





 DEVELOPMENT ASSESSMENT PANEL REPORT	
Application No.	DA/2024/0330
Address	136 Percival Road STANMORE
Proposal	Alterations and additions to a shop top housing development including alterations and additions to the existing unit above the ground floor commercial building at the front of the site; demolition of the garage fronting the rear laneway; construction of a garage with 3 storey residential unit above; associated services, access walkways and landscaping
Date of Lodgement	9 May 2024
Applicant	Mike Devitt
Owner	Mike Devitt & Marianne C Piotrowski
Number of Submissions	18, including 2 submissions in support
Cost of works	\$921,000.00
Reason for determination at Planning Panel	Number of submissions
Main Issues	<ul style="list-style-type: none"> • Variation to FSR development standard • Heritage conservation • Visual & acoustic privacy • Community safety • Matters raised in submissions
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Heritage Impact Statement
Attachment E	Draft conditions of consent in the event of approval by Panel
	
LOCALITY MAP	
Subject Site	   N
Notified Area	 
<i>Note: Due to scale of map, not all objectors could be shown.</i>	

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to a shop top housing development including alterations and additions to the existing residential unit above the ground floor commercial building at the front of the site; demolition of the garage fronting the rear laneway; construction of a garage with 3 storey residential unit above; associated services, access walkways and landscaping at 136 Percival Road Stanmore.

The application was notified to surrounding properties and eighteen (18) submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Variation to FSR development standard
- Heritage conservation
- Streetscape impacts
- Visual and acoustic privacy
- Community safety
- Matters raised in submissions

The applications include a number of non-compliances with the relevant objectives and controls that are not considered acceptable for the reasons discussed throughout this report, and therefore the application is recommended for refusal.

2. Proposal

The proposal seeks development consent for alterations and additions to a shop top housing development including alterations and additions to the commercial building and residence at the front of the site; demolition of the garage fronting the rear laneway; construction of a garage with 3 storey residential unit above; associated services, access walkways and landscaping.

Specifically, the following works are proposed:

- Construction of alterations and additions to the existing two storey building in the following manner:

Ground Floor

- Alterations to the building entrance to allow for accessible entry into the café;
- Construction of an accessible water closet; and
- Construction of additions to create a new storeroom that is associated with the approved café.

First Floor

- Construction of internal walls to create a bathroom;
 - Construction of additions to create an open-plan living area and associated POS area.
 - Demolition of the existing rear-facing window.
- Construction of a covered walkway at the first-floor to connect the existing building with the new works at the rear.

Development fronting Percival Lane

- Demolition of the rear lane garage and construction of a three (3) storey unit with the following configuration:
 - Single car garage with bicycle and motorcycle parking, bin storage areas, lift and entry to the proposed dwelling at the ground floor;
 - Two (2) bedrooms, bathroom, wardrobe, balcony and staircase at the first floor;
 - Open plan living area with a living/dining room, kitchen, water closet and terrace at the second floor; and
 - Rooftop terrace at the third floor.

3. Site Description

The subject site is located on the western side of Percival Road, between Douglas Street and Temple Street. The site consists of one (1) allotment and is generally rectangular shaped with a total area of 222.6sqm and is legally described as Lot 39, Section G in DP 2871.

The site has a frontage to Percival Road of 6.1 metres and a secondary frontage of approximate 6.08 metres to Percival Lane West. The site supports a two-storey shop-top housing development with ground floor commercial tenancy and first floor residence with a garage at the rear of the site.

The adjoining properties support various building heights along both Percival Road and Percival Lane West. With the exception of the adjoining property at 140 Percival Road, which contains a four-storey development, Percival Road is a generally uniform streetscape where buildings are two-storeys as visible from the public domain. Percival Lane West contains predominantly a combination of single and two storey structures with the exception of the development at 140 Percival Road.

The property is located within the Annandale Farm Heritage Conservation Area (HCA).



Figure 1: Aerial Map of Subject Site

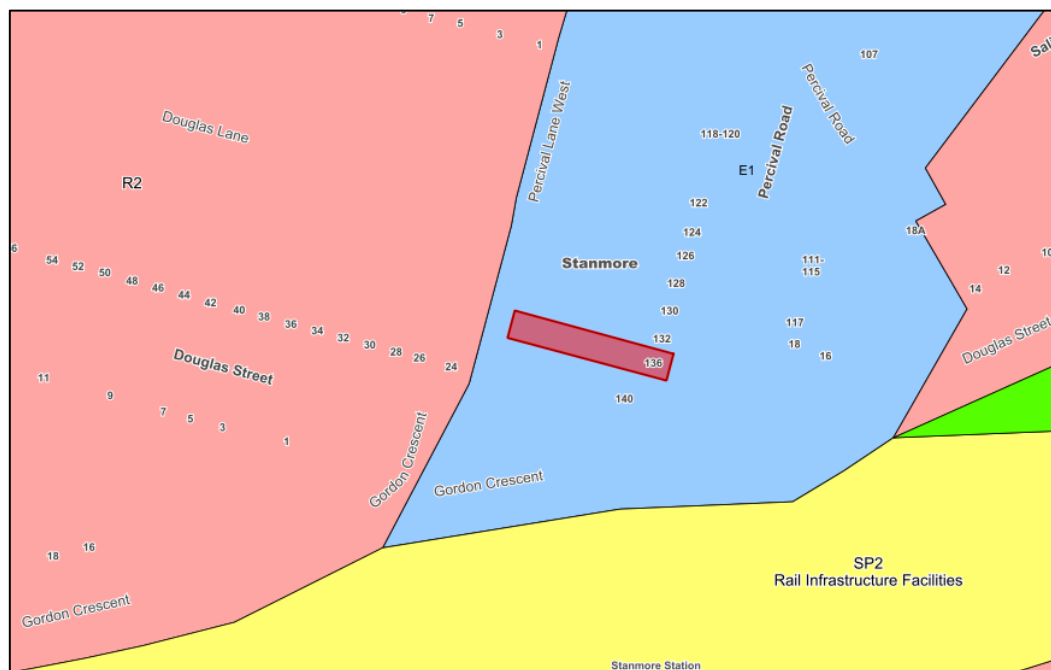


Figure 2: Zoning Map of Subject Site



Figure 3: Front Elevation of Subject Site, as Viewed from Percival Road and Douglas Street Intersection



Figure 4: Rear Elevation of Subject Site, as Viewed from Percival Lane West

4. Background

Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2023/0142	Partial demolition, alterations and additions to the existing mixed-use building and construction of a new residence over an existing garage	Advice issued 18 July 2023.
DA/2023/0125	Partial demolition, alterations, and additions to the existing 2 storey building to contain a commercial tenancy & 3 residential units and construction of a 4-storey building at the rear for a dwelling house and associated parking and services.	Withdrawn by applicant 23 June 2023.
DA201300062	To fit out and use the premises as a café.	Approved 5 April 2013.

Surrounding properties

Application	Proposal & Property	Decision & Date
DA201400022	To carry out alterations and additions to the premises including the construction of a dwelling over the garage at the rear of the property and a first-floor dwelling over the rear of the ground floor shop – 126 Percival Road, Stanmore.	Approved 29 April 2014
DA201500684	To demolish part of the premises and carry out alterations and additions to construct a garage to the rear of the site and 2 x 1-bedroom dwellings on the first-floor level – 128 Percival Road, Stanmore.	Approved 25 July 2016
DA/2024/0021	Alterations and additions to the existing mixed-use building, including internal and external changes to the existing commercial tenancy, first floor unit and conversion of the existing studio at the rear to a one-bedroom unit – 124 Percival Road, Stanmore.	Approved 17 September 2024

Application history

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

Date	Discussion / Letter / Additional Information
9 May 2024	Application was lodged with Council.
16 May 2024 – 6 June 2024	The application was notified to surrounding properties.
17 July 2024	<p>Council issued a request for further information letter raising the following matters:</p> <ul style="list-style-type: none"> a) Breaches of the Floor Space Ratio and Height of Building development standards under the IWLEP 2022; b) Amendments to the design which enhance the proposal's compatibility with the Annandale Farm Heritage Conservation Area; c) Reduction in the height of the building to maintain view sharing from the adjoining property at 140 Percival Road; d) Amendments to the first-floor balcony and rooftop terrace to address visual and acoustic privacy impacts to the adjoining properties; e) Amendments to the entrance to the rear unit from Percival Lane West to address community safety requirements; f) Amended plans which address the configuration of the private open space area servicing Unit B1-U2; g) Amended plans detailing how the mechanical ventilation system complies with AS1668 due to the proposed intensification of the cafe; h) An amended acoustic report in accordance with the Protection of the Environment Operations Act 1997, Liquor & Gaming NSW, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual; i) Submission of a Building Code of Australia (BCA) report to address fire separation and exit travel provisions.
12 August 2024	<p>The Applicant provided additional information / amended plans in response to Council's RFI (as outlined above). The changes are summarised as follows:</p> <ul style="list-style-type: none"> a) A Clause 4.6 variation seeking an exception to the Floor Space Ratio development standard; b) An amended acoustic report, including a separate cover letter addressing how Council's comments have been addressed; and c) Architectural plans that have been amended in the following manner:

	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> i. Conversion of the proposed ground floor seating area that is associated with the café to a storeroom. ii. Retention of the existing timber staircase, which results in the re-configuration of the proposed accessible bathroom. iii. Relocation of the entry gate within the rear unit towards Percival Lane West. <p><u>First Floor</u></p> <ul style="list-style-type: none"> iv. Deletion of the fire-rated wall between B1-U1 & B1-U2, which results in the proposal being decreased from two (2) shop top housing dwellings to one (1) within the existing building footprint. v. Deletion of the access between the first-floor landing/accessway and the POS area servicing B1-U1. vi. Deletion of the roof to cover the staircase to the rooftop terrace, with the staircase subsequently relocated to be accessed via the second-floor balcony/terrace. Subsequently, the maximum height of the ridgeline has been reduced from 37.64 RL to 36.59 RL. <p>Amended plans and additional information were received during the assesment of the application. Renotification was not required in accordance with <u>Community Engagement Framework</u>. The amended plans and additional information are the subject of this report.</p>
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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)*.

A. Environmental Planning Instruments

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

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards 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.

SEPP (Sustainable Buildings) 2022

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP & A Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid provided comments with regard to underground cables and overhead powerlines in the vicinity of the development and raise no objection to the proposal subject to the imposition of conditions.

Impact of rail noise or vibration on non-rail development

The applicant has demonstrated that appropriate measures will be implemented to ensure that the residential accommodation within the development complies with the requirements of Section 2.100(3) of the *Transport and Infrastructure SEPP*.

Impact of road noise or vibration on non-road development

The impacts of traffic noise or vehicle emissions have been considered and suitable measures to ameliorate potential traffic noise or vehicle emissions have been included within the

development. The development complies with the requirements of Section 2.120 of the *Transport and Infrastructure SEPP*.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal is inconsistent with the aims of the plan, as the proposal does not:</p> <ul style="list-style-type: none"> • Conserve and maintain the natural, built and cultural heritage of Inner West, • Encourage diversity in housing to meet the needs of, and enhance amenity for, Inner West residents, • Create a high-quality urban place through the application of design excellence in all elements of the built environment and public domain, • Prevent adverse social, economic and environmental impacts on the local character of Inner West, and • Prevent adverse social, economic and environmental impacts, including cumulative impacts. 	No

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> • The subject site is zoned E1 – Local Centre under the IWLEP 2022. The application proposes alterations and additions to an existing shop top housing development, which is permissible subject to development consent. • The proposal is inconsistent with the relevant objectives of the zone, as the proposal does not enhance the unique sense of place offered by Inner West local centres, given that the building does not display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality. 	No
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and 	Yes –

Section	Proposed	Compliance
	<ul style="list-style-type: none"> Standard conditions could be imposed to manage impacts which may arise during demolition, however the proposal is not supported on other grounds. 	

Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	11m	Yes
	Proposed	10.13m	
	Variation	N/A	
Section 4.4 Floor space ratio	Maximum	1.2:1 or 267.12sqm	No – See discussion under Section 4.6 below
	Proposed	1.3:1 or 290.4sqm	
	Variation	23.28sqm or 8.42%	
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 section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4 – Floor Space Ratio.		See discussion below

Section 4.6 – Exceptions to Development Standards

Section 4.4 – Floor Space Ratio

The applicant seeks a variation to the above-mentioned development standard under Section 4.6 of the *IWLEP 2022* by 22.56sqm or 8.42%. 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 FSR development standard. The applicant's written rationale has not adequately demonstrated that compliance with the development standard is unreasonable/unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard. The written rationale is written in its entirety as provided below::

- *Given that the proposal does not contravene any other development standards, it can be seen that the non-compliance does not contravene any of the objectives of Section 4.4 of the IWLEP 2022.*
- *If the total garage is considered enclosed the non-compliance has been acknowledged by Council, in their RFI, to be largely due bicycle parking not being exempt from FSR calculation. Parking on the site is limited due to the existing dimensions and arrangement of the site. It is highly likely that the additional area in the garage will be primarily used for parking bicycles and/or motor bikes. This being the case, adherence to the development control is unreasonable.*
- *No additional environmental impacts, such as overshadowing, privacy or view obstruction, or intensification of the site use results from the non-compliance with the FSR. The area in question is on the ground floor and will be used for storage for the main dwelling and is not a living area that would allow additional people to live or commercial activity to take place. Therefore, strict adherence with the development control is unnecessary.*
- *It can be seen that the adjoining site has a far higher development density, among other non-compliances, than the subject site. Objective (c) states that there should be an appropriate transition between developments of different densities so a minor exceedance of FSR should be viewed as acceptable and strict compliance unnecessary.*

The submission is not sufficient and has not adequately addressed the provisions of Section 4.6 of IWLEP 2022. The applicant's written rationale does not adequately demonstrate compliance with the development standard is unreasonable/unnecessary in the circumstances of the case, nor are there sufficient environmental planning grounds to justify contravening the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4** is *"to establish a maximum floor space ratio to enable appropriate development density"*. The written request does not address this objective.

The **second objective of Section 4.4** is *"to ensure development density reflects its locality"*. The written request does not address this objective.

The **third objective of Section 4.4** is *"to provide an appropriate transition between development of different densities"*. written request has not adequately addressed this objective, given the submission has not demonstrated in sufficient details as to how the overall bulk and scale is of an acceptable transition between various site densities that surround the subject site.

The **fourth objective of Section 4.4** is *“to minimise adverse impacts on local amenity”*. The written request has not adequately addressed this objective, given the submission has not demonstrated in sufficient detail as to how any adverse amenity impacts have been minimised despite the departure from the development standard.

The **fifth objective of Section 4.4** is *“to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”*. The written request has not addressed this objective.

Whether the proposed development meets the objectives of the development standard, and of the zone

It is considered that the development is not in the public interest, as the proposal is generally inconsistent with the objectives of the *E1 – Local Centre* zone in accordance with Section 4.6(4)(a)(ii) of the IWLEP 2022 for the following reasons:

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.*

Comment: The proposed residential development does not contribute to a vibrant and active local centre, given the bulk, scale and materiality of the development is not compatible with the surrounding heritage conservation area and broader locality. As a result, the development is not consistent with the Council’s strategic planning for residential development in the area.

- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

Comment: For the reasons discussed directly above and further throughout this report, the bulk, scale and materiality of the development does not display architectural and urban design quality, which therefore does not contribute to the desired future character of the Stanmore North Precinct, or the cultural heritage of the Annandale Farm Heritage Conservation Area.

When considering the above, the development is not in the public interest because it is inconsistent with the relevant objectives of the zone and the objectives of the development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposal results in a density which is contrary to the character of the locality and Heritage Conservation Area.
- The proposed garage and structure above that adjoins the rear laneway is of a form, height, size, scale, design and appearance that will be incompatible with the prevailing pattern of development on the eastern side of Percival Lane West (zoned E1, located within a Heritage Conservation Area and at a residential interface).
- The proposed density and siting of development will result in a poor amenity outcome for future occupants of the proposed dwelling, with particular concern with respect to visual privacy impacts due to the direct sightlines between the rooftop terrace and the

adjoining properties, particularly the adjoining communal open space area at 140 Percival Road.

- The proposal does not minimise adverse impacts on local amenity, given the visual and acoustic privacy impacts that are presented to several adjoining properties along Percival Road and Douglas Street.

Therefore, for the reasons outlined above, the proposal fails to comply with the objectives of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the LEP, with particular respect to heritage, amenity and canopy cover. There are insufficient planning grounds to justify the departure from the FSR development standard and it is recommended the section 4.6 exception be rejected.

Accordingly, the proposal is not considered to have satisfied this section of the *IWLEP 2022* and is recommended for refusal.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	The subject site is a contributory building within the Annandale Farm Heritage Conservation Area (C87 under Schedule 5 of <i>IWLEP 2022</i>). See discussion below.	No – See discussion below

Section 5.10 – Heritage Conservation

The key and relevant objectives of Section 5.10 of *IWLEP 2022* are to conserve the environmental heritage of the Inner West, including the heritage significance of conservation areas and their associated fabric, settings, and views.

An assessment of the revised proposal against Section 5.10 of *IWLEP 2022* has been carried out and it is considered that the design of the amended proposal does not satisfactorily conserve the heritage significance of the existing dwelling on the site, and significance of the HCA.

