Locality Map

LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition of existing structures and ground, first and second floor alterations and additions to a dwelling house at 207A Australia Street, Newtown.

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

The main issues that have arisen from the application include:

- The application results in a minor additional variation to the floor space ratio development standard of 36.25 sqm or 26%, noting that there is an existing breach to this development standard and the proposal seeks to increase the total GFA by 17.70 sqm.

A Clause 4.6 exemption was submitted to Council to vary the Floor Space Ratio development standard, which seeks to justify the additional breach. Subject to recommended conditions, the proposal generally complies with the aims and objectives of the *Inner West Local Environmental Plan 2022* and the *Marrickville Development Control Plan 2011*. The proposal is considered acceptable and recommended for approval.

## 2. Proposal

The application seeks development consent for the demolition of existing structures and ground, first and second floor alterations and additions to a dwelling house. Specifically, the proposal involves the following works:

- Alterations to provide bedrooms on Level 2
- Internal reconfiguration/demolition of Level 1 bath area
- Demolition of internal Level 2 wall
- Construction of internal stud wall to form 'Bed 1' and 'Bed 2' on Level 2
- Construction of two windows in relation to 'Bed 1' and 'Bed 2' on Level 2
- Construction of a mezzanine storage area above the sitting room on Level 1

An 'Enclosed Sunroom' on Level 2 of the building is noted on the existing plans submitted with the application. It is noted that this proposal relies on this area to produce additional internal space which also results in an increase to FSR in relation to originally approved development (DA200000840). Council has no record of approval for the enclosure of this space, which was originally approved as a balcony.

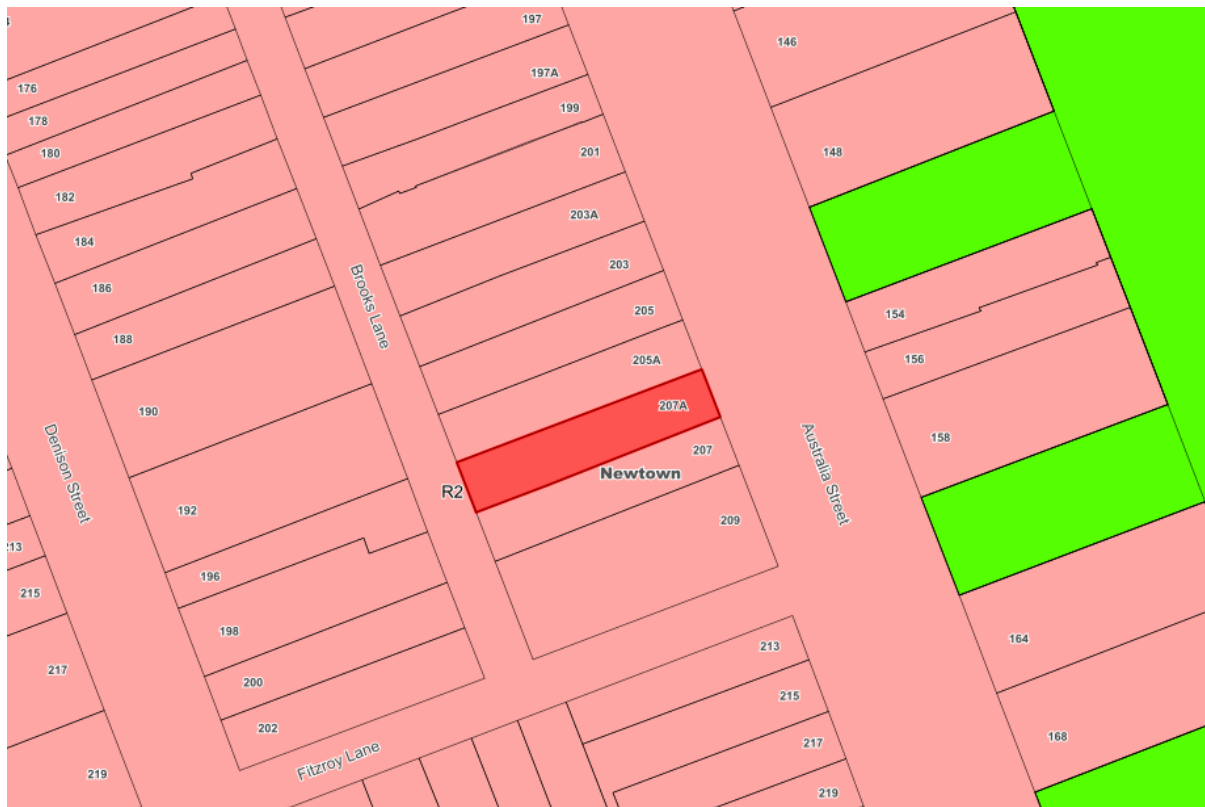
This proposal relies on these existing elements as part of the alterations and additions, any unauthorised work needs to be regularised. Accordingly, a condition of approval is to be applied to ensure to a Building Certificate is obtained before a Construction Certificate is issued for the works.

### 3. Site Description

The subject site is located on the western side of Australia Street, between Fitzroy Lane and Lands Lane. The site consists of one allotment and is generally rectangular with a total area of 127.5m<sup>2</sup> and is legally described as Lot 10 in DP 1052622. The site has a frontage to Australia Street of 5.00 metres and a secondary frontage of approximate 5.08 metres to street.

The site supports an existing two storey dwelling house and side driveway. The adjoining properties support a range of residential uses.

The property is zoned R2 Low Density Residential and located within the North Kingston Estate Heritage Conservation Area (C34) under IWLEP 2022.



### 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
BC2003/0006	Building Certificate  Part of the two-storey brick dual occupancy (Class 1a) being the privacy screens and balustrading to the balconies at the rear of the building.	Issued – 17/01/2003
BC2002/0158	Building Certificate  Part of the two-storey brick dual occupancy residence (Class 1a) being the timber pergolas (Class 10a) attached to the rear of the building and the glass block panel installed in the southern wall of the building.	Issued – 03/09/2002
DA200000840	To subdivide the land into two (2) lots and construct a two-storey dwelling house with attic on each lot.	Approved – 04/04/2001

## 4(b) Application history

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

Date	Discussion / Letter / Additional Information
19/07/2023	Application lodged.
09/08/2023	Application notified.
06/09/2023	Request for information (RFI) letter issued to the applicant requiring additional information to address the following: <ul style="list-style-type: none"> <li>• Clause 4.6 request to vary the floor space ratio development standard under the <i>Inner West Local Environmental Plan 2022</i>;</li> <li>• Removal of the proposed windows to the front of the property</li> </ul>
09/10/2023	Section 4.6 documentation provided with amended plans deleting windows from façade, which were considered unsympathetic by Council's Heritage Specialist.