In this regard, it is considered that the following concerns have been identified:

- The inclusion of a roof terrace is not supported as this contributes to an uncharacteristic roof form that will be highly visible from the public domain. In relation to this matter, the proposal attempts to incorporate a mansard style roof form to conceal the roof terrace and ultimately reduce the bulk and scale of the development. However, the roof form only pitches at the front and rear elevation without intersecting at a ridgeline, the roof terrace and second storey are not concealed and therefore has not minimised the bulk and scale of the development.
- The overall height of the development is excessive in its bulk and scale, due to the bulk and scale of the development in comparison to adjoining structures along the

northern side of Percival Lane West, the visibility of the development and ultimately its impact upon the laneway character of Percival Lane West.

- The demolition of the internal timber staircase within the existing shop is not supported, given that the Statement of Heritage Impact notes that this will have a direct physical impact on the buildings' integrity is not acceptable.

Given the above, the proposal in its amended form is considered contrary to Section 5.10(1)(a) and (b) of *IWLEP 2022*.

In addition to the above, the proposal does not satisfy key heritage provisions under Part 8 of MDCP 2011, in particular:

- Part 8.3.2.4 – Building heights: The proposed additions to the contributory building are higher than the existing roof form, height of the original building and ultimately overwhelm the existing built form when viewed from the laneway.
- Part 8.3.2.5 – Building form: The proposed additions to the contributory building are highly visible from the public domain and would be inconsistent with the overall form and massing of the building when viewed from the laneway. The scale is uncharacteristic of the prevailing character in the laneway and would adversely impact the conservation area.

Overall, the proposed development fails to satisfy the relevant matters for consideration of this part of the *IWLEP 2022*, along with the relevant objectives and controls under Part 8 of MDCP 2011. Accordingly, the proposal is recommended for refusal.

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.2 Earthworks	Any proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	Yes –subject to condition
Section 6.8 Development in areas subject to aircraft noise	The site is located within the ANEF 25-30 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this section.	Yes –subject to condition
Section 6.13 Residential accommodation in Zones E1, E2 and MU1	The proposal meets the requirements of this Section where: <ul style="list-style-type: none"> • It is a mixed-use development, by way of a commercial premises at ground floor and residential premises at first-floor; 	Yes

Section	Proposed	Compliance
	<ul style="list-style-type: none"> The front room of the ground floor of the commercial tenancy remains unaltered by the proposal, thus ensuring that the shopfront continues to maintain an active street frontage to Percival Road; and Is compatible with the prevailing character of the area in relation to its bulk, form, uses and scale. 	

B. Development Control Plans

Summary

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

MDCP 2011	Compliance
Part 2.1 – Urban Design	No – see discussion
Part 2.5 – Equity of Access and Mobility	No – see discussion
Part 2.6 – Acoustic and Visual Privacy	No – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	No – see discussion
Part 2.10 – Parking	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 5 – Commercial and Mixed-Use Development	No – see discussion
Part 8 – Heritage	No – see discussion
Part 9 – Strategic Context	No – see discussion

The following provides discussion of the relevant issues:

Marrickville Development Control Plan 2011

The application was assessed against the following relevant parts of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.1 Urban Design	The proposal is considered to unreasonably impact upon the definition between the public and private domain and is not appropriate for the character of the locality given its form, excessive massing, siting and unsuitable detailing. Further, the	No

Control	Assessment	Compliance
	<p>design of the development fails to preserve the existing character of the laneway, as the proposed development would be inconsistent with the established pattern of development in the locality.</p> <p>The visual appearance of the structure fronting Percival Lane West is considered unsympathetic to development in the Lane. The style of the structure is incongruous, the proportions combined with finishes result in the building appearing as uncharacteristically tall, combined with mismatched fenestration and roof form are considered to result in a poor urban form and appear as 3 distinct storeys which bear little relationship to one another.</p> <p>Therefore, the proposal is therefore inconsistent with Part 2.1 of MDCP 2011. Given the circumstances, the application is recommended for refusal.</p>	
Part 2.5 Equity of Access and Mobility	<p>The proposal satisfies the relevant provisions under this Part as follows:</p> <ul style="list-style-type: none"> • Appropriate access is provided for all persons through the principal entrance to the commercial premises; • A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provided which allows a person with a disability to gain access to all areas within the shop; and • Suitable accessible sanitary facilities are provided 	Yes
Part 2.6 Acoustic and Visual Privacy	<p>The proposal is considered unsatisfactory with respect to the relevant provisions of Part 2.6 as follows:</p> <p><i>Visual Privacy</i></p> <ul style="list-style-type: none"> • The proposed principal living areas and areas of Private Open Space (POS) for the rear unit have not been designed and located to offer a reasonable level of privacy and amenity to occupants and adjoining properties. • The proposed rooftop terrace of the rear unit is of a design that enables direct overlooking opportunities into the adjoining communal space area of the mixed-use development at 140 Percival Road (No. 140) and the rear POS area of the adjoining residential properties, particularly 24 and 26 Douglas Street. No privacy measures in accordance with control C3 v. under this part of the MDCP have been demonstrated, such as fixed planter boxes (as privacy screens along the southern side boundary would not be supported in this instance due to the retention of view sharing from no. 140) • The current design and configuration of the rooftop terrace will allow direct and adverse view lines into numerous adjoining properties, which is inconsistent with 	No

Control	Assessment	Compliance
	<p>control C3 i, ii and v and objectives O1 and O2 under this part.</p> <ul style="list-style-type: none"> The proposed balcony/terrace on the second floor of the rear unit is designed to be of a configuration that enables direct overlooking opportunities into the rear POS area of the adjoining property at 132 Percival Road. Whilst a splayed wall has been provided along the north-eastern elevation of the balcony/terrace adjoining no. 132, this is not considered to prevent direct view lines into this adjoining property. As such, this aspect of the proposal is inconsistent with control C3 i, ii and v & objectives O1 & O2 under this part. The elevated proposed POS area servicing B1-U1 is considered to be satisfactory, as privacy screening to a height of 1.6m above the finished floor level is proposed that prevents adverse sightlines into the adjoining properties at no. 132 & no. 140. <p><i>Acoustic Privacy</i></p> <ul style="list-style-type: none"> Control C3 ii of Part 2.6 of MDCP 2011 prescribes that elevated external decks must generally be less than 10m² in area and have a depth not greater than 1.5 metres so as to minimise privacy and noise impacts to surrounding dwellings. The proposed rooftop terrace is 5.9m x 5.8m, with a total area of 34.2sqm. The terrace is unsatisfactory as: <ul style="list-style-type: none"> Is proposed on a new addition that is significantly beyond the maximum dimensions and area permitted for elevated external decks; Results in adverse visual and acoustic privacy impacts, given the location enables direct sightlines into the adjoining properties and is of a size and configuration that enables a large number of occupants to use this space for extended periods; and Adjoins residential properties to the site's west. The development was accompanied with an acoustic assessment, which has demonstrated that subject to conditions of consent, the proposal is capable of compliance with the relevant acoustic noise criteria for the shop component since no intensification of the existing commercial use is proposed. <p>Given the above, the proposed rooftop terrace is not consistent with Part 2.6 of MDCP 2011. Consequently, the application is recommended for refusal.</p>	
Part 2.7 Solar Access and Overshadowing	<p>The proposal will have a satisfactory impact in terms of solar access and overshadowing on the surrounds as follows:</p> <p><i>Overshadowing</i></p>	Yes

Control	Assessment	Compliance
	<ul style="list-style-type: none"> A minimum of 2 hours direct solar access to windows of principal living areas and principal areas of open space of nearby residential properties between 9:00am and 3:00pm on 21 June is retained. The development will not result in adverse amenity impacts as a result of overshadowing. <p><i>Solar Access</i></p> <ul style="list-style-type: none"> At least one habitable room of the dwelling has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June. Both private open space areas that are provided receive a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June. 	
Part 2.9 Community Safety	<p>The proposal is considered unsatisfactory with respect to the relevant provisions of Part 2.9 as follows:</p> <ul style="list-style-type: none"> The principal entrance of the residential component is via a recessed entrance from Percival Lane West (it should be noted that the recessed entry of No.128 was not approved and was meant to be flush). The recessed arrangement of the entrance poses safety and security concerns and does not permit a legible entrance along the laneway; and No details were provided accompanying the application with regard to measures to address the safety and security issues associated with the recessed entrance. <p>Given the above, the proposal is not consistent with Part 2.9 of MDCP 2011. Consequently, the application is recommended for refusal.</p>	No
Part 2.10 Parking	<p>The site is located in Parking Area 1. Control C1 of this part, requires car parking to be provided at a rate of 0.2 spaces per studio or 1br unit + 0.5 per 2 or 3+br unit for residents. The proposed development requires two (2) off-street, car parking spaces.</p> <p>The ground floor retail premises is required to provide 1 car parking space per 100sqm of gross floor area for customers and staff. The proposed development therefore requires a total of three (3) car parking spaces.</p> <p>There is no requirement in this part for bicycle parking for the shop top housing component of the development, however the café is required to provide 1 per 100m2 GFA for staff + 2 for customers.</p>	Acceptable on merit – Would be subject to condition, however refusal is recommended.

Control	Assessment	Compliance
	<p>One (1) car parking space is proposed, in addition to an unspecified number of motorcycle and bicycle parking spaces which are unmarked on the plan, thus presenting a shortfall of one (1) car parking space and an unknown compliance with bicycle parking.</p> <p>The non-compliance with car parking is considered to be generally acceptable. The application has submitted a Parking Impact Assessment, which has confirmed that the proposed development does not increase the existing off-street car parking demand, that the site is located in close proximity to public transport, and that the provision of a new, additional car parking space is ultimately impractical given the existing site constraints.</p> <p>The provision of bicycle parking on site appears acceptable, however in order to clarify given a specific number has not been shown on the plans, a condition is recommended requiring 4 bicycle spaces be provided, being the 1 for staff and 2 for customers, plus an additional space on merit given the non-compliance with on-site parking as well as the provision of 1 motorcycle space. These spaces should be accessible for all users of the site.</p> <p>Should development consent be granted, standard conditions are recommended to ensure compliance with the design requirements contained within this part.</p>	
Part 2.18 Landscaping and Open Spaces	<p>Control C26 under this Part requires that each dwelling in a mixed-use development (including shop top housing) to have a private open space in the form of a deck or balcony accessible from the principal living area of the dwelling with a minimum area of 8sqm and a minimum width of 2 metres.</p> <p>The proposed development satisfies the relevant provisions of this Part, as the proposal includes a balcony at the first-floor of the existing shop top dwelling that measures 8sqm in area with a minimum width of 2 metres, along with a second-floor balcony that measures 8sqm in area with a minimum width of 2 metres to service the rear unit.</p>	Yes
Part 2.21 Site Facilities and Waste Management	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The application was accompanied by a waste management plan in accordance with the Part; • Separate and sufficient bin storage for both the residential and commercial bins have been demonstrated on the architectural plans; and • standard conditions are capable of ensuring the appropriate management of waste during the construction of the proposal. 	Yes –subject to condition

Control	Assessment	Compliance
Part 2.25 Stormwater Management	Standard conditions could ensure the proposal may adequately address the appropriate management of stormwater.	Yes – Would be subject to condition, however refusal is recommended.

Part 5 – Commercial and Mixed-Use Development

Control	Assessment	Compliance
Part 5.1.1 General Objectives	<p>For the reasons discussed earlier and throughout this report, the development is considered unsatisfactory with regards to the following objectives under this Part:</p> <ul style="list-style-type: none"> • O4: To require development that responds to its context and is compatible with the existing built environment and public domain; • O8: To improve the environmental and aesthetic amenity of commercial centres; and • O10: To promote an accessible and safe environment. 	No
Part 5.1.2 Contributory Buildings in Commercial Centres	<p>The proposal is considered unsatisfactory with respect to the relevant provisions of Part 5.1.2 as follows:</p> <ul style="list-style-type: none"> • The proposed alterations and additions detract from the overall architectural character and building form of the contributory building as it alters the character of the building as viewed from the public domain. • With regard to the above, the proposal is not cohesive in its presentation to the public domain. This is primarily attributed to the varying floor-to-ceiling (FCL) and wall heights at each storey, and the differentiation in external finishes at each floor. The ground floor/garage level proposes a combination of painted door, prefinished garage doors and rendered bricks for a total height of 2.4m, before proposing an external finish of face brick for the first and second floors for a total height of 4.4m. Given the significant increase in height and differentiation in external finishes, the proposal appears top-heavy and bulky to Percival Lane West, which exacerbates the bulk and scale concerns that have been previously discussed. • For the reasons previously discussed above and throughout this report, the development does not respond to its context in terms of height, scale and the detailing along Percival Lane West and does not provide an appropriate transition between both neighbouring properties and the surrounding context. 	No

Control	Assessment	Compliance
Part 5.1.4 Building Form	<p>Aside from the provision of an accessible ramp at the building entrance, no changes are proposed to the street front portion of the commercial building. The development also provides for a separate entry for the residential components of the building via the rear lane in accordance with control C49.</p> <p>The massing of the development is within the building envelope controls specified under C13, that being a 45-degree sloping plane from a point 7.5 metres vertically above the lane ground level, measured at the rear boundary.</p> <p>However, proposal is considered unsatisfactory with respect to the relevant provisions of Part 5.1.4 as follows:</p> <ul style="list-style-type: none"> • The proposed FSR does not satisfy objectives O19-O20 under Part 5.1.4.1, as the proposal does not ensure the density of development is compatible with the future desired character of the Stanmore North Precinct, and the density of the development is not appropriate to the contextual constraints of the site. • The proposed height does not satisfy objectives O21-O22 under Part 5.1.4.2, as the proposal does not ensure that the height of the development is compatible with the future desired character of the Stanmore North Precinct, and the height of the development is not appropriate to the contextual constraints of the site. • The proposed massing does not satisfy objective O27 under Part 5.1.4.3, as the proposal does not ensure the rear massing of developments does not cause significant visual bulk or amenity impacts on neighbouring properties to the rear. • The proposed building separation does not satisfy objectives O31 & O32 under Part 5.1.4.5, as the proposal does not ensure that new development is scaled to support the future desired character with appropriate massing and spaces between buildings and provides inadequate building separation which results in adverse visual and acoustic privacy for building occupants. <p>Given the above, the proposed building form does not maintain the character of Percival Road, Percival Lane West and the broader townscape character, and ultimately is not consistent with Part 5.1.4 of MDCP 2011. Consequently, the application is recommended for refusal.</p>	No
Part 5.1.5 Building Detail	The proposed development satisfies the relevant provisions of this Part as follows:	Yes

Control	Assessment	Compliance
	<ul style="list-style-type: none"> No works are proposed to the shopfront, thus the front portion of the building is retained; No works are proposed which result in the long-term exposure of side-facing walls or the installation of air-conditioning units; and The proposal maintains the existing floor-to-ceiling heights that ensure adequate residential amenity is provided whilst allowing for a variety of commercial uses. 	
Part 5.1.7 Vehicle Access, Parking and Loading Services	Refer to assessment under Part 2.10 of MDCP 2011 above. In summary, the proposal is considered satisfactory against the provisions of Part 5.1.7 of MDCP 2011.	Yes

Part 8 – Heritage

Control	Assessment	Compliance
Part 8.3.2.3 Building setbacks	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The development maintains existing building front and side setbacks. Driveway access is provided from the rear lane. 	Yes
Part 8.3.2.4 Building heights	The proposed additions to the contributory building are higher than the existing roof form, height of the original building and ultimately overwhelm the existing built form when viewed from the laneway. The scale does not provide an appropriate transition between the neighbouring buildings.	No
Part 8.3.2.5 Building form	The proposed additions to the contributory building are visible from the public domain and is inconsistent with the overall form and massing of the building when viewed from the laneway.	No
Part 8.3.2.6 Roof form	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The development maintains the original roof form to the front elevation and for the length of the main roof to the side elevations. The development maintains existing chimneys. The materials to the original roof and suitable to the building and conservation area. 	Yes
Part 8.3.2.7 Building facades	The façade of the contributory building is unchanged by the development and is retained.	Yes
Part 8.3.2.9 Windows and doors	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The development maintains original front doors and windows in their original position. 	Yes

	<ul style="list-style-type: none"> The new windows to the rear of the property have limited visibility and are of proportions appropriate the conservation area and dwelling. 	
Part 8.3.2.10 Façade materials	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The original materials to the front portion of the contributory building are maintained. The new additions to the rear of the existing building exhibit materials that are compatible with the conservation area. 	Yes
Part 8.3.2.13 Car parking	The development provides driveway access from the rear lane and does not result in any car parking structure to the street frontage.	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.3 Stanmore North (Precinct 3)	The proposal is considered unsatisfactory with respect to the relevant provisions of Part 9.3, as the proposal does not protect the identified values of the Annandale Farm Heritage Conservation Area.	No

C. Environmental Planning Regulations

The application has been assessed and the following provides a summary of the relevant sections of the *Environmental Planning and Assessment Regulation 2021* (EPA Regulation 2021).

Part 4 Determination of Development Applications

Section 64 of the *EP & A Regulation 2021* applies to a development application *that involves the rebuilding or alteration of an existing building if.*

- (a) *the proposed building work and previous building work together represent more than half of the total volume of the building, or*
- (b) *the measures contained in the building are inadequate—*
 - (i) *to protect persons using the building, if there is a fire, or*
 - (ii) *to facilitate the safe egress of persons using the building from the building, if there is a fire, or*
 - (iii) *to restrict the spread of fire from the building to other buildings nearby.*

The consent authority must *consider whether it is appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

It is acknowledged on the roof plan that the stairwell access to the roof terrace is of an open style, which was amended in response to concerns regarding view loss and bulk impacts

however the proposed arrangement would be unlikely conform with the NCC as this would not only result in the ingress of water to the lower levels, but also requires fire protection to this opening.

In considering the above, the applicant has not provided a report demonstrating the building has adequate measures for appropriate fire protection. As a result, the proposal has not satisfied Section 64 of the *EP and A Regulation 2021* and forms part of the recommendation of refusal.

D. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse environmental, social or economic impacts upon the locality by virtue of its streetscape, privacy and adverse impacts on the conservation area.

View Loss

Submissions were received from the adjoining mixed-use development containing 11 apartments at 140 Percival Road (no. 140) regarding concerns of view loss of the Sydney skyline, including the Centrepont Tower, when viewed from the rooftop communal open space (COS) area and the private open space (POS) area for unit 11.

Council has considered the relevant steps in the assessment of reasonable view sharing. The images below indicate the existing views available from the rooftop COS area and the POS area for unit 11 at no. 140 (refer to Figures 3 and 4 below). The ridgeline of the additions labelled as building 2 are proposed adjacent to the balustrade of the COS area, and will be located behind the POS area for unit 11. The images below were undertaken as part of a site inspection by Council.



Figure 5: Aerial Photograph of No. 140 Percival Road



Figure 6: Aerial Photograph of the COS area at no. 140 Percival Road (outlined in dark green), the POS area of Unit 11 at no. 140 (outlined in red) and the location of the proposed roof terrace under this application (outlined in lime green). Views obtained in the direction of the blue arrows

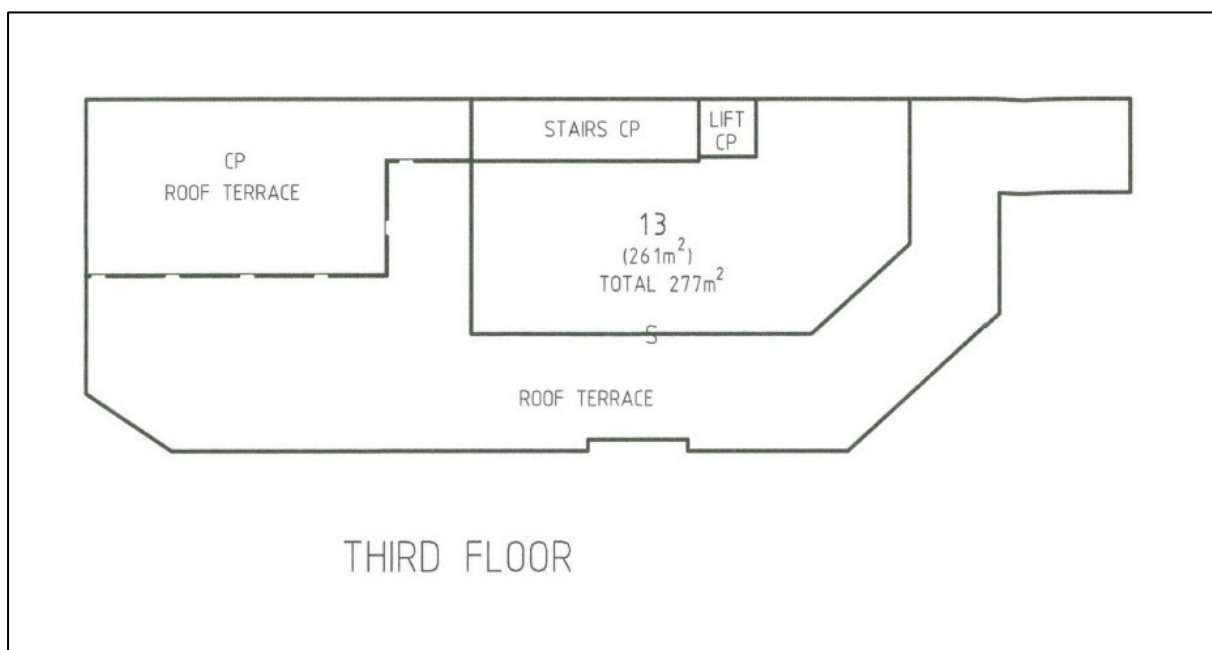


Figure 7: Strata Plan demonstrating the configuration of the rooftop terraces at No. 140 Percival Road, as approved under DA200200184.03



Figure 8: Existing view in standing position from the Rooftop Communal Open Space Area at No. 140 Percival Road, facing in a north-eastern orientation



Figure 9: Existing view from a standing position the Private Open Space Area at Unit 11, No. 140 Percival Road, facing in a north-eastern orientation

Council considers the *Tenacity* Planning Principal steps in its assessment of reasonable view sharing:

- a. *“What views will be affected? In this Plan, a reference to views is a reference to water views and views of significant landmarks (e.g. Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower). Such views are more highly valued than district views or views without significant landmarks.*
- b. *How are the views obtained and assessed? Views from private dwellings considered in development assessment are those available horizontally to an observer standing 1m from a window or balcony edge (less if the balcony is 1m or less in depth).*
- c. *Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.*
- d. *Is the proposal reasonable? A proposal that complies with all development standards (e.g. building height, floor space ratio) and planning controls (e.g. building setbacks, roof pitch etc) is more reasonable than one that breaches them.”*

The Land and Environment Court accepts that the values of views are subjective and has published planning principles to help establish a more structured approach in assessing the impact of development in terms of view loss.

The first step requires the assessment of views which the proposal will affect and establishes a value system for assessing different kinds of views. It suggests that:

- Water views are valued more highly than land views;
- Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons.
- Whole views are valued more highly than partial views (e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured).

As shown in Figures 8 and 9 above, the existing views from the rooftop COS area include views of the sky, as well as distant whole views of the Sydney skyline which includes the Centrepont Tower. The views from the POS area for unit 11 at No. 140, which is in the form of a front balcony that adjoins Percival Road, include views of the sky, as well as distant whole views of the Sydney skyline which includes the Centrepont Tower, Crown Casino and the Sydney Harbour Bridge.

The views of the Sydney skyline and the Sydney Harbour Bridge are iconic views according to the *Tenacity* planning principle; however, the view of the Sydney Harbour Bridge is only a

partial view and is not considered to be a significant view corridor. In saying this, the views obtained of the Sydney skyline is a whole view and is considered to be a significant view corridor.

The views of the Sydney skyline and the Sydney Harbour Bridge in question originally would have been affected (as demonstrated in Figures 8 above) for the COS, due to the height of the ridgeline and balustrades for the rear unit. The height of the development has since been reduced following on from Council's Request for Additional Information, which requested for the height of the development to be lowered to maintain view sharing from this property. Following on from the plans being amended by the applicant, the view of the Sydney skyline and the Sydney Harbour Bridge would not be completely lost as a result of the proposed development, as demonstrated in Figure 10 below with a small portion of the roof still above the balustrade height adjoining the communal open space.

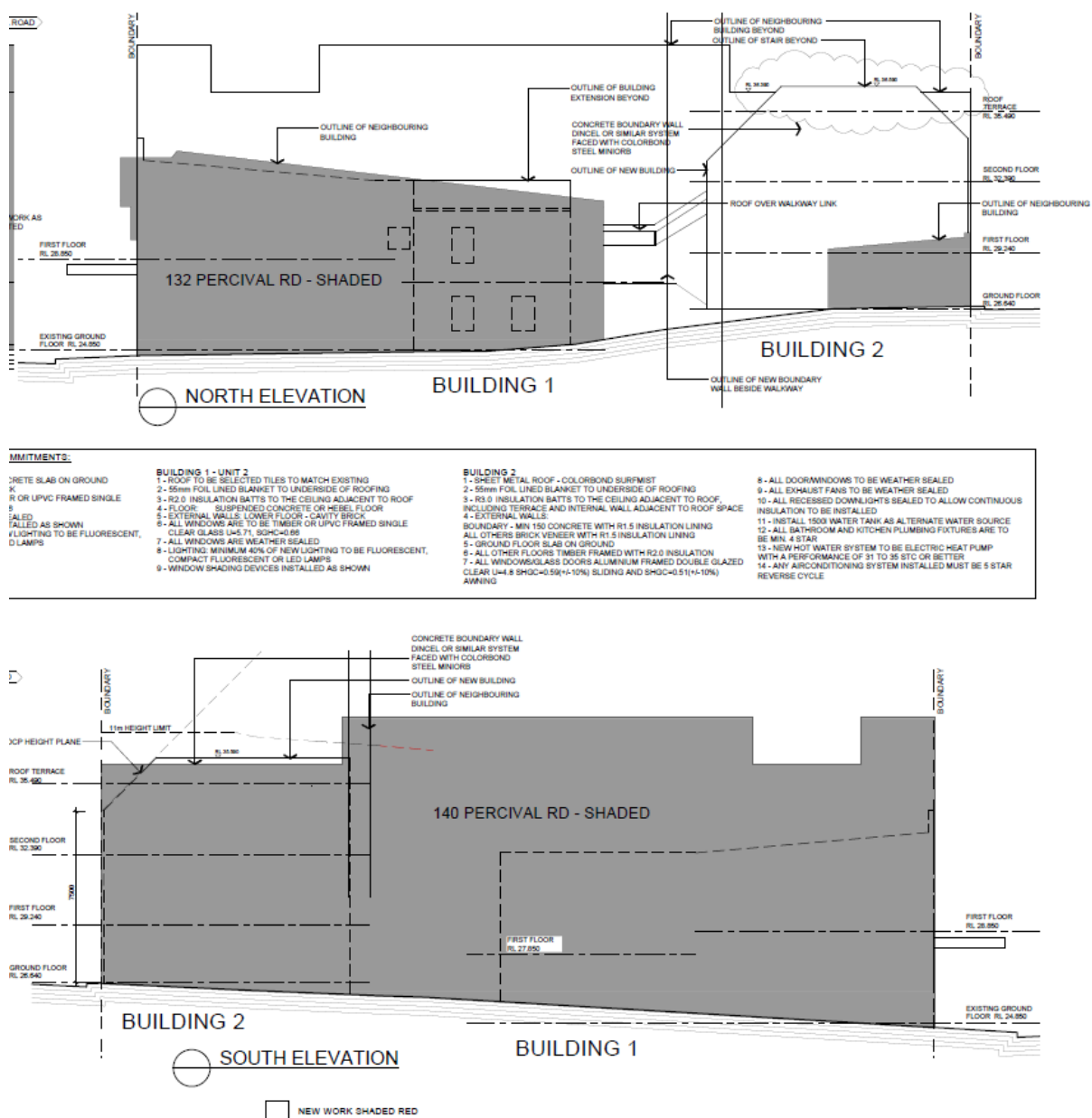


Figure 10: Amended elevation plans indicating the location of the existing building (coloured in grey, building 1) and the proposed three-storey addition (outlined in white, labelled as building 2) facing in a southerly orientation towards no. 140

The second step is to consider how reasonable it is to expect to retain the views by **considering from what part of the property the views are obtained** and how. It acknowledges the following:

- Protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries.
- Views enjoyed from a standing or sitting position is also relevant as many people who have a view from sitting position consider that they have lost the view if they have to stand up to see it. *Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views of the Sydney skyline from the COS area at no. 140 are enjoyed from the rear elevation looking north-east across the side boundaries of multiple properties, including that of the subject site. The views are obtained from a standing position and when looking in a north-easterly direction from the rear of the property (as shown in Figure 11 below).

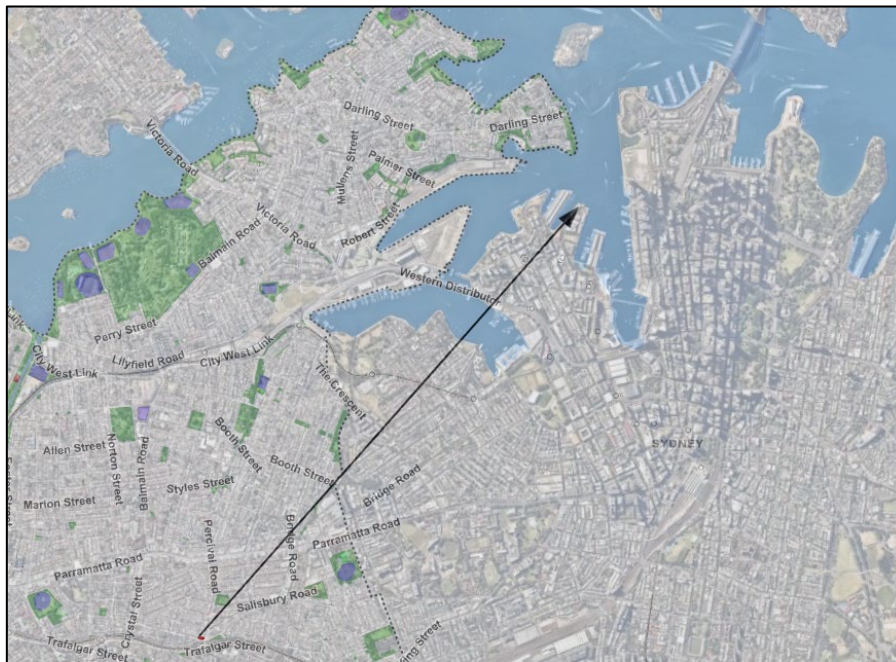


Figure 11: View Loss Assessment indicating the direction and location in which the views are obtained from the communal open space area at No. 140

The views of the Sydney skyline from the POS area of unit 11 at no. 140 are enjoyed from the front elevation looking north-east, generally looking across Salisbury Road towards the city skyline. The views are obtained from a standing position from the portion of the POS which directly adjoins the principal living area, looking in a north-easterly direction from the front of the property (as shown in Figure 12 below).

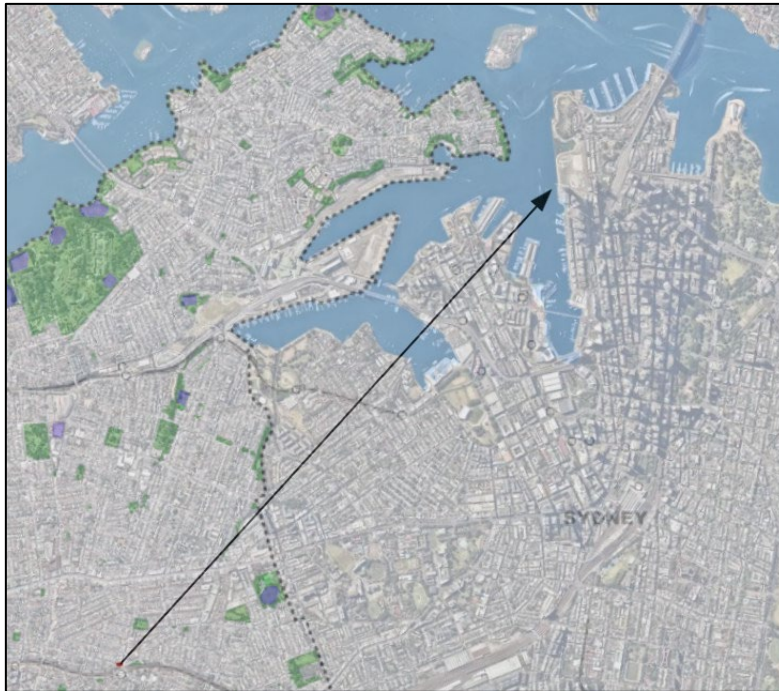


Figure 11: View Loss Assessment indicating the direction and location in which the views are obtained from the private open space area of unit 11 at No. 140

Given the views from the COS area are obtained across multiple properties, any view corridors, even if considered highly valued, would be difficult to protect. As the views from the POS area of unit 11 at no. 140 are from the front of the site, it would be considered more reasonable for such views to be protected if they were obstructed.

The third step is to assess the extent of the impact and should consider that the impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). Whilst the impact may be assessed quantitatively it is more useful to assess the view loss qualitatively as:

- Negligible
- Minor
- Moderate
- Severe
- Devastating

As outlined above, the views in question are from the COS area and the POS area of unit 11 at no. 140. The views of the Sydney skyline are iconic; however, the views of the Sydney Harbour Bridge are only partial views of an iconic landmark that are viewed across multiple side adjoining properties. As demonstrated in Figures 10 and 11 above, the views of both the Sydney skyline and the Sydney Harbour Bridge will be maintained and unaffected from the POS area of unit 11 at no. 140, whilst the views from the COS at the rear of the building will be largely retained as a result of the revised development. Therefore, the proposal will have minor view loss impacts to the COS and no impact to the POS of Unit 11.