## 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*
- *Inner West Local Environmental Plan 2022*

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

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

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

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

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

*5(a)(iii) Inner West Local Environmental Plan 2022 (IWLEP 2022)*

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3 – Height of buildings
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise

Section 2.1 – Aims of Plan

The proposal is consistent with the relevant aims of the plan as follows:

- The proposal is considered to conserve and maintain the natural, built and cultural heritage of the Inner West;
- Subject to recommended conditions, the proposal promotes a high standard of design; and
- The proposal will not result in adverse social, economic or environmental impacts.

Section 2.3 – Land Use Table and Zone Objectives

The site is zoned R2 Low Density Residential under the *IWLEP 2022*. The application relates to alterations and additions to a *dwelling house*.

The development is permitted with consent within the R2 Low Density Residential zone and meets the objectives of the zone.

Section 2.7 – Demolition requires development consent

Cause 2.7 of the *IWLEP 2022* 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 have been included in Attachment A.

Section 4 – Principal Development Standards

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

Standard	Existing	Proposal	Noncompliance	Complies
<b>Height of Buildings</b> Maximum permissible: 9.5m	9.2m	9.2m	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 1.1:1 or 140.25 sqm	1.26:1 or 160.8 sqm	1.38:1 or 176.50 sqm (15.70 sqm increase from existing)	36.25 sqm or 26%	No

Section 4.6 – Exceptions to Development Standards

As outlined in the above table, the proposal results in a breach of the following development standard:

- Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Section 4.6 of the *IWLEP 2022* by 26% (36.25sqm). Both Council and the applicant agree that the floor space ratio is to be increased by 36.25sqm.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The variation to FSR is minor given that the floor space is limited to the enclosed sunroom and as such the development standard is unreasonable in this case.*
- *The proposal produces an appropriate development outcome.*
- *The variation to the floor area is a direct result of the conversion of the enclosed sunroom into two (2) bedrooms within the existing building envelope.*
- *The DCP specifically indicates that variation to the FSR Development Standard can be sought where the allotment size is below the minimum required by the LEP.*
- *The non-compliance will not result in any detrimental impact to the surrounding properties or the character of the locality.*
- *The overall design has no architectural impact, and the development satisfies the zone objectives and the objectives of the development standard.*
- *The proposal is not visible from the street and with addition to the existing bulk and scale that is compatible with the existing surrounding development.*
- *As there is no material impact on adjoining properties or the public domain arising from the variation to the floor area development standard and the objectives of the control are satisfied, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.*

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

It is considered the development is in the public interest because it is consistent with the objectives of the R2 Low Density Residential zone, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

The application is considered to be consistent with the objectives listed above, as the proposal will maintain the existing character of the built and natural environment of the area, and results in a development that is low-density in nature. The application does not propose any change to the existing dwelling envelope as only windows are proposed on the façade and rear balcony to affect the external appearance of the dwelling; thus, the development will not impact the existing housing needs of the community.

The objectives of the Floor Space Ratio development standard are as follows:

- a. *to establish a maximum floor space ratio to enable appropriate development density,*
- b. *to ensure development density reflects its locality,*
- c. *to provide an appropriate transition between development of different densities,*
- d. *to minimise adverse impacts on local amenity,*
- e. *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposal maintains the appropriate density for the subject site and locality.
- The proposed additional variance is minor in nature and has a minimal impact on the locality, noting that it is only proposed to increase the GFA by an additional 17.70 sqm.
- The proposed additional GFA is within the existing building envelope and does not result in a discernible increase in bulk and scale and does not increase the density above that of the existing building.
- The proposed development will be in the public interest because it is consistent with the character of built and natural features in the surrounding area.
- The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)

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

The proposal, thereby, accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Floor Space Ratio and it is recommended the Section 4.6 exception be granted.

#### Section 5.10 – Heritage conservation

The building is a contributory dwelling located within the North Kingston Estate Heritage Conservation Area (C34 in Schedule 5 of the Inner West LEP 2022).

The proposal includes partial internal demolition with ground, first and second floor alterations. The internal alterations will not be visible to the public domain and there is no heritage impact as a result given the building is a contemporary structure, constructed around 2001. The window replacement along the south-west elevation is acceptable, given the pattern of fenestration within the two neighbouring terraces is maintained.



It is noted that a recent heritage exemption certificate for the repainting of the external facade has been lodged. The external facade is to be painted in line with the proposed colour scheme of this heritage exemption certificate.

The proposal is acceptable with the following advisory note.

- External facade is to be painted in line with approved colour scheme as part of HEC/2023/0070.

### Section 6.3 – Stormwater management

The proposal generally complies with this clause. The proposal raises no concerns, subject to standard stormwater management conditions, which have been included in Attachment A.

### 5(b) Development Control Plans

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

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion below
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion below
Part 2.10 – Parking	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 4.1 – Low Density Residential Development	Yes
Part 8 – Heritage	Yes – see discussion under Section 5.10 of IWLEP 2022
Part 9 – Strategic Context	Yes

### Part 2.6 – Acoustic and Visual Privacy

The application proposes two windows on the south-western elevation in relation to proposed 'Bed 2' and 'Bed 3'.

As the windows face into the site, there will be no adverse visual or acoustic privacy impacts to any neighbouring properties. In addition, the proposed windows match the existing window arrangement, thereby protecting existing privacy levels for surrounding occupiers.

Thus, the proposal is compliant with this part.

### Part 2.7 – Solar Access and Overshadowing

The walls built without approval result in a minor increase to overshadowing over the adjoining property at 207 Australia Street, Newtown. However, the area overshadowed is approved for car parking, and the unenclosed area adjacent to the car bay and garage does not constitute private open space due its width being less than 3 metres.

Therefore, the proposal is compliant with this part.

#### Part 4.1 – Low Density Residential Development

The enclosure of the roof space on Level 2 results in additional walls requiring an assessment against Part 4.1.6.2. As the width of the lot is less than 8 metres, the proposed setbacks are assessed based on merit.