The fourth and final step is to assess the reasonableness of the proposal that is causing the impact and the following factors should be considered:

- A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.
- *With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

As discussed throughout this report, the amended plans received as part of the Request for Further Information letter reduced the bulk of the additions by lowering the access to the rooftop terrace to avoid protruding above the balustrade height for the COS area at no. 140. Whilst the height of the balustrade along the southern boundary of the rooftop terrace marginally encroaches above this adjoining balustrade, the encroachment is unlikely to result in any major view loss for no. 140.

Therefore, it is considered that the proposal will not result in unreasonable view loss in accordance with the planning principle.

E. The Suitability of the Site for the Development

The proposal is not of a nature in keeping with the overall function of the site. The premises are in a residential and commercial surrounding, however, is not of a scale that is compatible with the surrounding locality.

F. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 16 May 2024 to 6 June 2024.

A total of 18 submissions were received in response to the notification. The concerns raised in the submissions received are discussed below:

Concern	Comment
Overdevelopment/site density, including compliance with Floor Space Ratio & Height of Building development standards	See assessment under section A above. In summary, the variation to the FSR development standard is considered to be unsatisfactory as insufficient environmental planning grounds have been demonstrated to justify the departure from the development standard. Consequently, the proposal in its current form is considered to be an overdevelopment of the site, where the site density is not reflective of the surrounding locality.
Streetscape character, including impacts to the	See assessment under section B above. In summary, the proposed development is not compatible with the surrounding streetscape, heritage

character of the Heritage Conservation Area & Percival Lane West	conservation area, laneway and ultimately the desired future character of the area.
Bulk and scale impacts	See assessment under section B above. In summary, the proposed development is considered to present adverse visual bulk and scale impacts upon the public domain.
Loss of views & outlook	A view loss assessment has been carried out under section D above. In summary, the proposal is considered acceptable regarding view sharing principles.
Solar access & overshadowing	See assessment under section B above. The proposal is compliant with the solar access and overshadowing controls under Part 2.7 of MDCP 2011.
Visual & acoustic privacy	A visual privacy assessment has been carried out and contained in Section B of this report. In summary, the proposal is considered to be unsatisfactory when assessed against the relevant visual privacy provisions/principles under Part 2.6 of MDCP 2011.
Safety & security, including Compliance with CPTED requirements	An assessment against the community safety provisions has been carried out and contained in Section B of this report. In summary, the proposal is considered unsatisfactory when assessed against the relevant community safety provisions/principles under Part 2.9 of MDCP 2011.
Side setback	Given the small nature of the subject properties, building to the property boundary is considered acceptable having regard to the applicable planning controls. Notwithstanding, the application is recommended for refusal for other reasons that are discussed throughout this report.
Traffic & parking impacts, including to waste collection vehicles	See assessment under section B above. In summary, the proposal is considered to be reasonable when assessed against the relevant car parking provisions/principles under Part 2.10 of MDCP 2011.
Landscaping/tree canopy cover	Whilst no landscaping/tree canopy cover is proposed, it is important to have regard to the zoning of the land and anticipated development typology which would limit the ability to provide landscaping or deep soil planting on a site of this size. No tree removal is proposed to accommodate the development.
Amenity impacts to adjoining communal open space area	As discussed earlier in this report, the amenity impacts to the adjoining communal open space area as a result of the proposal are considered to be unsatisfactory when assessed against the relevant provisions/principles under the MDCP 2011. Whilst the proposal is satisfactory with regards to bulk & scale, view sharing and solar access & overshadowing, the proposal is unsatisfactory with regard to visual and acoustic privacy.
Waste storage & management	Assessment regarding waste management has been carried out and contained in Section B of this report.
Impacts on access to neighbouring properties, impacts upon boundary walls/structures on neighbouring property	Not a matter for consideration under Section 4.15 of EP&A Act 1979. Any maintenance and access via an adjoining property is a civil matter between the relevant parties.
Unauthorised building works & use as tourist and visitor	It is noted that unauthorised works on the property have been previously investigated under request number REQ2023-056185 as per Council records. It was determined on 17 October 2023 that the residential part

accommodation	<p>of the building is currently only being used as one single dwelling by a tenant and no longer offered as short-term accommodation. All associated unauthorised works had also been addressed and removed.</p> <p>Should there be any additional unauthorised building works that have been undertaken on the property, this should be reported to Council's Regulatory team so that further investigation and action can be taken as required.</p>
Fire separation and compliance with National Construction Code	See assessment under section C above. In summary, a BCA report was not submitted with the application. As a result, no information has been submitted confirming whether any upgrades to the existing building are required to conform to the NCC, nor demonstrates that the building has appropriate fire protection and facilitates the safe egress of persons from the building.
Impacts upon public infrastructure	Should development consent be granted, standard conditions regarding approval being obtained from the relevant servicing authorities could be imposed in any development consent to ensure that any impacts upon public infrastructure is to the satisfaction of the relevant authority. Conditions of consent could also be imposed to ensure Council-owned infrastructure such as footpaths, kerb and gutter are protected during building works are protected.
Inconsistencies, omissions and inaccuracies within the documentation	It is considered sufficient details and information have been submitted with the application to allow for a complete assessment. As detailed in this report, an independent assessment against the relevant planning controls/policies was carried out on the merits of the proposal. The proposal does not satisfy the relevant provisions and consequently, the application is recommended for refusal.
Undesirable precedent	Following an assessment of the proposal and the various non-compliances with the IWLEP 2022 & MDCP 2011 that are discussed throughout this report, it is considered that approval of the development will create an undesirable precedent for future development within the locality.
Construction impacts	Should development consent be granted, standard conditions regarding construction hours and associated noise impacts could be imposed in any development consent to mitigate any significant impacts.
Property value	It is considered that matters that may affect property value, such as amenity impacts, have been assessed and considered above.

G. 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.

This has not been achieved in this instance.

6. Section 7.11 Contributions

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 \$30,277.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

Should development consent be granted, a condition requiring that contribution to be paid is included in the recommendation.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$2,913.54 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP & A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. Should development consent be granted, a condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer;
- Resource Recovery;
- Environmental Health;
- Building Certification; and
- Urban Design.

9. Conclusion

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

The development would result in significant impacts on the amenity of the adjoining of adjoining properties, particularly with respect to visual and acoustic privacy and significant impacts on the Percival Lane streetscape and Heritage Conservation Area and is not considered to be in the public interest.

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

10. Recommendation

- A. In relation to the proposal by the development in Development Application No. DA/2024/0330 to contravene the development standard in Clause **4.4** of Inner West Local Environmental Plan 2022 the Panel **is not** satisfied that the Applicant has demonstrated that:
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- 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*, refuse Development Application No. DA/2024/0330 for Alterations and additions to a mixed-use shop top housing development including alterations and additions create two residential units above the ground floor commercial building at the front of the site; demolition of the garage fronting the rear laneway; construction of a garage with 3 storey residential unit above; associated services, access walkways and landscaping at 136 Percival Road, STANMORE subject to the reasons set out in Attachment A – Reasons for Refusal:

Attachment A – Reasons for Refusal

1. The proposed development is inconsistent and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
 - a. Section 1.2(h) & (i) – Aims of Plan: The proposal does not conserve and maintain the natural, built and cultural heritage of Inner West; encourage diversity in housing to meet the needs of, and enhance amenity for, Inner West residents; create a high-quality urban place through the application of design excellence in all elements of the built environment and public domain; or prevent adverse social, economic and environmental impacts on the local character of Inner West, including cumulative impacts.
 - b. Section 2.3 – Zone objectives and Land Use Table: The proposal is not consistent with the objectives of the E1 – Local Centre zone, as the proposal does not enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area, or enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality nor contributes positively to the desired character and cultural heritage of the locality.
 - c. Section 4.4 – Floor Space Ratio: The proposal does not provide an appropriate density which reflects the locality and transition between developments and does not minimise adverse impacts on local amenity.
 - d. Section 4.6 – Exceptions to Development Standards: Given the departure that is proposed to Section 4.4 of the IWLEP 2022, the proposal fails to comply with the objectives of Section 4.6(1)(b) and has not demonstrated sufficient environmental planning grounds to justify the departure from the development standard, in accordance with Section 4.6(3)(b) of the IWLEP 2022.
 - e. Section 5.10 – Heritage Conservation: The proposal does not conserve the environmental heritage of the Inner West, including any associated fabric, settings and views.
2. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the following parts of Marrickville Development Control Plan 2011:
 - a. Part 2.1 – Urban Design: The proposal is inconsistent with objective O1, control C1 and Principle 5 (Urban form) within this part, as the proposal is not of a scale and proportion that is appropriate to the function and character of the surrounding locality.
 - b. Part 2.6 – Acoustic and Visual Privacy & Part 5.3.1.2 – Noise and Vibration Generation: The proposal is inconsistent with objectives O1 & O2 and controls C2 ii. & C3 v. within Part 2.6, as the proposal has not demonstrated how the

- visual and acoustic privacy of adjoining properties are maintained as a result of the proposed rooftop terrace and second-floor balcony.
- c. Part 2.9 – Community Safety: The proposal is inconsistent with objectives O5 & O7 and control C4 within Part 2.9, as the principal entrance of the residential component is via a recessed entrance from Percival Lane West which poses safety and security concerns, does not permit a legible entrance along the laneway and therefore is not consistent with the Crime Prevention Through Environmental Design principles.
 - d. Part 5.1.1 – General Objectives: The proposal is inconsistent with objectives O4, O8 & O10 within this part, as the proposal has not demonstrated how the development responds to its context, is compatible within the existing built environment, improves the environmental and aesthetic amenity of commercial centres, or promotes an accessible and safe environment.
 - e. Part 5.1.2 – Contributory Buildings in Commercial Centres: The proposal is inconsistent with objectives O15, O16 & O18 within this part, as the proposal has not demonstrated that the alterations and additions do not detract from the overall architectural character and building form of the contributory building, or respects its context in terms of height, scale and the detailing of the streetscape (including laneway) presentation.
 - f. Part 5.1.4 – Building Form: The proposal is inconsistent with objectives O19-O22, O27 & O31-O32 within this part, as the proposal has not demonstrated that the density and height of the development is compatible with the future desired character of the Stanmore North Precinct, how it is appropriate to the contextual constraints of the site, how the massing of the development does not cause significant visual bulk or amenity impacts on neighbouring properties to the rear, or how the development is scaled to support the future desired character with appropriate massing and spaces between buildings, and provides adequate building separation which protects the visual and acoustic privacy for building occupants.
 - g. Parts 8.3.2.4 & 8.3.2.5 – Building heights & form: The proposal is inconsistent with control C19 within Part 8.3.2.4 and control C21 within Part 8.3.2.5, as the proposed additions are higher than the existing roof form, height of the original building, and do not provide an appropriate transition between adjoining sites and ultimately overwhelm the existing built form when viewed from the laneway.
 - h. Part 9.3 – Stanmore North: The proposal is not consistent with the desired future character of the Stanmore North precinct, as the proposal does not protect the identified values of the Annandale Farm Heritage Conservation Area.
3. The proposed development is inconsistent with, and has not demonstrated compliance with the *Environmental Planning and Assessment Regulation 2021*, pursuant to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*, including:
- a. Section 64 – Consent authority may require upgrade of buildings: A Building Code of Australia Report has not been submitted which demonstrates that the building has appropriate fire protection and facilitates the safe egress of persons from the building.

4. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*.
5. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
6. In view of the extent of non-compliances with the planning controls and the matters raised within the submissions, the proposal is not considered to be in the public interest contrary to Section 4.15(1)(e) *Environmental Planning and Assessment Act 1979*.