The proposed walls relating to 'Bed 2' and 'Bed 3' result in a nil setback to match the existing side and rear setbacks of Level 2. Additionally, the side and rear setbacks match that of the adjoining development at 207 Australia Street, Newtown.

As the building envelope is maintained, the impacts to visual privacy, solar access to adjoining dwellings and street context are negligible.

Therefore, the proposal is compliant with this part.

#### 5(c) The Likely Impacts

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

#### 5(d) 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(e) Any submissions

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

No submissions were received in response to the initial notification.

#### 5(f) 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.

- Heritage

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal as the cost of works is under the minimum threshold.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining 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

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Floor Space Ratio development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0578 for partial demolition of existing structures and ground, first and second floor alterations and additions to a dwelling house at 207A Australia Street, Newtown 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:

<b>Plan, Revision and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
2023-04, DA-01, Issue - A	Existing Site Plan and Site Analysis Plan	10.06.2023	Jon Bianchino
2023-04, DA-05, Issue - B	Proposed Ground Floor Plan	05.10.2023	Jon Bianchino
2023-04, DA-06, Issue - B	Proposed Level 1 & Level 2 Plans	05.10.2023	Jon Bianchino
2023-04, DA-07, Issue - B	North-East & South-West Elevations	05.10.2023	Jon Bianchino
2023-04, DA-08, Issue - B	Section A-A	05.10.2023	Jon Bianchino

As amended by the conditions of consent.

**FEES**

**2. Security Deposit - Custom**

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

Security Deposit:	\$2,996.00
Inspection Fee:	\$374.50

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

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

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

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

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

**GENERAL CONDITIONS**

**3. Stormwater Drainage System – Simple**

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

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public

road may be disposed on site subject to ensuring no concentration of flows or nuisance to other properties.

#### **4. 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.

#### **5. 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.

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

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

#### **7. Building Certificate**

Prior to the issue of a Construction Certificate, the person acting on, or having benefit of this consent is required to obtain a Building Certificate from Council in order to regularise the unauthorised building and fit-out works undertaken at the existing premises within thirty (30) days of the date this Determination.

### **PRIOR TO ANY DEMOLITION**

#### **8. Dilapidation Report**

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

**9. 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.

**10. 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****11. 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.

**12. Party Walls**

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

**13. Structural Certificate for retained elements of the building**

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

**14. Sydney Water – Tap In**

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

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

**DURING DEMOLITION AND CONSTRUCTION****15. 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.

**16. Survey Prior to Footings**

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

**PRIOR TO OCCUPATION CERTIFICATE****17. 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.

**18. 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.



**ON-GOING****19. 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;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

**Insurances**

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

**Prescribed Conditions**

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

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

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

**Noise**

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

**Amenity Impacts General**

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

**Lead-based Paint**

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

**Dial before you dig**

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

**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100

			<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom		9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments	131441	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority		1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government			<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water		13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - Environmental Solutions	SITA	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)			<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW		13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> 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 10m<sup>2</sup> 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.

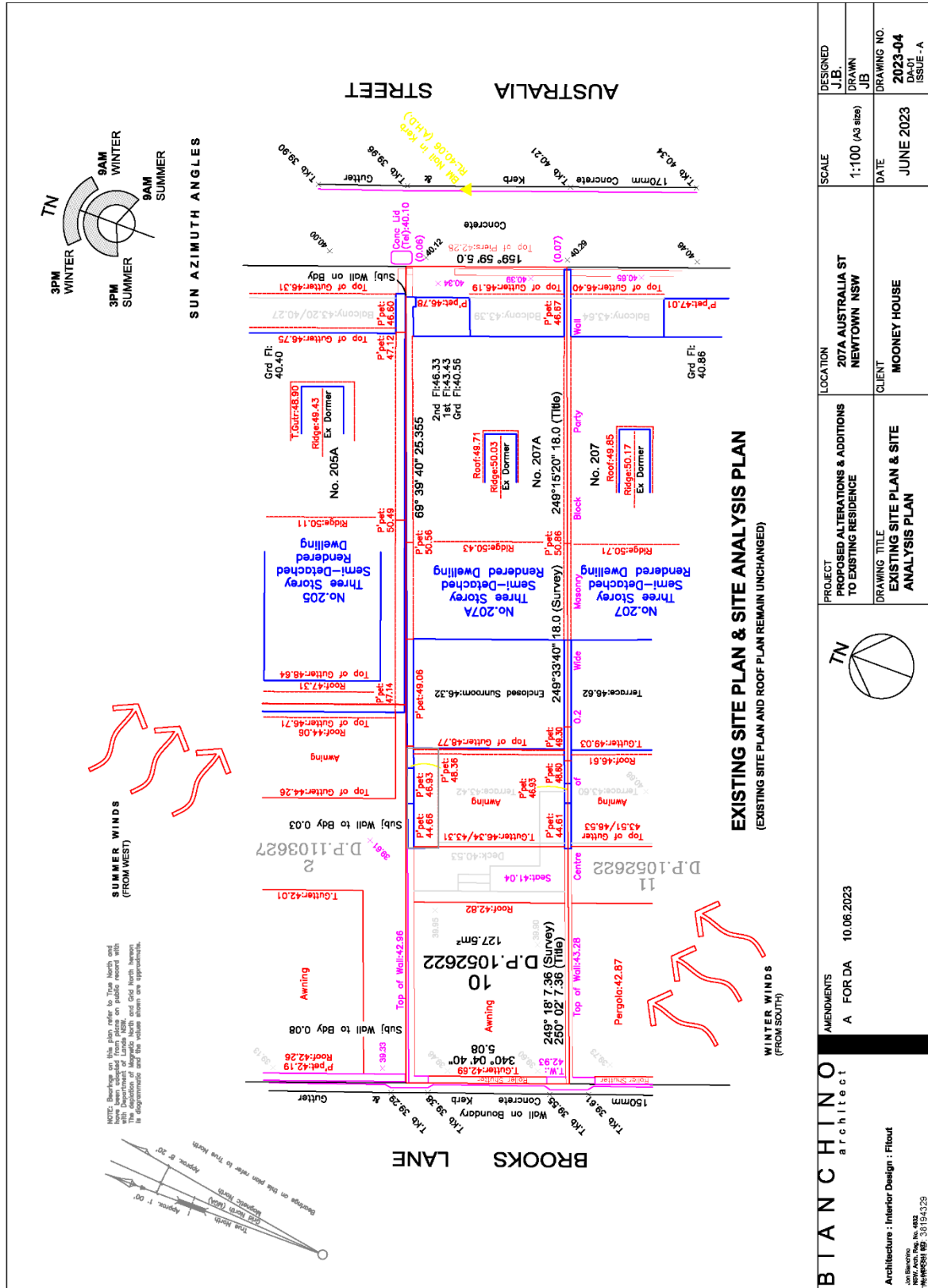
Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. 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.

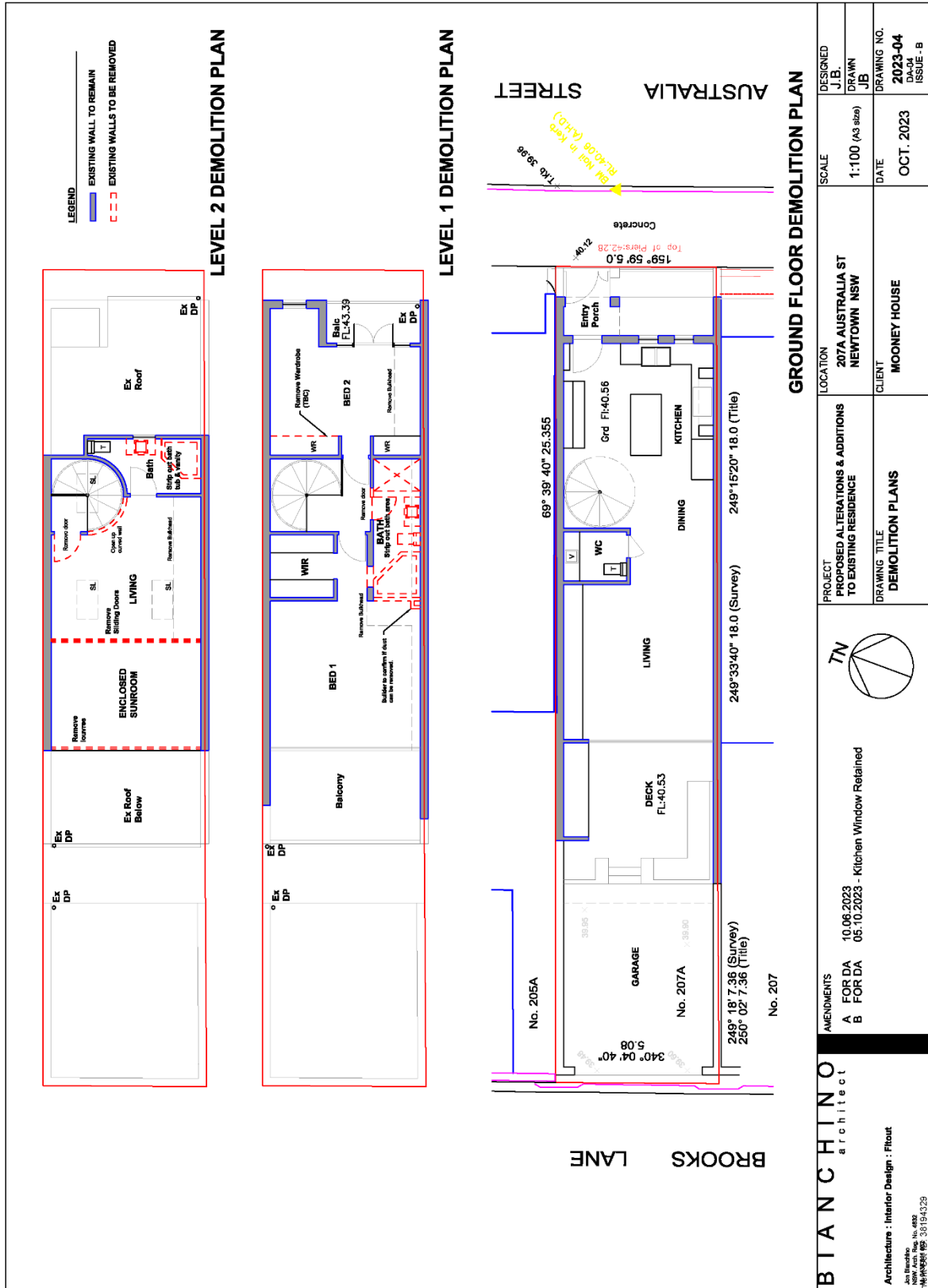
**Paint Scheme**

The external facade is to be painted in line with approved colour scheme as part of HEC/2023/0070.

Attachment B – Plans of proposed development







<b>BIANCHINO</b> architect Architecture : Interior Design : Float Ann Bianchino NSW Arch Reg. No. 4822 Doc# 16100001001001 30154329 Version: 2, Version Date: 16/10/2023	AMENDMENTS A FOR DA B FOR DA	10.06.2023 05.10.2023 - Kitchen Window Retained	PROJECT PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	LOCATION 207A AUSTRALIA ST NEWTOWN NSW	SCALE 1:100 (A3 size)	DESIGNED J.B.
	DRAWING TITLE DEMOLITION PLANS		CLIENT MOONEY HOUSE	DATE OCT. 2023	DRAWING NO. 2023-04	ISSUE - B