24 DOUGLAS STREET

DOUGLAS STREET

PERCIVAL LANE W

PERCIVAL ROAD

BUILDING 1

BUILDING 2

LEVEL 3 TERRACE

LEVEL 2 TERRACE

LEVEL 1 TERRACE

LEVEL 0 TERRACE

LEVEL -1 TERRACE

LEVEL -2 TERRACE

LEVEL -3 TERRACE

LEVEL -4 TERRACE

LEVEL -5 TERRACE

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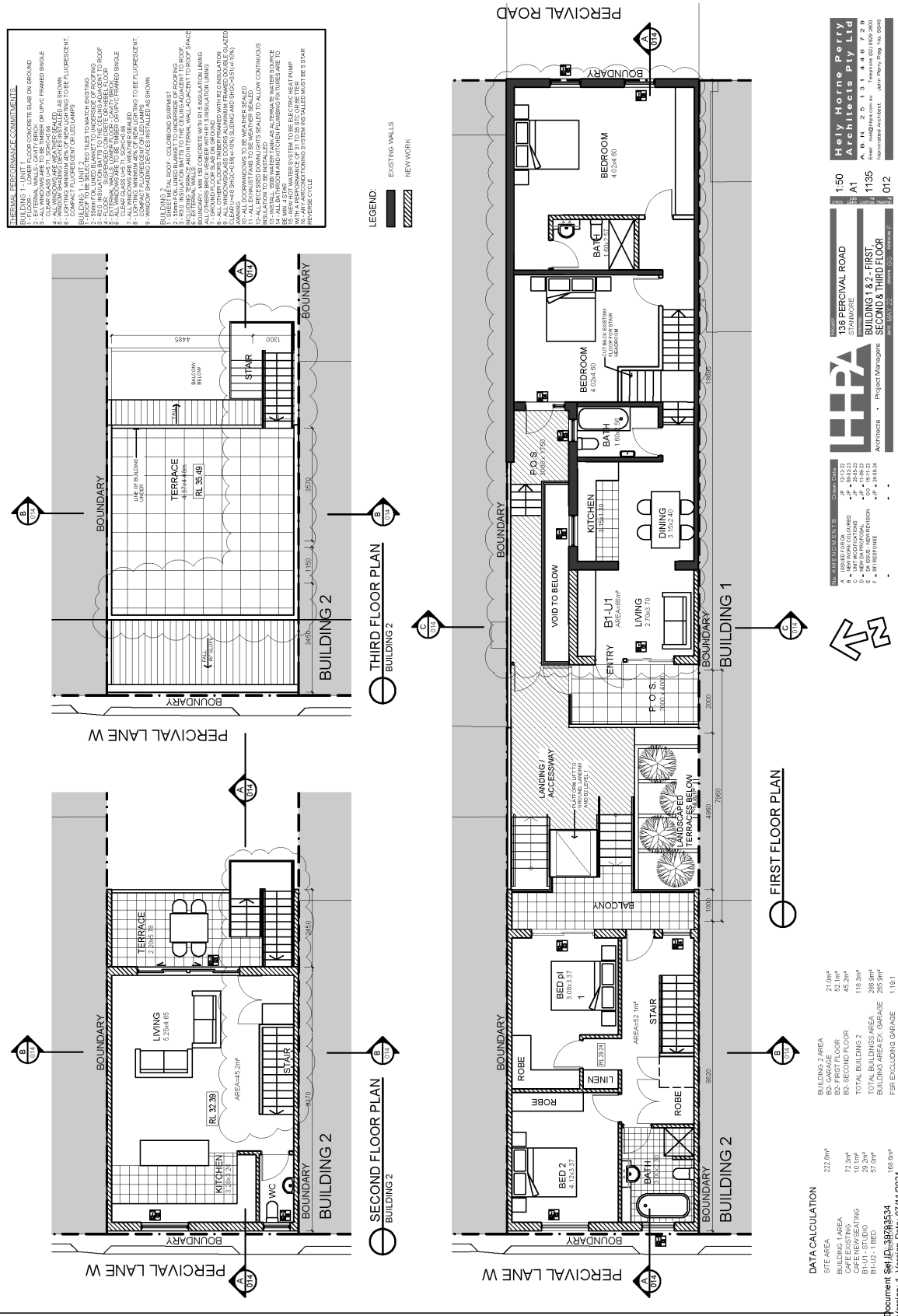
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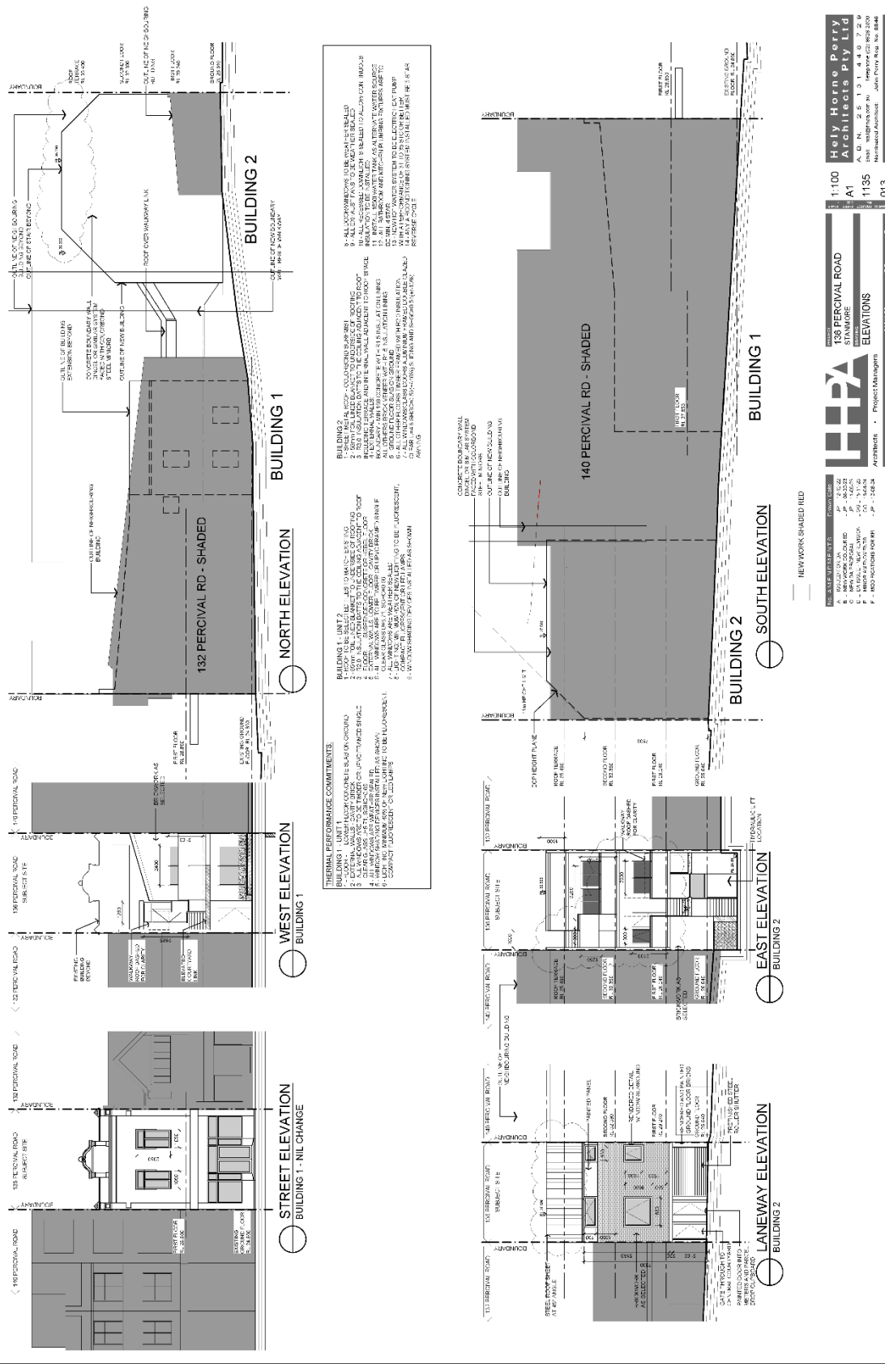
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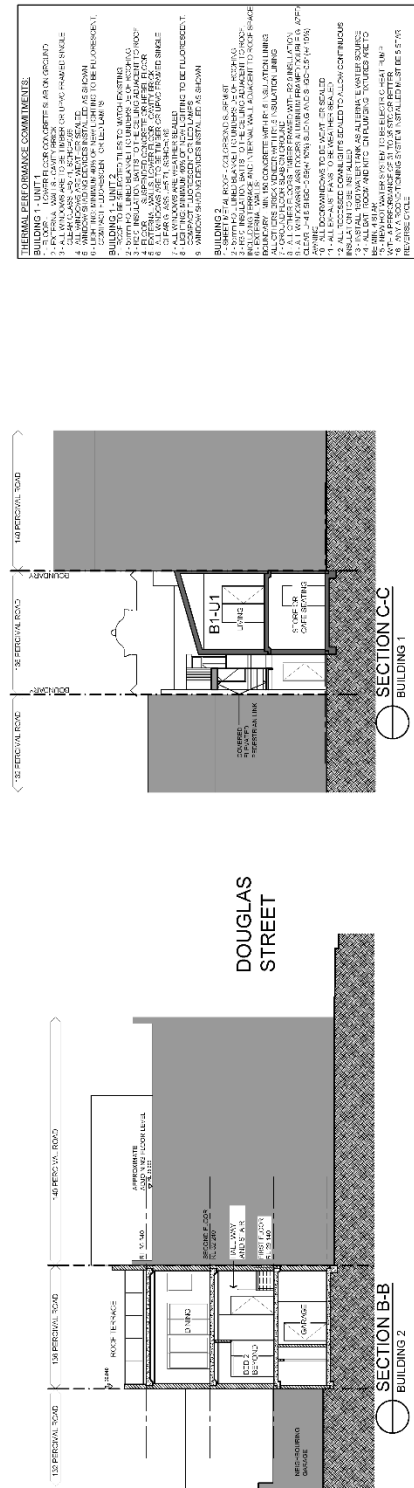
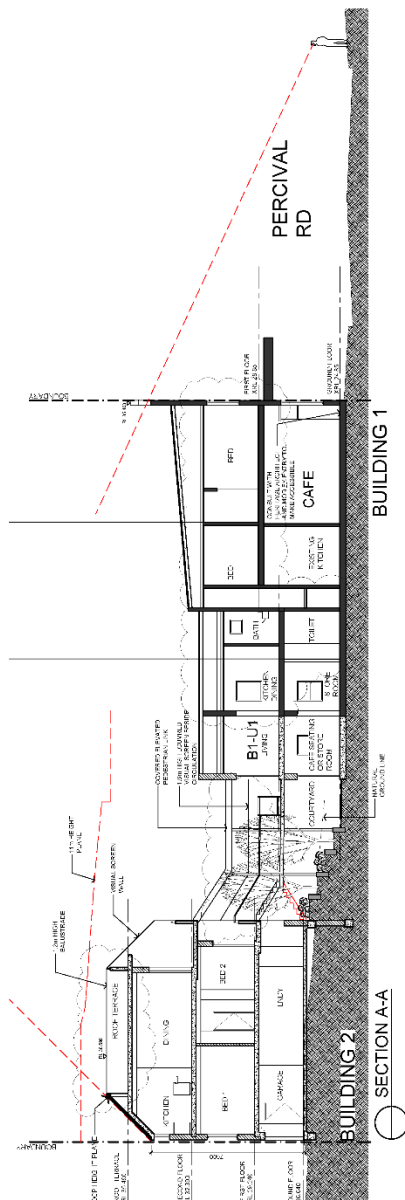
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LEGEND:

EXISTING WALLS
NEW WORK

FHA	SECTION	A1	Hely Horne Perry Architects Pty Ltd
138 PERCIVAL ROAD STANMORE	1135	A D N E S I O A L G Z W	Telephone 0212 692 8700
Architects • Project Managers	014	Non-Residential Contact John Perry MBE	

Document: Sd ID: 8266264
Version: 1, Version Date: 07/17/2024

Attachment C – Section 4.6 Exception to Development Standards**CLAUSE 4.6 OBJECTION - FLOOR SPACE RATIO****1. INTRODUCTION**

This application for a variation to a development standard is made under Clause 4.6 of the Innerwest Local Environmental Plan 2022 which provides flexibility in the application of development standards in certain circumstances allowing consent authorities, such as local councils, to approve a variation to development standards.

The following documentation forms part of the application and is to be read in conjunction with this request:

- Site Survey prepared by S. J. Surveying Services Pty Ltd dated 28-04-2022
- Architectural Drawing package prepared by Hely Horne Perry Architects P/L
- Statement of Environmental Effects prepared by Hely Horne Perry Architects P/L

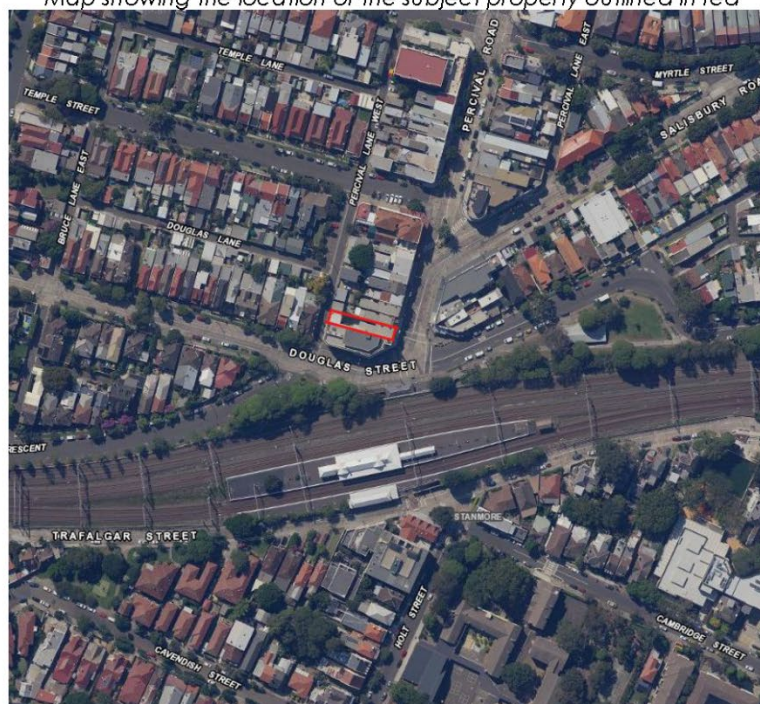
2. SUBJECT PROPERTY

The subject property is located fronting Percival Road and has rear lanes access from Percival Laneway for both cars and pedestrians.

- The subject property is approximately 6.1m wide and 36.6m long, with an area of 222.6m²
- The subject property has a fall from the rear to the Percival Road frontage of approximately 2.0m
- A detail survey has been prepared and forms part of this Development Application submission, showing existing building improvements in footprint, with heights to AHD
- At present the subject property is occupied by an existing two storey building which contains a shop and small dwellings. There is a rear yard with amenities block for use of the shop/café. There is a single storey building that contains a parking space and corridor for pedestrian access from Percival Laneway.



Map showing the location of the subject property outlined in red



Detail view of the subject property (highlighted yellow) in its context

3. PROPOSED CONTRAVENTION OF A DEVELOPMENT STANDARD

Clause 4.4 (2) of the Inner West Local Environmental Plan 2022 requires that “The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.”

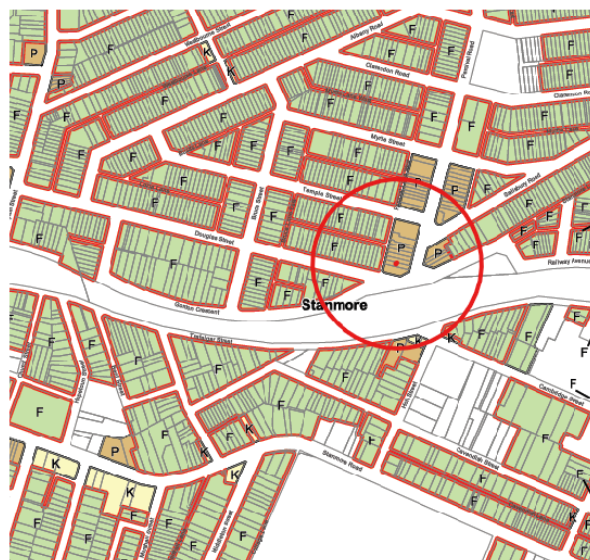
The map indicates that the maximum floor space ratio is to be 1.2:1. The site is circled and mark in red below



Floor Space Ratio Map -
Sheet FSR_005

Maximum Floor Space Ratio (n:1)

D	0.5	T3	2.1
F	0.6	T4	2.15
H	0.7	T5	2.2
I	0.75	T6	2.3
J	0.8	T7	2.4
K	0.85	U1	2.5
L	0.9	U2	2.6
M	0.95	U3	2.7
N	1	U4	2.8
O	1.1	V1	3
P	1.2	V2	3.1
Q	1.3	V3	3.3
R	1.4	V4	3.4
S1	1.5	W1	3.5
S2	1.6	W2	3.7
S3	1.7		Refer to Clause 4.4 2D
S4	1.75	Area 1	Area 1 - Refer to Clause 4.4 A
S5	1.8	Area 2	Area 2 - Refer to Clause 4.4 2B
S6	1.85	Area 3	Area 3 - Refer to Clause 4.4 2B
S7	1.9	Area 4	Area 4 - Refer to Clause 4.4 2B
T1	2	Area 5	Area 5 - Refer to Clause 4.4 2B
T2	2.05	Area 6	Area 6 - Refer to Clause 4.4 2B
		Area 7	Area 7 - Refer to Clause 4.4 2B



As noted above the site area is 222.6sqm. This allows 267sqm of building area on the site. Calculations as part of the application determined that the total building area was 265.9sqm. This relied upon the rear wall of the garage being left off as a low wall and therefore not being counted as 'enclosed area'. I maintain that this is a valid reason and an update drawing 1135-011[G] accompanies this document with additional labels showing the low wall to make the non-enclosure clearer. Council stated in their RFI letter dated 17/07/2024 that a variation to the development standard would not be supported but never the less I will outline reasons that it should be.

4. Reason that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Setting aside the argument above the following are reasons why strict compliance with the development standard are unreasonable and unnecessary:

The objective of the clause are:

- (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.

Given that the proposal does not contravene any other development standards it can be seen that the non-compliance does not contravene any of these objectives

- If the total garage is considered enclosed the non-compliance has been acknowledged by council, in their RFI, to be largely due bicycle parking not being exempt from FSR calculation. Parking on the site is limited due to the existing dimensions and arrangement of the site. It is highly likely that the additional area in the garage will be primarily used for parking bicycles and/or motor bikes. This being the case adherence to the development control is unreasonable.
- No additional environmental impacts, such as over shadowing, privacy or view obstruction, or intensification of the site use results from the non-compliance with the FSR. The area in question is on the ground floor and will be used for storage for the main dwelling and is not a living area that would allow additional people to live or commercial activity to take place. Therefore strict adherence with the development control is unnecessary
- It can be seen that the adjoining site has a far higher development density, among other non-compliances, than the subject site. Objective (c) states that there should be an appropriate transition between developments of different densities so a minor exceedance of FSR should be viewed as acceptable and strict compliance unnecessary

Job No. 1135-A

Page 5 of 5



5. Conclusion

While the proposed development is considered by council to exceed the FSR standard the we maintain that it does not. Never the less if council persists in this interpretation please consider this as a Clause 4.6 application to vary the FSR development standard. This written request demonstrates that in the specific circumstances of this case compliance with the standard is unreasonable and unnecessary. It details the environmental planning grounds, such as development standard objectives, that support the proposed contravention. The proposal is consistent with the objectives and the standards of the zone and contributes to the desired character of the locality.

Clause 4.6 Variation to Development Standard Request No.136 Percival Road, STANMORE October 2024

Document Set ID: 39793533
Version: 1, Version Date: 07/11/2024

Attachment D – Heritage Impact Statement

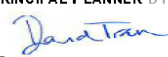


22 September 2023

Mr Peter Gainsford
General Manager
Inner West Council

1

Re: Proposed Shop top housing development at 136 Percival Road, Stanmore

PREPARED BY	STEVE NIX – SENIOR HERITAGE CONSULTANT M. Heritage Conservation USYD	
AUTHORISED & FINALISED BY	DAVID. TRAN – PRINCIPAL PLANNER B Planning (Hon) UWS 	
REPORT VERSION	DATE	STATUS (FINAL/DRAFT)*
A	Sep 2023	FINAL

Please find attached the **Heritage Impact Statement** in relation to the proposed development for **Shop top housing development** (the proposal) at **136 Percival Road, Stanmore** (the site).

If you have any questions regarding this submission, please do not hesitate to contact TRANPLAN Consulting.

Yours faithfully,



David Tran B. Planning (Hon)
Principal Planner
TRANPLAN Consulting

Statement of Heritage Impact

136 Percival Road, Stanmore

Alterations and Additions to Existing Building
and New Rear Building as part of Shop Top
Housing Development

September 2023

Document Set ID: 39793538
Version: 1, Version Date: 07/11/2024

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1.0 INTRODUCTION

This Statement of Heritage Impact has been prepared in accordance with the Standard Guidelines of the NSW Heritage Office (now Heritage NSW), the Inner West Local Environmental Plan 2022 (LEP) and the Marrickville Development Control Plan 2011 (DCP) to accompany a Development Application (DA) for 136 Percival Road, Stanmore, NSW (subject site). The proposal involves alterations and additions to the existing mixed-used building as part of the proposed shop top housing development.

The documentary research and assessment of potential heritage impacts have been undertaken by Steven Nix (*M. Heritage Conservation, ICOMOS*).

This report aims to:

- Provide a brief history of the subject site
- Provide a description of the proposed works
- Assess the impact of the proposed works on the heritage significance of the site, relevant heritage conservation areas and nearby listed items in accordance with the relevant legislative controls.

2.0 LIMITATIONS

This assessment of impacts has been based on available site evidence along with historic research. A site visit was undertaken in August 2023.

This report does not include or consider potential impacts on Aboriginal heritage or archaeological heritage within the site or vicinity.

3.0 THE SITE

136 Percival Road, Stanmore sits on the western side of Percival Road [figures 1 and 2]. The property adjoins the neighbouring sites along its northern and southern boundaries, with Percival Lane West to the rear (western) boundary. The site is identified as Lot 39, Section G in DP2871.