**LEGEND**  
 — EXISTING WALL TO REMAIN  
 — NEW STUD WALL  
 — NEW WINDOW  
 — NEW DOOR

**PROJECT**  
 PROPOSED ALTERATIONS & ADDITIONS  
 TO EXISTING RESIDENCE

**DRAWING TITLE**  
 PROPOSED  
 GROUND FLOOR PLAN

**LOCATION**  
 207A AUSTRALIA ST  
 NEWTOWN NSW

**CLIENT**  
 MOONEY HOUSE

**SCALE**  
 1:100 (A3 size)

**DESIGNED**  
 J.B.

**DRAWN**  
 JB

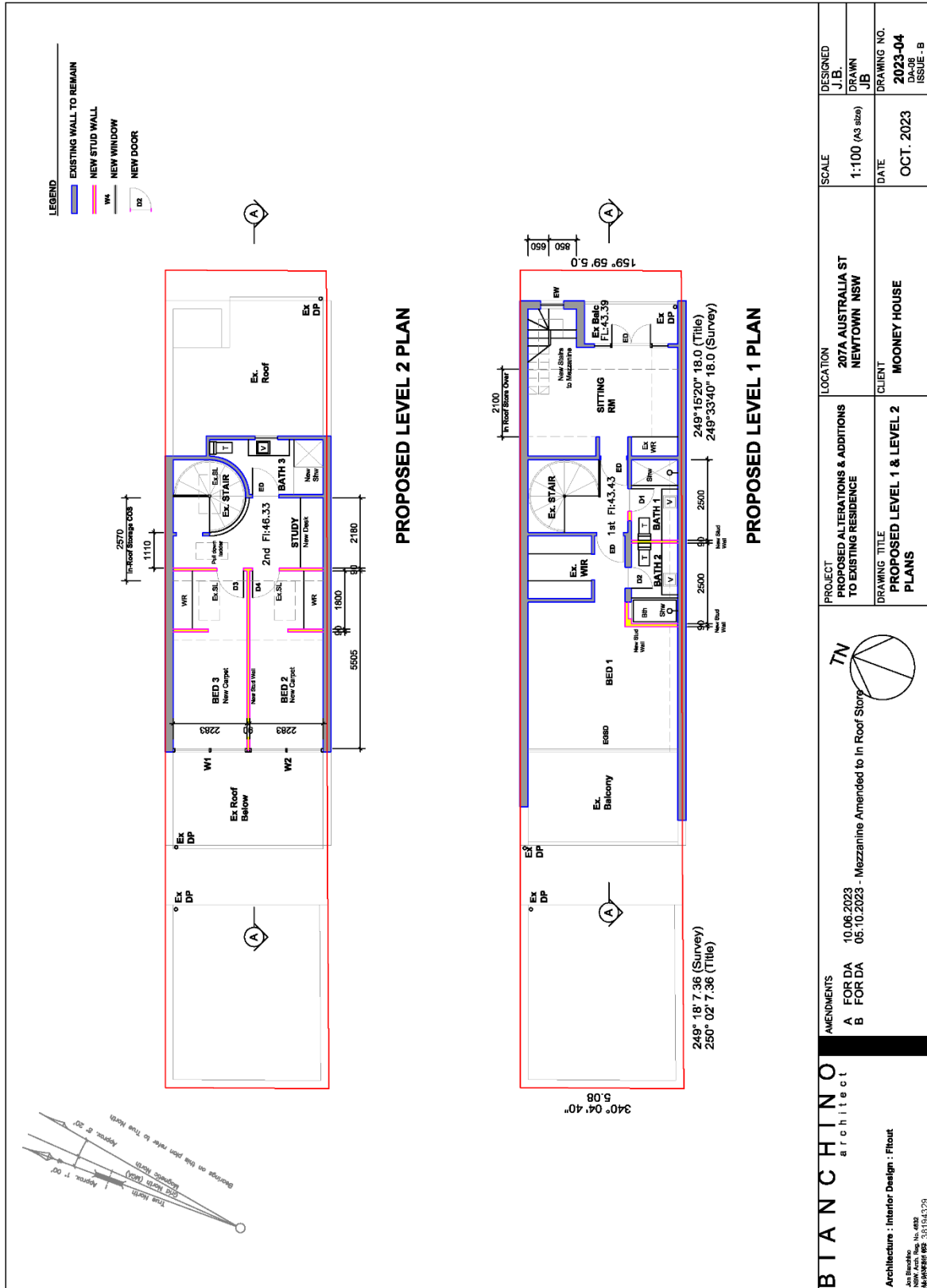
**DATE**  
 OCT. 2023

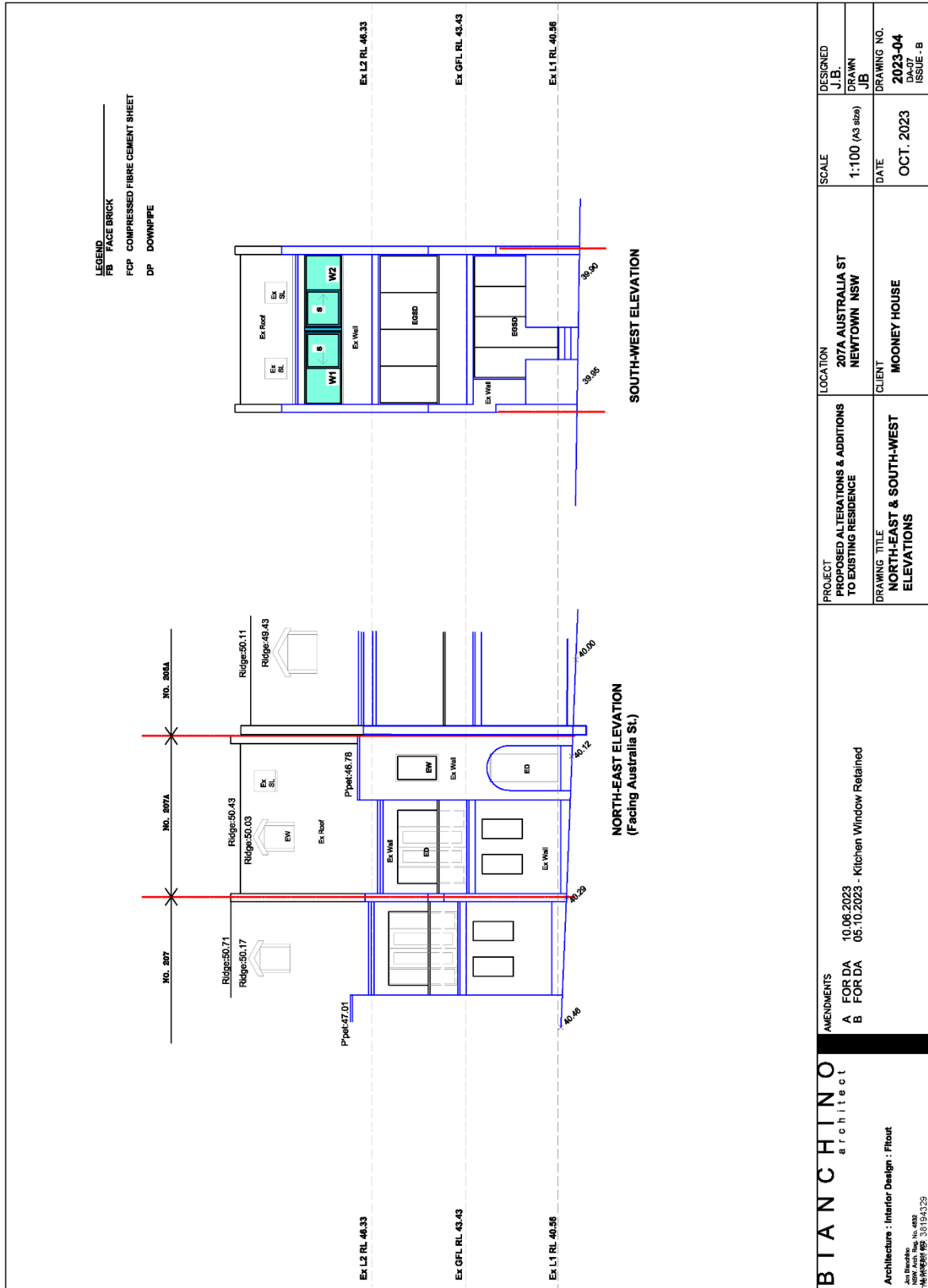
**DRAWING NO.**  
 2023-04

**ISSUE**  
 ISSUE - B

**AMENDMENTS**  
 A 10.06.2023  
 FOR DA  
 B 05.10.2023 - Kitchen Window Retained

**ARCHITECT**  
 BIANCHINO architect  
 Architecture : Interior Design : Float  
 Ann Bianchino  
 New South Wales Reg. No. 4883  
 Document Ref: 30154329  
 Version: 2, Version Date: 16/10/2023



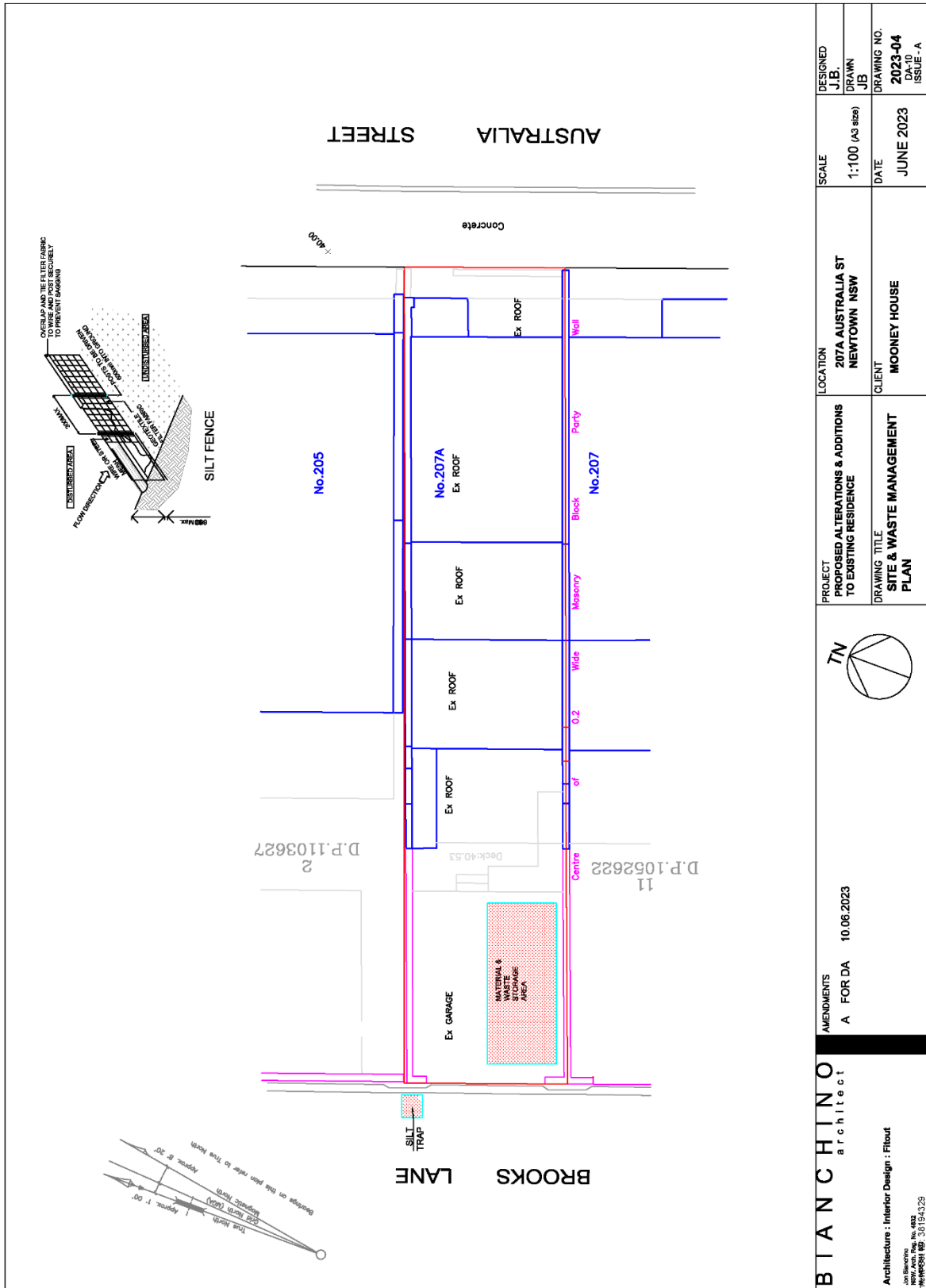


<b>AMENDMENTS</b> A FOR DA 10.06.2023 B FOR DA 05.10.2023 - Kitchen Window Retained	PROJECT PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	LOCATION 207A AUSTRALIA ST NEWTOWN NSW	SCALE 1:100 (A3 size)	DESIGNED J.B.
	DRAWING TITLE NORTH-EAST & SOUTH-WEST ELEVATIONS	CLIENT MOONEY HOUSE	DATE OCT. 2023	DRAWING NO. 2023-04 ISSUE - B