Street Address	Suburb/Town	LGA	Lot/DP	Parish	County
136 Percival Road	Stanmore	Inner West	Lot 39, Section G in DP2871	Petersham	Cumberland

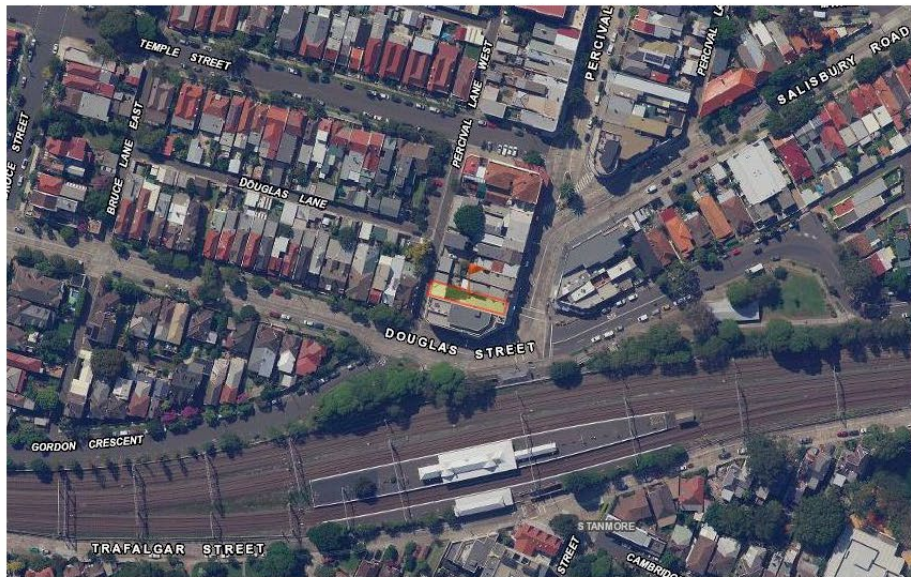


Figure 1 - Aerial image of the local area, with subject site outlined in red (Source: SIX Maps, accessed 30.8.23).

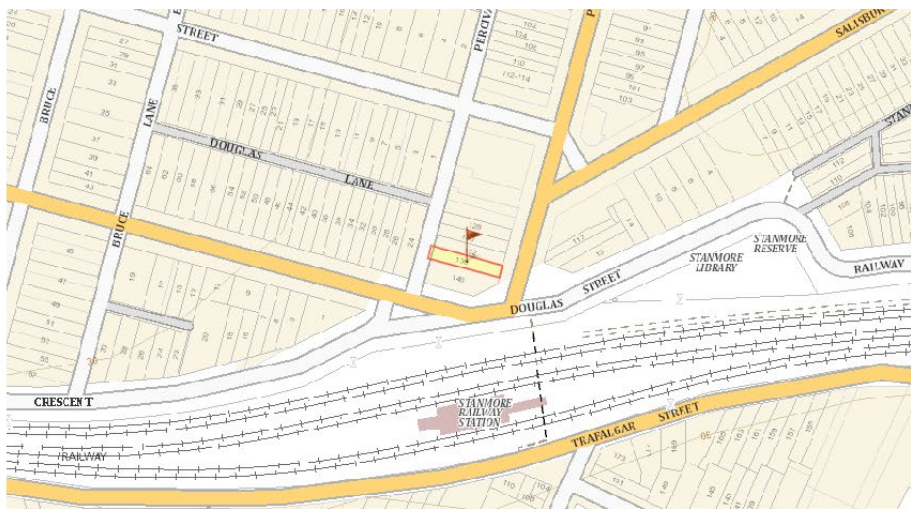


Figure 2 - Lot boundary plan of local area, with subject site outlined in red (Source: SIX Maps, accessed 30.8.23).



Figure 3 – Local streetscape, view looking south along Percival Road, with subject site indicated by red arrow (Source: Google Maps, accessed 30.8.23)



Figure 4 – Local streetscape, view looking north along Percival Road towards the subject site, indicated by red arrow (Source: Google Maps, accessed 30.8.23)



Figure 5 - View looking north along Percival Lane West, with subject site indicated by red arrow (Source: Google Maps, accessed 30.6.23)



Figure 6 - View looking south along Percival Lane West, with subject site indicated by red arrow (Source: Google Maps, accessed 30.6.23)

4.0 STATUTORY LISTINGS

4.1 HERITAGE LISTINGS

The subject site is not listed as a heritage item within Part 1 of Schedule 5 of the Inner West Local Environmental Plan 2022 (LEP). However, it is located in close proximity to several items listed at both Local and State levels.

Listing Number	Description	Address	Lot	Listing Level
I1515	Stanmore Railway Station group, including interiors	125 Corunna Road	Lot 14. Section A2, DP 3325	State
I1526	Former bakery and ovens and shop facades, including interiors	118-124 Percival Road (part)	Part Lot 1, DP 1042273; Lots 2 and 3, DP 815533	Local
I1525	Salisbury Hotel, including interiors	118-120 Percival Road (corner Temple Street)	Part Lot 1, DP 1042273	Local
I1524	Federation period shop with original shopfront, including interiors	102 Percival Road	Lot 1, DP 105512	Local

The site is located within the 'Annandale Farm' Heritage Conservation Area (C87), outlined below, and subject building is considered a contributory building.

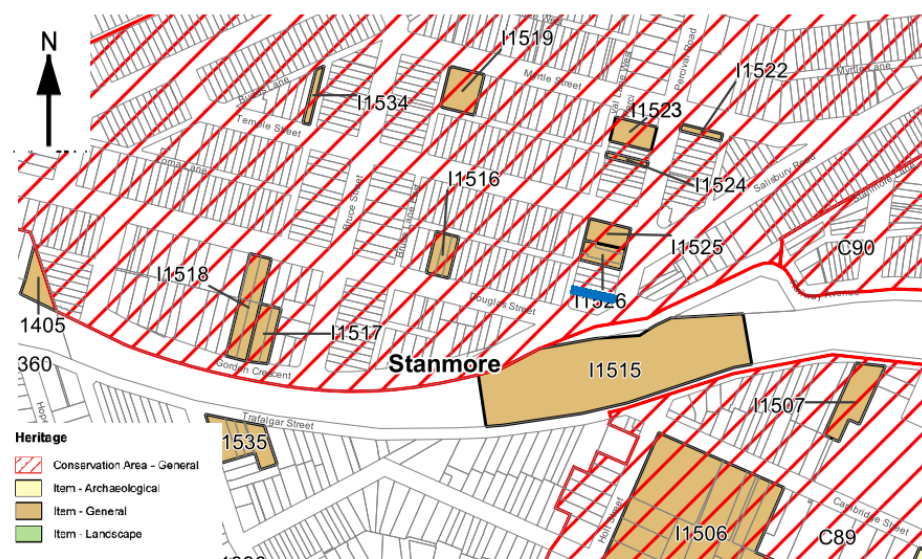


Figure 7 - Heritage map showing the approximate location of the subject site (shaded in blue) and surrounding heritage context (Source: Inner West LEP 2022, Heritage Map - Sheet HER_005)

5.0 DOCUMENTARY EVIDENCE

5.1 PRE-EUROPEAN OCCUPATION

The Sydney basin is referred to as Eora Country, the name given to the coastal Aboriginals around the Sydney region. Eora Country was comprised of 29 clans [figure 8]. Prior to European settlement, the Stanmore and Annandale area was home to both the Gadigal and Wangal clans, who spoke the Dharug (Eora) language. The Gadigal people inhabited the areas along the south side of the harbour, from south head to current day Petersham.¹ The Wangal people occupied the areas around current day Balmain to Silverwater in the west.² Following European Settlement in 1788, both groups were decimated through introduced diseases like small-pox, violence and loss of traditional food sources through dispossession of their land. The Gadigal people were some of the most heavily affected, with their population reduced from around 60 in 1788 to 3 in 1791. Although the Gadigal and Wangal populations were decimated, some of their descendants live in inner Sydney today, together with Aboriginal people who moved from other parts of NSW to Sydney in the 1930s to inner-city suburbs including nearby Glebe and Balmain.³

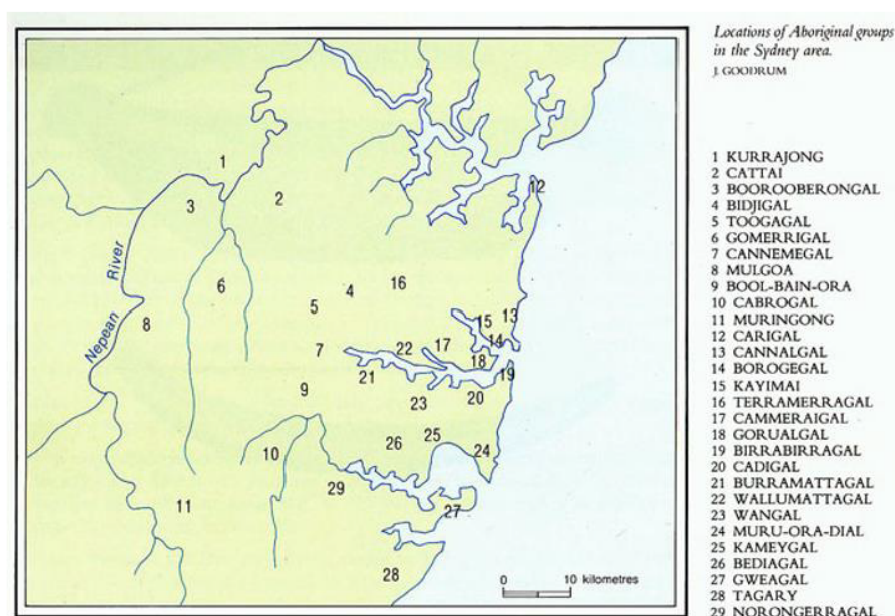


Figure 8 - Locations of Aboriginal groups within the Sydney area (Source: Goodrum J Goodrum in Mulvaney, D J and White, Peter, 1987, *Australians to 1788*, Fairfax, Syme & Weldon, Sydney, p. 345)

5.2 BRIEF HISTORY OF THE LOCAL AREA

¹ "Aboriginal People & Place," Anita Heiss and Melodie-Jane Gibson, Sydney Birani – City of Sydney, last modified 2013, <http://www.sydneybirani.com.au/sites/aboriginal-people-and-place/>

² "Land of the Eora" Inner West Council, last modified 2013, <http://www.leichhardt.nsw.gov.au/Library/Local-History/People-and-Places/Eora>

³ "Aboriginal People & Place," Anita Heiss and Melodie-Jane Gibson, Sydney Birani – City of Sydney, last modified 2013, <http://www.sydneybirani.com.au/sites/aboriginal-people-and-place/>

In 1773, Lieutenant Colonel George Johnston received a land grant incorporating a section to the south of Parramatta Road known as 'Annandale Farm' (Summer Hill) and later, 'South Annandale' (parts of present-day Stanmore).⁴ Johnston served as part of the NSW Corps (also known as the Rum Corps) and was a highly influential figure in the early colony. Johnston was granted a further lot in 1799, between what were later named Johnston's and White's creeks, known as 'Annandale North'. Johnston named the estate after his birthplace in Scotland, 'Annan', with Annandale House constructed from 1799 near the corner of present day Macaulay and Albany roads, designed in a Georgian style.⁵ The northern side of Parramatta Road predominantly consisted of farmland, with the southern side comprising of the main house, gardens, orchards, and outbuildings. Johnston marched with his Rum Corps from the site, including during the battle of Vinegar Hill and the Rum Rebellion of 1808. Upon Johnston's death in 1823, the estate was left to his wife Ester, with his son Robert to take over the estate on Ester's death in 1846.⁶

Further south, on the site of the existing Newington College, saddler John Jones purchased 20 acres c. 1830s, naming his estate 'Stanmore' after his birthplace outside London. Stanmore Road was constructed in 1835, along what was thought to be an original Aboriginal walking track.⁷ The main western railway line servicing the city was constructed in 1855, however the station at Stanmore was not opened until 1878. The station was an important part of the growth and identity of Stanmore as a suburb, attracting wealthy businessmen along with local factory and trades workers who established a strong community. The railway divided Stanmore into north and south, as did the original municipal lines, with much of the northern section lying within the Petersham Municipality (incorporated 1871), with the Marrickville Municipality to the south of Stanmore Road. In December 1949, the suburb eventually came under the same municipality, following the amalgamation of Petersham Council with the Municipality of Marrickville.⁸



Figure 9 – Stanmore Railway Station, 1921 (Source: Australia and New Zealand by William D. Boyce. Published by Rand, McNally & Company, Chicago, 1922 via Trove)

⁴ Norma Perry & Beverley Walsh, "The Early History of Annandale, Sydney, Australia," *Annandale Urban Research Association (AURA)* 9 (2015): 9.

⁵ Deborah Tout-Smith, "Municipality of Annandale, NSW" Museum Victoria, last modified 2003, <https://collections.museumvictoria.com.au/articles/2241>

⁶ Joan Lawrence and Catherine Warne, *A Pictorial History of Balmain to Glebe* (Kingsclear Books: Sydney, 1999), 93.

⁷ Chrys Meader, 'Stanmore', *Dictionary of Sydney*, 2008.

⁸ Chrys Meader, 'Stanmore', *Dictionary of Sydney*, 2008.

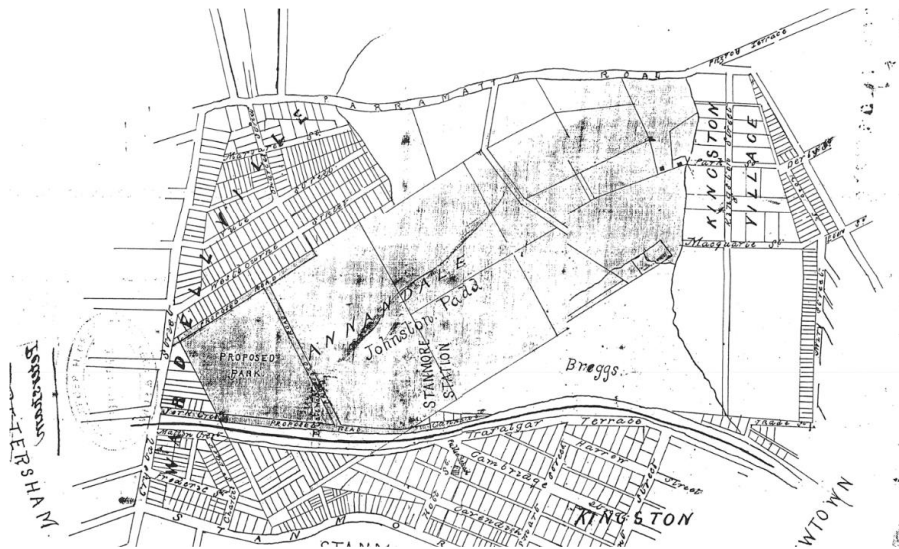


Figure 10 - Map of Annandale Farm and surrounds c. 1888 (Source: Inner West Council, Annandale Farm HCA)

5.3 BRIEF HISTORY OF SUBJECT SITE

The subject site is located on the southern end of the original grant made to George Johnston in 1773. The area remained relatively untouched during Johnston's lifetime, with much of the land incorporated into the Annandale Farm, estate and grounds. Following Johnston's death, the grounds of the estate were slowly subdivided and sold, spurred on by the growth of the suburb surrounding the railway line, with only the house, entrance driveway leading off Parramatta Road, and immediate garden remaining intact into the early twentieth century.⁹

Annandale House was eventually demolished in 1905. Prior to the demolition of the house, the immediate surrounding area had been slowly developed since the mid-1890s, with a distinct pattern of streets established, lined with neat terraces and workers' cottages. George's son, Robert, had named streets in the area after his children, Percival and Bruce. The southern end of Percival Street adjacent to the railway station remained as swampy ground until c. 1890s, however several shops were constructed further north prior to 1899, including a newsagent, grocer, bootmaker, and confectioner.¹⁰

The subject site was part of the first subdivision of South Annandale in November of 1892. The subject shopfront and residence facing Percival Road is estimated to have been constructed c. 1898-1899, outlined on the updated Surveyor General's map which was finalised prior to the turn of the century. The group of shops along the western side of Percival Road are also outlined on the 1916 map of the area.

The shopfront first appears in the Sands Directory of 1904, listed under E. W. Smithers and subsequently S. Smithers. The subject site was numbered as no. 138 throughout the 1910s and 1920s, with the neighbouring sites as no. 132 (north) and no. 140 (south). In 1920, the site is listed as being occupied by a general store under the ownership of James Walt, and later by M. McKellar as a confectioner.¹¹

⁹ Chrys Meader, 'Stanmore', Dictionary of Sydney, 2008.

¹⁰ Sands Directory of Sydney, 1899: 482.

¹¹ Sands Directory of Sydney 1900-1932-33.



Figure 11 – Plan of the first subdivision of the Stanmore Estate, November 1892, with approximate location of subject site indicated in blue, Z/SP/S14/5 (Source: State Library of NSW)

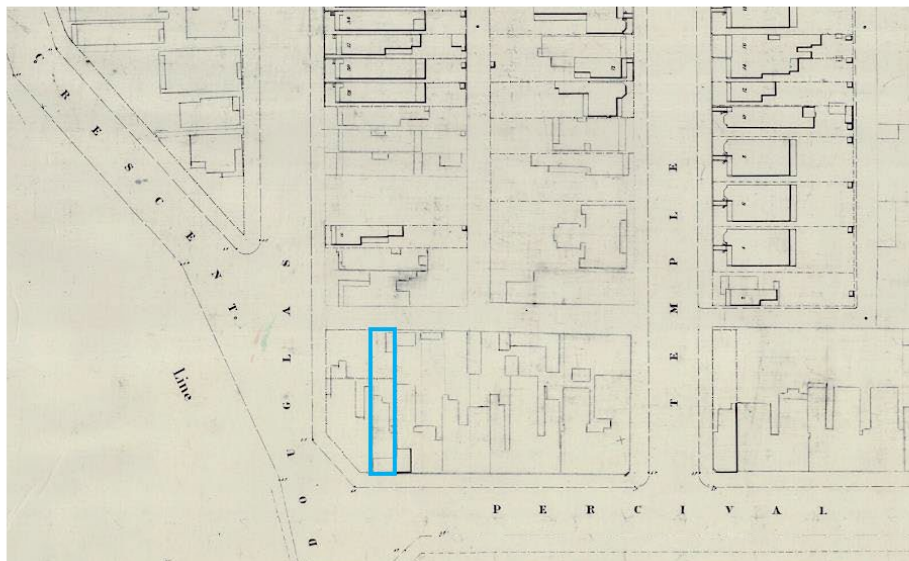


Figure 12 - Detail of the Surveyor General Map of Petersham, Sheet 12, original version dated 1883, updated c. 1899, subject site outlined in blue (Source: State Library of NSW)



Figure 13 – Detail of South Annandale Estate, 1916, Z/SP/S14/8, with subject site outlined in blue (Source: State Library of NSW)

Despite extensive internal modifications since the building's construction, the overall form, footprint and layout of the original shopfront and residence remains relatively intact, with a significant amount of original detailing retained. Historic aerial imagery shows that a rear garage structure was constructed prior to 1971, with the entire eastern side of Percival Lane West characterised by rear garages/ outbuildings by this time. Various updates to the exterior and interior of the ground floor shopfront have allowed for the continued commercial use of the site as a seafood eatery and café into the twenty-first century.



Figure 14 - Historic aerial image, 1943, with subject site outlined in blue (Source: Historical Image Viewer)



Figure 15 - Historic aerial image, 1971, with subject site outlined in blue (Source: Historical Image Viewer)

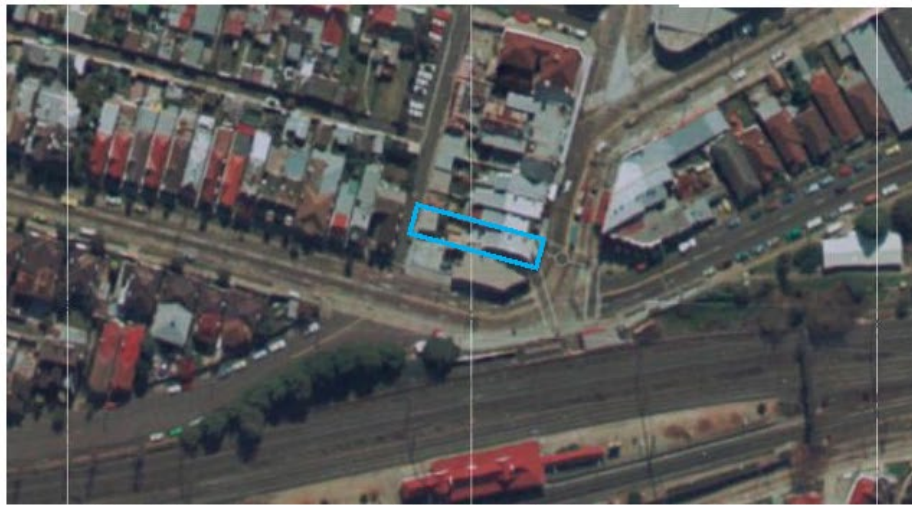


Figure 16 - Historic aerial image, 1982, with subject site outlined in blue (Source: Historical Image Viewer)



Figure 17 - Historic aerial image, 1998, with subject site outlined in blue



Figure 18 – Percival Road, 1995, view looking south towards Stanmore Station, subject site in centre of image (Source: John Ward Collection, City of Sydney Archives)

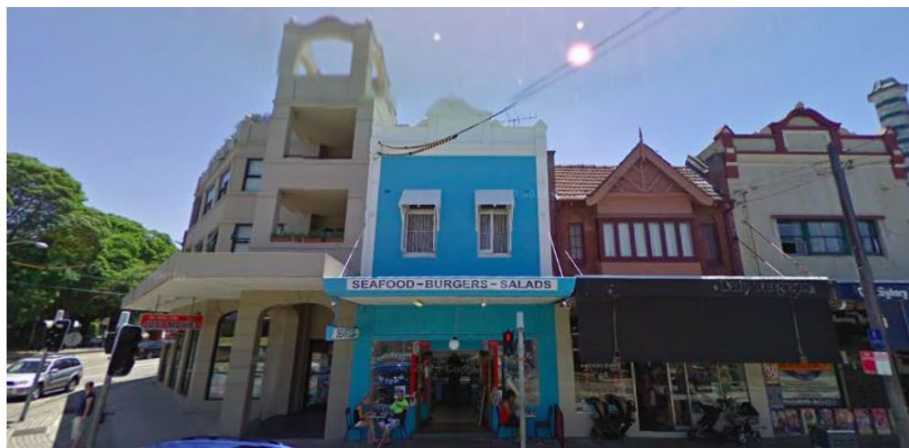


Figure 19 - Subject site, December 2009 (Source: Google Maps)

5.4 SITE DESCRIPTION

THE SITE

The site is located on the western side of Percival Road, between Douglas Street and Temple Street, with the rear (western) boundary providing access onto Percival Lane West. The site (approx. 221 m²) is oriented east-west and incorporates the two-storey mixed-use attached commercial terrace building positioned at the eastern end of the site, with a small, central courtyard, and garage to the rear. The site slopes downwards from Percival Lane West to the Percival Road.

THE EXTERIOR

The subject building is of masonry construction with a corrugated steel roof. It consists of a two-storey primary structure fronting Percival Road with a single/two storey rear wing and single storey lean-to. The existing two-storey primary structure facing onto Percival Road comprises the ground floor shopfront and first floor residence. It is situated towards the southern end of a group of attached shopfronts of varying styles, and closely matches the detailing and form of the building at no. 130 Percival Road.

The primary façade of the ground-floor shopfront includes a central, recessed entranceway with a glazed timber-framed double-door entrance positioned between splayed glazing to either side. The recessed entrance includes a raised terrazzo finished floor. The front façade has been rendered and painted grey, with matching grey panelling to the bulkhead. A modern footpath awning stretches the width of the ground floor and includes contemporary under-awning signage.

The upper floor of the primary façade is finished with a smooth render, painted grey, and includes darker finish to the engaged piers along the outer edges. Each of the outer piers are capped with a small, decorative pediment, with layers of cornicing stretching the width of the upper façade. The upper parapet features a central swan's neck pediment reading '1899' referencing the year of construction, with decorative detailing to the upper edges. The first floor also includes a pair of timber-framed double casement windows, painted white, each with metal sunhoods supported by decorative timber brackets. A section of previous horizontal detailing appears to have been removed above the window transom along with small sections of each of the outer piers.

The building retains remnant chimneys along the northern party wall as well as an additional chimney towards the rear of the upper floor along the southern boundary. The rear walls of the dwelling consist of unrendered masonry, painted grey. The rear wing and lean-to are set back from the northern boundary, creating a concrete paved breezeway running along the northern boundary providing direct access from the rear storage area of the shopfront. A corrugated metal awning roof covers the side entranceway to the breezeway, which includes a blind arch along the party wall and various services. The vertically oriented timber-framed, double-hung sash windows to the rear and side elevations each feature an arched brick lintel and recessed sills. The single-storey rear wing includes a projecting awning supported by timber posts. The rear garden includes a concrete patio area adjacent to the residence, a lawned area with dense hedging along both boundary, and a concrete pathway leading to the rear garage.

The existing garage is built from boundary to boundary on a concrete slab, accessed from the garden via a set of concrete and brick steps. The garage features metal-framed openings onto the garden, corrugated metal roofing with timber beams, a painted brick façade to the rear, with a metal roller door and pedestrian access onto Percival Lane West.

THE INTERIOR

The ground floor interior of the primary structure includes the shopfront (currently fitted out as a café) with a kitchen space to the rear. The café features an inbuilt service area, contemporary painted plaster ceiling, contemporary timber flooring and exposed brick to the rear wall. The shopfront windows facing onto Percival Street include decorative stained glass top lights with seating built into either side of the shopfront splayed entry. To the rear of the front of house cafe area a contemporary tiled kitchen area is accessed via an original timber doorway with a blocked-in top light. The kitchen features a functional fit-out with modern tiled walls and floors. The ground floor of the primary structure contains minimal original/early detailing apart from a central ceiling rose in the kitchen, and remnant sections of joinery and render detailing.

The rear rooms of the ground floor (within rear wing) are accessed externally via a timber panelled doorway with flat arched lintel. The rooms contain simple detailing with the majority of early detailing/elements previously removed apart from remnant vents, door/window joinery and a chimney breast and ceiling rose.

The rear lean-to structure behind the rear wing contains two WCs and is composed primarily of modern fabric.

The first floor residence is accessed via a timber staircase located to the rear of the kitchen area. The staircase is split at a central landing, with the main bedroom and ensuite located to the front of the building. The front room is accessed via a timber-framed doorway with transom window above. The room contains timber flooring, painted plaster and render walls and a plaster ceiling. It contains some areas of original detailing including a decorative tiled fireplace, chimney breast and ornate mantel, vents to the external wall, and timber skirting. The front bedroom also includes an L-shaped kitchen space to the rear corner. The ensuite bathroom is contemporary, accessed via a small step with contemporary top light window above the entrance doorway. The bedroom to the centre of the upper floor includes a central decorative ceiling rose, chimney breast, fireplace with metal insert, timber mantel and surround. A timber-framed sash window is located to the northern wall above a small kitchenette area.

The staircase leading to the rear rooms of the residence contains a simple archway entrance adjacent to the timber-panelled bulkhead. The landing provides access to the main bathroom, which features an entirely contemporary fit-out, with an early narrow timber-framed sash window. The rear bedroom is accessed via a timber-framed doorway with top light above, and includes a central ceiling rose, remnant chimney breast to the rear corner, and decorative vents to the rear wall. The space also includes a timber-framed sash window to the northern wall.



Figure 20 - Street-facing facade onto Percival Road, view looking west entry floor to be modified (Source: S. Nix, 2023)



Figure 21 – Internal shopfront windows, no changes proposed, view looking east (Source: S. Nix, 2023)



Figure 22 – Shopfront interior, view looking west (Source: S. Nix, 2023)



Figure 23 – Kitchen space, view looking east towards shopfront (Source: S. Nix, 2023)



Figure 24 – Kitchen, view looking west towards rear entrance onto patio/breezeway (Source: S. Nix, 2023)



Figure 25 – Rear ground floor rooms within rear wing (Source: S. Nix, 2023)



Figure 26 – Rear ground floor rooms within rear wing (Source: S. Nx, 2023)



Figure 27 - Ground floor bedroom with ceiling rose and remnant chimney breast (Source: S. Nix, 2023)



Figure 28 - Ground floor bathroom (Source: S. Nix, 2023)



Figure 29 - Staircase to upper floor (Source: S. Nix, 2023)

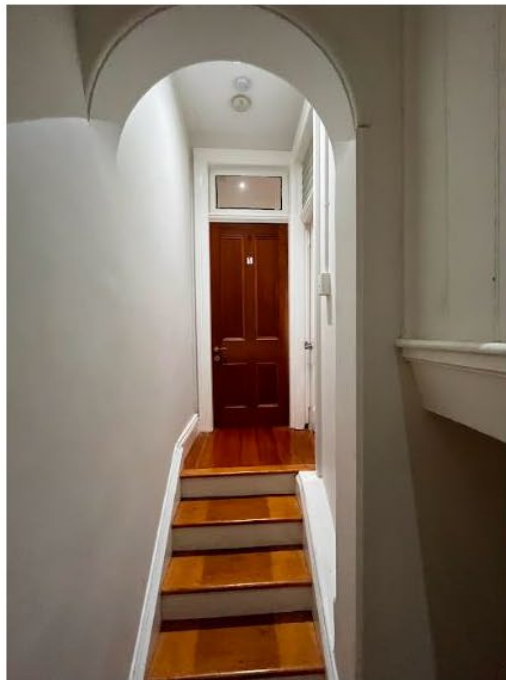


Figure 30 - Staircase to first floor rear bedroom and bathroom (Source: S. Nix, 2023)

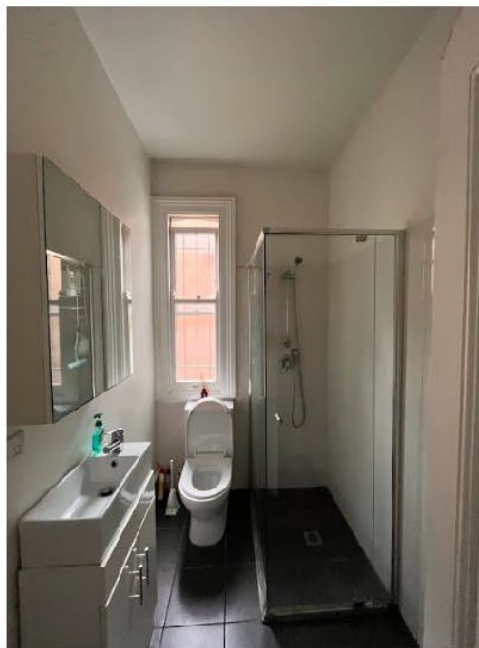


Figure 31 - First floor main bathroom (Source: S. Nix, 2023)

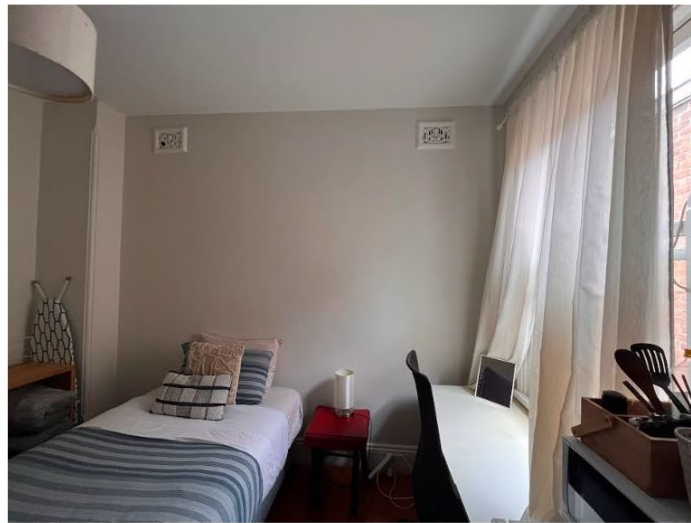


Figure 32 - First floor rear bedroom (Source: S. Nix, 2023)



Figure 33 - First floor rear bedroom (Source: S. Nix, 2023)



Figure 34 - First floor central bedroom (Source: S. Nix, 2023)



Figure 35 – First floor central bedroom with remnant fireplace (Source: S. Nix, 2023)

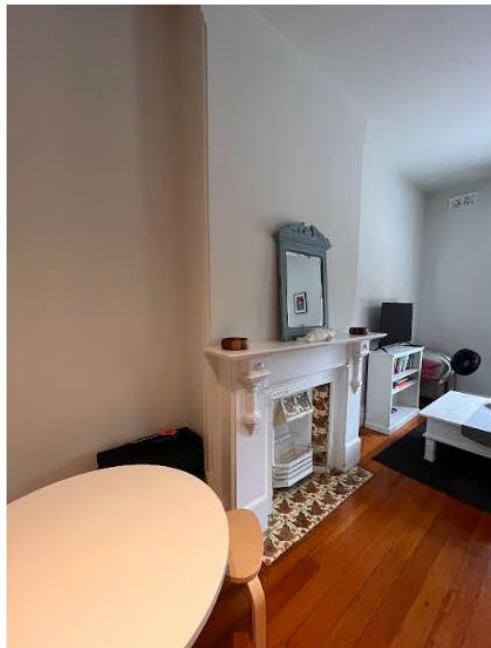


Figure 36 – First floor front bedroom with fireplace (Source: S. Nix, 2023)



Figure 37 - Kitchenette within first floor front bedroom (Source: S. Nix, 2023)



Figure 38 – First floor front bedroom with casement windows facing onto Percival Road (Source: S. Nix, 2023)



Figure 39 – First floor front bedroom ensuite (Source: S. Nix, 2023)



Figure 40 – Rear façade of subject building looking east (Source: S. Nix, 2023)



Figure 41 - Northern breezeway, looking east (Source: S. Nix, 2023)



Figure 42 – Single storey rear wing to be demolished, view looking southeast (Source: S. Nix, 2023)



Figure 43 - Rear skillion roofed lean-to, to be demolished, view looking southeast (Source: S. Nix, 2023)



Figure 44 - Rear garden and garage, view looking west (Source: S. Nix, 2023)

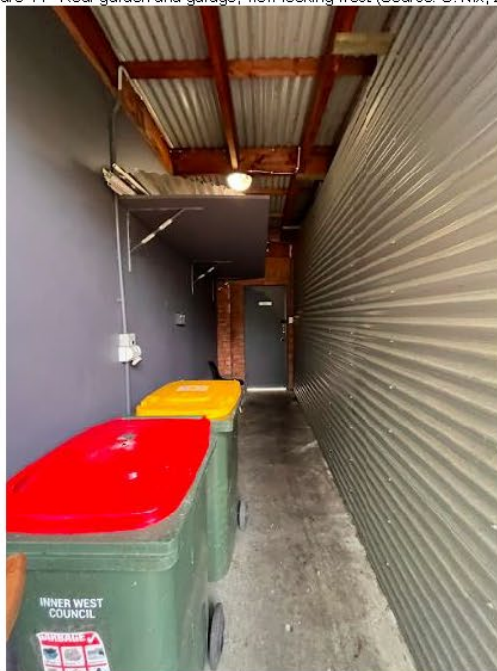


Figure 45 - Garage/rear entrance interior, view looking west (Source: S. Nix, 2023)



Figure 46 - Existing rear garage from Percival Lane West, looking east (Source: S. Nk, 2023)



Figure 47 - View of subject garage and neighbouring properties along Percival Lane West, looking south (Source: S. Nk, 2023)

6.0 SIGNIFICANCE

6.1 STATEMENT OF SIGNIFICANCE

The following Statement of Significance for the 'Annandale Farm' Heritage Conservation Area has been extracted from the State Heritage Inventory sheet for the area:

The Annandale Farm Heritage Conservation Area is of historical significance as a distinctive area development 1884 to 1910 from the last subdivisions (1884 to 1906) of the Annandale Farm Estate, an important early Colonial estate which is historically associated with George Johnston, a significant figure in NSW colonial history. The association with Annandale Farm remains though discernable elements in the landscape (such as street alignments) following the original Farm boundaries and the potential gate house lodge now relocated to the rear garden of 96 Corunna Road.