**B I A N C H I N O**  
a r c h i t e c t

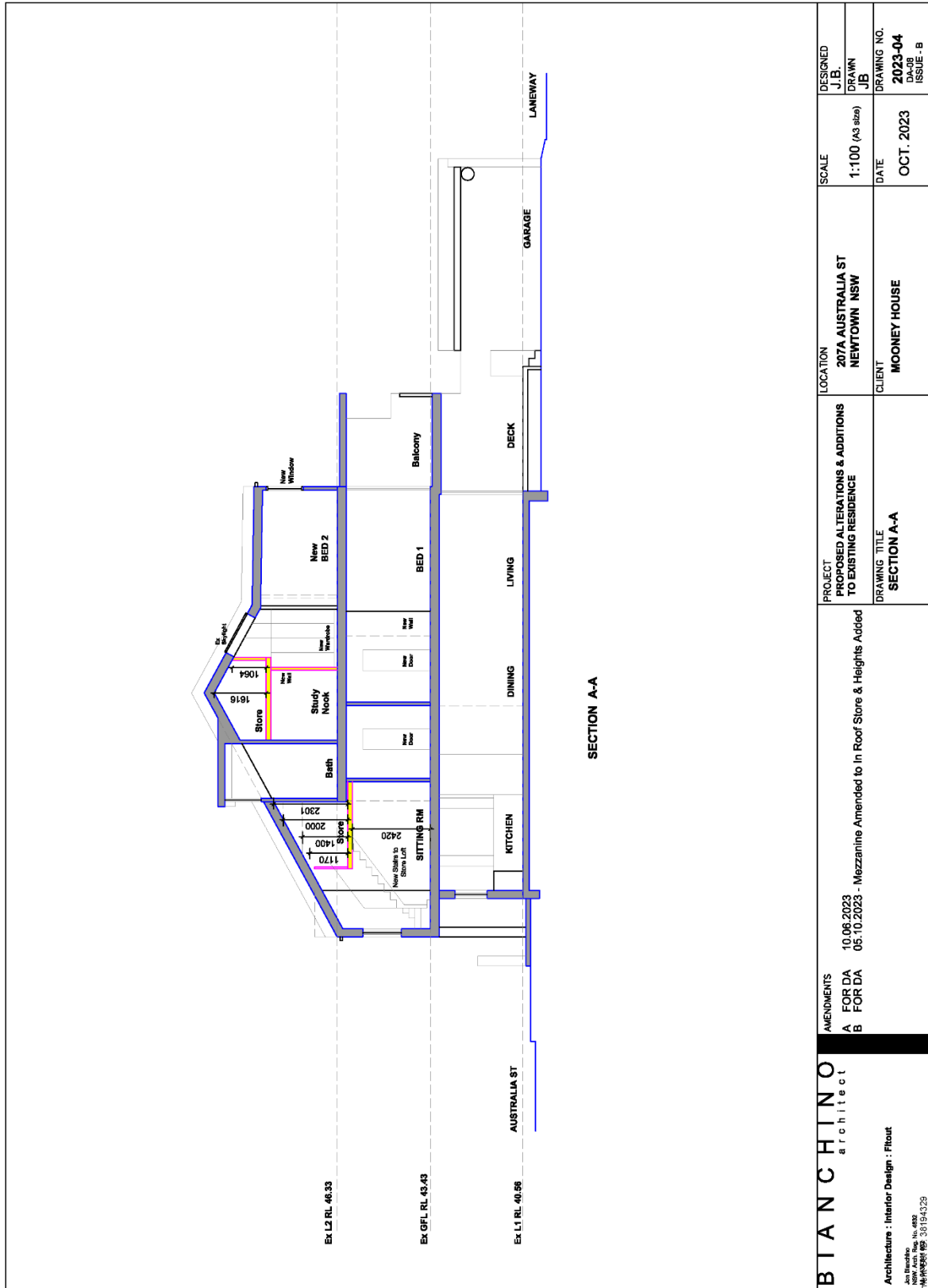
Architecture : Interior Design : Flout

Doc: 16/10/2023  
 Version: 2, Version Date: 16/10/2023



<b>BIANCHINO</b> architect	AMENDMENTS A FOR DA 10.06.2023		PROJECT PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	LOCATION 207A AUSTRALIA ST NEWTOWN NSW	SCALE 1:100 (A3 size)	DESIGNED J.B.
			DRAWING TITLE SITE & WASTE MANAGEMENT PLAN	CLIENT MOONEY HOUSE	DATE JUNE 2023	DRAWN JB

Architecture : Interior Design : Fitout  
 J.B. Blawie  
 NSW Arch Reg. No. 4822  
 Docu (MEMBERSHIP NO. 35154329)  
 Version: 2, Version Date: 16/10/2023



<b>BIANCHINO</b> architect	Architecture : Interior Design : Flout Ann Bianchino NSW Arch Reg No: 4829 Doc: 16/10/2023 Version: 2, Version Date: 16/10/2023	AMENDMENTS A FOR DA 10.08.2023 B FOR DA 05.10.2023 - Mezzanine Amended to In Roof Store & Heights Added	PROJECT PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	LOCATION 207A AUSTRALIA ST NEWTOWN NSW	SCALE 1:100 (A3 size)	DESIGNED J.B.
		DRAWING TITLE SECTION A-A	CLIENT MOONEY HOUSE	DATE OCT. 2023	DRAWING NO. 2023-04	ISSUE ISSUE - B

## Attachment C- Section 4.6 Exception to Development Standards

**PROJECT: ALTERATIONS AND ADDITIONS TO EXISTING DWELLING;  
207A AUSTRALIA ST NEWTOWN NSW.**

**CLAUSE 4.6 VARIATION OF A DEVELOPMENT STANDARD REGARDING THE  
MAXIMUM FLOOR AREA REQUIRED BY CLAUSE 4.4 (2C) OF THE INNER WEST  
COUNCIL / LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2022.**

### **DEVELOPMENT APPLICATION – MAXIMUM FLOOR AREA & FSR**

#### **Introduction.**

This Clause 4.6 variation is a written request to vary a development standard to support a development application for construction of additions and alterations to the existing dwelling at the above address.

The specified maximum floor area of development on the subject site under Clause 4.4 (2C) Inner West Council Local Environmental Plan 2022 (the IWC LEP) is 1.1:1 which equates to 140.25m<sup>2</sup> for this site. The development proposes a minor departure from this numerical standard and proposes a maximum floor area of 156.29m<sup>2</sup> or 1.22:1 which is more than 10% of the FSR for this site. The proposed additional area is located within the existing building envelope / existing enclosed sunroom. The additional area proposed, due to the enclosed location of the building envelope, will have no impact on adjoining rear neighbours and does not impact on the views, privacy or sunlight access to neighbouring properties. Further, the proposed additional area does not provide additional bulk, height or scale as it is located within the existing building envelope is not visible from the street; therefore it will not impacting on the streetscape. The floor area requirement is identified as a development standard which requires a variation under Clause 4.6 of the IWC LEP 2022 to enable the granting of consent to the development application.

The FSR has been calculated using the definition in the LEP for **gross floor area**; ie.

*“gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor”* but excludes;

- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (j) voids above a floor at the level of a storey or storey above .*

#### **Name of the environmental planning instrument that applies to the land.**

Inner West Council Local Environmental Plan 2022.

#### **What is the zoning of the land.**

R2 Low Density Residential.

#### **What are the objectives of the zone.**

Low density development consistent with the character and scale of the locality.

**What is the development standard being varied?**

The development standard being varied is the maximum FSR permitted under IWC LEP 2022, Clause 4.4 (2C). The proposed additional FSR requested is a minor variation and increase in floor area.

Clause 4.4 (2C) restricts the maximum floor space ratio within this area of the proposed development and refers to the maximum floor space ratio noted within the "Floor Space Ratio Map." The relevant floor space ratio for this locality is 1.1:1 and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act. The proposal equates to a floor space ratio of 1.38:1. The proposal is considered acceptable and there are sufficient environmental planning grounds to justify varying the development standard.

**What clause is the development standard listed in the environmental planning instrument?**

Clause 4.4 (2C) the IWC LEP 2022.

**What are the objectives of Clause 4.6?**

The objectives of Clause 4.6 are as follows:- (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development, and (b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The proposal seeks to permit flexibility in this instance, given the circumstances of the site being a small lot size. The proposed additional floor area is within the existing enclosed sunroom and building envelope which is not visible from the public domain. The resultant development does not result in any undue bulk/scale or amenity impacts.

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

FSR – 1.1:1

**What is the numeric value of the development standard in the development application?**

FSR – 1.38:1. Representing a minor increase of approximately 26%.

**What is the percentage variation of the proposal?**

The proposal represents approx. 26% increase to the FSR, the majority of which is limited to the existing sunroom.

**How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The variation to FSR is minor given that the floor space is limited to the enclosed sunroom and as such the development standard is unreasonable in this case.



**How will strict compliance hinder the attainment of the objectives specified in the Act?**

As the proposed variation is small it would not hinder the attainment of the objectives. Further the increase in the FSR is the additional area covered by the existing floor plate of the existing enclosed sunroom.

**Is the development standard a performance based control?**

The standard is a performance based control and can be varied by Council; it is not a statutory requirement.

**Would strict compliance with the standard be unreasonable or unnecessary in this case?**

Compliance is unreasonable given the variation is minor and the existing building envelope is maintained. Note; all other development standards have been met.

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

There are sufficient grounds to seek a variation; given the development is internal work to the enclosed sunroom and the variation sought is only 26%.

**CONCLUSION.**

The development proposes a departure from the maximum floor area development standard. The proposal produces an appropriate development outcome. The variation to the floor area is a direct result of the conversion of the enclosed sunroom into two (2) bedrooms within the existing building envelope. The DCP specifically indicates that variation to the FSR Development Standard can be sought where the allotment size is below the minimum required by the LEP, as is the case in this instance. This non-compliance will not result in any detrimental impact to the surrounding properties or the character of the locality. Further, the overall design has no architectural impact and the development satisfies the zone objectives and the objectives of the development standard. The proposal is not visible from the street and with addition to the existing bulk and scale that is compatible with the existing surrounding development. As there is no material impact on adjoining properties or the public domain arising from the variation to the floor area development standard and the objectives of the control are satisfied, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

Therefore, we request that council support the variation on the basis that there are sufficient environmental planning grounds to justify a variance to the development standard.

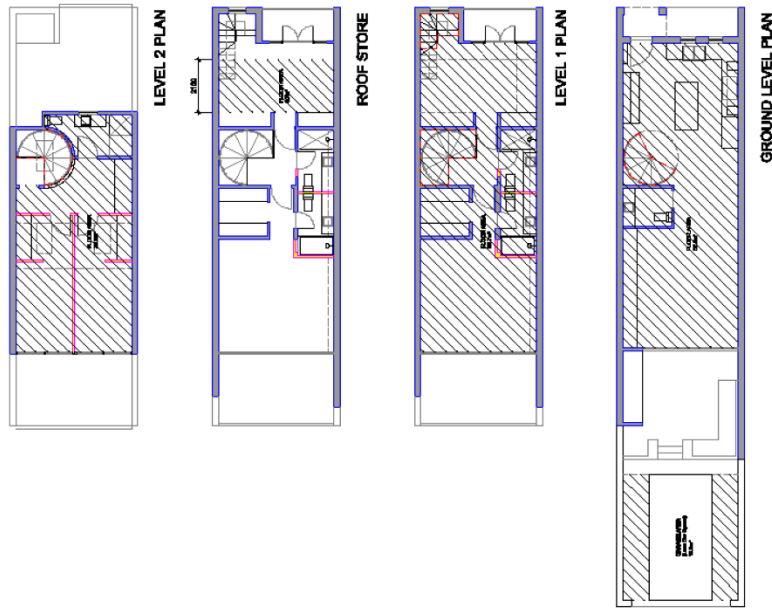
Prepared by:-

**Jon Bianchino**

Architect

05 October 2023

APPENDIX – Floor Plans.



Document Set ID: 38194331  
Version: 1, Version Date: 13/10/2023

## Attachment D – Statement of Heritage Significance

### ***8.2.11.1 Statement of heritage significance***

The Hopetoun-Roberts-Federation Streets Heritage Conservation Area was one of the last areas of Newtown to be subdivided for residential development. The area was developed from 1900 and through its street names it celebrates Australian nationalism during early Federation. Although developed at the beginning of the period of suburban boom the HCA demonstrates the continuity of use of urban densities and development patterns traditional to the Camperdown area.

The HCA occupies part of the Kingston Estate, one of the most important of the early estates in the Marrickville LGA. The HCA is of aesthetic significance for its 19th and early 20th century terraces and houses (detached and semi-detached) and their setting. The rows of attached terraces in particular are of a high quality for their type and the gabled forms demonstrate an unusual variation that contributes strongly to the rhythms of the streetscape. The predominantly single storey scale of the buildings in the HCA reinforces the modest role of the original cottages and terraces as housing for those of limited means.