The Annandale Farm Heritage Conservation Area is a representative residential area of late Victorian and Federation period housing, corner shops and retailing and includes some high quality examples from the different architectural periods. Streetscapes are highly cohesive and roofscapes rhythmical due to the staged subdivision release and the development of many groups and 'runs' of houses of a single pattern.

It is distinguished from surrounding areas by its later development and predominance of late Victorian and Federation period housing, wide streets, and by its most substantial housing being 'Railway Villas' located at a low point purposely to attract affluent potential purchasers to the subdivision.

The Annandale Farm Heritage Conservation Area is considered locally rare as an area which retains discernable elements in the landscape (such as street alignments) which relate to an early colonial estate. The Area also has the potential to demonstrate significant archaeological relics in the vicinity of the former farm house, outbuildings, garden areas and burial grounds. The key period of significance for the Annandale Farm Heritage Conservation Area is 1883-1915.¹²

7.0 PROPOSAL

The proposed works are part of a Development Application relating to the subject site at 136 Percival Road Stanmore. The application involves the following works:

1. Internal alterations & new external openings to existing building, including:
 - Ground floor:
 - New opening into existing bathroom;
 - Demolish stairs;
 - Demolish steps in rear room;
 - Conversion of existing ground floor bathroom/understairs space into single WC;
 - Widening of opening between rear two rooms;
 - New glazed sliding doors to rear elevation of rear wing;
 - First Floor:
 - Reconfigure upstairs bedrooms following proposed removal of internal staircase and to accommodate proposed rear addition/elevated walkway.
 - Create opening in first floor rear wall;
2. First floor rear addition;
3. Raised walkway;
4. New building (as part of the shop top housing development) and garage fronting Percival Lane West;
5. Modifications to shopfront entry floor.

This Statement of Heritage Impact has assessed preliminary drawings provided by Hely Horne Perry Architects.

¹² Annandale Farm Heritage Conservation Area, Marrickville Development Control Plan, 2011.

TABLE 7-0: LIST OF DRAWINGS

Drawing No	Title	Date	Rev
011	GROUND FLOOR PROPOSED	11.9.23	D
-	FIRST FLOOR PROPOSED	-	-
-	SECOND FLOOR PROPOSED	-	-
013	ELEVATIONS	11.9.23	C
014	SECTIONS	25.5.23	B
-	LONG SECTION	-	-

8.0 HERITAGE IMPACTS

8.1 INTRODUCTION

The following assessment is based on the Standard Guidelines of the NSW Heritage Office, the Inner West LEP (2022) and the Marrickville DCP (2011) to accompany a Development Application for the site at 136 Percival Road, Stanmore, NSW.

8.2 IMPACTS ON SIGNIFICANCE

This section assesses how each of the proposed works will impact on the heritage significance of the subject site and nearby listed items. This assessment is based on the proposed architectural plans provided by Hely Horne Perry Architects

TABLE 8-2.1: IMPACTS TERMINOLOGY

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

TABLE 8-2.2: ASSESSMENT OF HERITAGE IMPACTS

Proposed works	Heritage Assessment	Impact
<p>1. Internal alterations & new external openings to existing building, including:</p> <p>Ground floor:</p> <ul style="list-style-type: none"> New opening into existing bathroom; Demolish stairs; Demolish steps in rear room; Conversion of existing ground floor bathroom/under stairs space into single WC; Widening of opening between rear two rooms; New glazed sliding doors to rear elevation of rear wing; <p>First Floor:</p> <ul style="list-style-type: none"> Reconfigure upstairs bedrooms following proposed removal of internal staircase and to accommodate proposed rear addition/elevated walkway. Create opening in first floor rear wall; First floor rear addition; 	<p>The subject site is not listed as a local heritage item within the Inner West LEP (2022). However, it is located within the 'Annandale Farm' HCA with the subject building considered a contributory building. The subject building's primary façade and shopfront positively contribute to the rhythm and historic character of the surrounding streetscape along the western side of Percival Road. Despite extensive modifications made to the interior and rear of the building over the course of the late twentieth and twenty-first century its overall form and late Victorian-era character remain legible.</p> <p>Apart from modifications to the building's shopfront entry floor (discussed below), no other works are proposed to the subject building's primary façade and roof.</p> <p>The proposed works involve internal modifications/new openings to the subject building's ground and first floor. This will involve the removal of the building's existing internal stairs. Although partially reconstructed, the stairs are early fabric, and the proposed removal of this element will have a direct physical impact on the building's integrity. The proposed change will also alter the building's original room configuration and access paths.</p> <p>Following removal of the stairs, the understairs space and adjacent bathroom will be combined as a single WC. This will involve removal of the existing partition wall between the two spaces. Although the removal of this partition wall will have a physical impact on existing fabric, due to previous alterations to the building, it will not involve removal of significant elements or decorative detailing important in the appreciation of the building's stylistic provenance.</p> <p>The works involve the widening of an existing opening between the two rear wing ground floor rooms. Following consultation with the project architect, the opening has been revised to allow the adjacent existing chimney breast to be retained.</p> <p>The proposed modifications will also include the addition of a new opening from the side passage to the combined WC. Although the proposed new WC doorway opening (from side passage) to the WC will involve removal of an early window and wall fabric it will utilise the existing window opening minimising loss of original fabric and retaining an understanding of the building's original opening configuration.</p>	Moderate

Proposed works	Heritage Assessment	Impact
	<p>It will also involve removal of the existing bathroom fit-out and installation of new cabinetry, fixtures, fittings, finishes and waterproofing. The existing bathroom fit-out is completely modern fabric and its removal and fit-out as proposed will have little impact on the significance of the site.</p> <p>Following consultation with the project architect, the rear ground floor room of the rear wing will be retained in place rather than demolished as previously proposed, minimising loss of early fabric. While the works will include installation of new sliding doors within the rear wall of the ground floor rear wing (west), this will not involve intervention with any elements that are important to site's contribution to the HCA.</p> <p>The proposed changes to the building's three first floor bedrooms will involve a reconfiguration following removal of the internal stairs with the existing hallway space incorporated within the three rooms, and new hallway relocated to the north side of the building. The existing hallway and three bedrooms retain early elements including fireplaces and decorative detailing. Whilst the majority of these elements will be retained, the proposed reconfiguration will have a direct physical impact on significant early fabric including the hall archway and entry doors and will alter the first floor's original room configuration and access paths.</p> <p>To accommodate the proposed first floor extension (discussed below) an opening will be constructed within the rear wall of the building. Although this will require removal of a section of original wall fabric, the adjacent chimney breast with chimney above will be retained.</p> <p>The works also involve construction of a new doorway opening into the first-floor rear elevation (west) to allow access from the proposed elevated walkway to the relocated hallway. The proposed new doorway will involve removal of an early window and wall fabric. It will utilise the existing window opening minimising loss of original fabric. Although the proposed change will not be visible from the public domain it will involve a change to the building's original fenestration and access paths.</p> <p>The proposed internal modifications and new openings are considered to have a 'Moderate' impact on the site's overall contribution to the HCA.</p>	
2. First floor rear addition;	The proposal will involve an extension to the rear of the first floor of the subject building.	Minor

35

Proposed works	Heritage Assessment	Impact
	<p>This will involve demolition of the existing roof over the single-storey rear wing. While this will involve removal of existing building fabric, due to the extent of previous modifications to the site, this change will have little impact on any significant early fabric.</p> <p>The proposed extension will be set entirely behind the subject building and will not be visible from Percival Road. It will also be substantially obscured from view by the proposed new building – as part of the shop top housing development (discussed below) – from Percival Lane West. As such, the proposed change will have little to no impact on the local streetscape.</p> <p>The proposed extension will be set back from the site's northern boundary to match the alignment of the existing rear wing, allowing the breezeway to remain intact and legible.</p> <p>The rear addition will match the scale and roof form of the existing rear wing and will not dominate or overwhelm the existing building.</p> <p>Due to the previous changes to the rear of neighbouring buildings along the eastern side of Percival Road, the proposed change will not disrupt any significant rear facade uniformity viewed from the rear laneway.</p> <p>The proposed extension will not adversely impact any identified significant views to or from any nearby listed items.</p> <p>The proposed extension will be of masonry construction with a corrugated steel-clad roof to assist to visually integrate the extension with the existing building.</p> <p>The proposed rear extension is considered to have a 'Minor' impact on the site's contribution to the HCA.</p>	
3. Raised walkway;	<p>The proposed works will involve construction of an elevated walkway between the subject building and proposed new building (as part of the shop top housing development) with an awning above.</p> <p>Addition of the walkway will involve some physical intervention with the exterior of the subject building. However, it will not require any major changes and will be reversible if required to be removed in future.</p>	Minor

Proposed works	Heritage Assessment	Impact
	<p>The walkway will be sited entirely behind the subject building and will not be visible from Percival Road. It will also be substantially obscured from view from Percival Lane West.</p> <p>The walkway will be clearly secondary in scale to the existing building and proposed new building (as part of the shop top housing development). Ensuring it will not visually dominate the existing building.</p> <p>The walkway will not require any changes to the form of the existing building on site and will allow its overall form, including the existing breezeway, to remain legible.</p> <p>Its lightweight construction and use of simple contemporary materials, finishes and detailing will allow the walkway to be readily identified as new work whilst not visually detracting from the subject building.</p> <p>The proposed walkway will not disrupt any identified significant views or alter any significant rear facade uniformity with neighboring buildings.</p> <p>The proposed elevated walkway is considered to have a 'Minor' impact on the site's overall contribution to the HCA.</p>	
4. New building (as part of the shop top housing development) and garage fronting Percival Lane West.	<p>The proposal includes construction of a three-storey new building (as part of the shop top housing development) with a roof-top terrace above at the rear of the site fronting Percival Lane West.</p> <p>This will involve demolition of the existing single-storey garage structure fronting the laneway. This structure was constructed c.1970s and its removal will not involve intervention with early fabric.</p> <p>Due to its proposed siting at the rear of property, the new building (as part of the shop top housing development) will not be visible from the site's primary frontage on Percival Road and will have no impact on its streetscape.</p> <p>The extent, scale and form of the proposed new building have all been revised in response to Pre-DA advice from council as per the below figures. This included removing the originally proposed fourth floor, which has reduced the overall scale of the proposed structure with the maximum height reduced by approximately 1.0m.</p>	Moderate

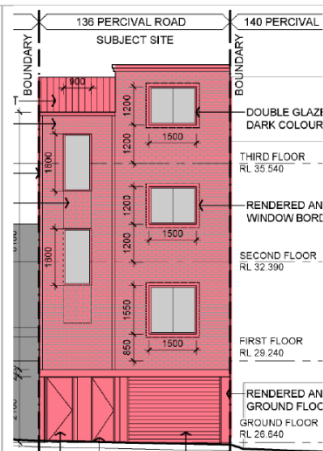


Figure 48 – Originally proposed new building, rear laneway facing elevation
(Source: HPA Architects)

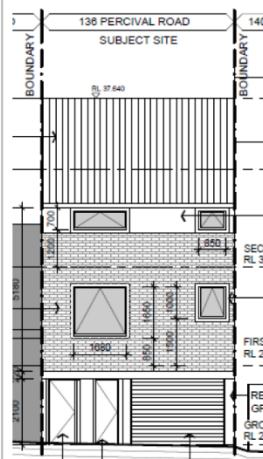


Figure 49 – Revised proposed new building rear laneway facing elevation with scale reduced (Source: HPA Architects)

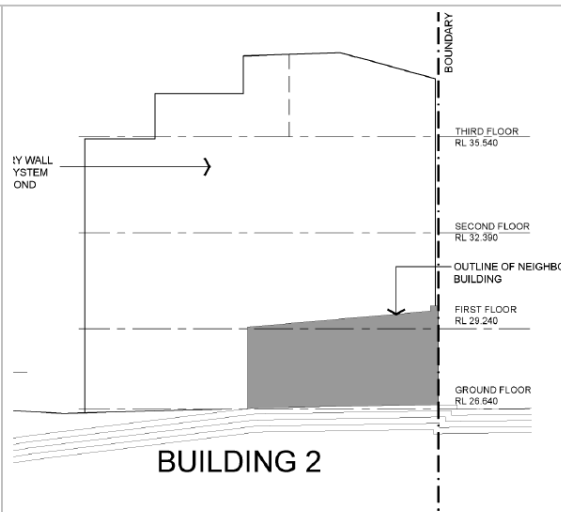


Figure 50 - Originally proposed new building northern elevation (Source: HPA Architects)

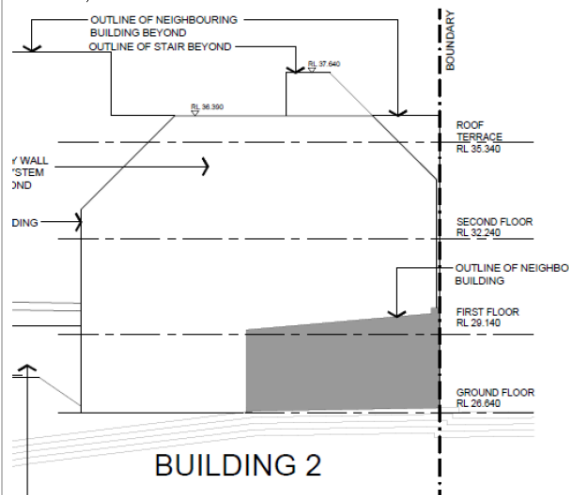
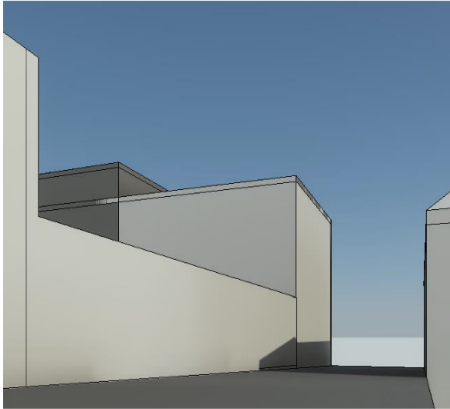
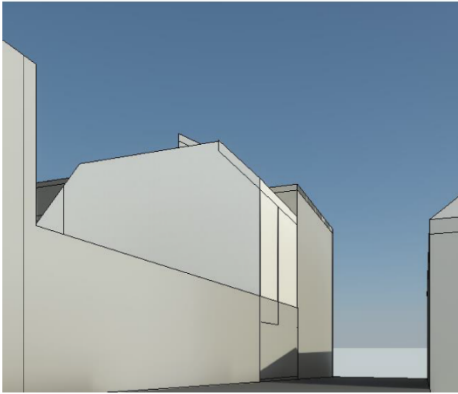


Figure 51 Revised proposed new building northern elevation (Source: HPA Architects)

The eastern side of Percival Lane West contains several two storey structures to the north of the subject site (128, 126 & 124 Percival Road) with a four-storey structure (140 Percival Road) immediately to the south. The proposed three-storey structure will feature a flat roof used as a rooftop terrace, minimising the overall scale of the structure. Although the proposed three-storey structure will be taller than the adjacent two-storey rear lane fronting structures (to the north) it will be set lower than the overall height of the adjacent four-storey structure. The rooftop stairwell structure will exceed the height of the rear sections of 140

Proposed works	Heritage Assessment	Impact
	<p>Percival Road. However, this element will be set-back from the site's northern boundary, minimising its visibility and allowing the proposed building to provide a visual transition in scale between the neighbouring buildings along the east side of the laneway.</p> <p>Following Pre-DA advice, the previously proposed rear elevation has been revised to include a 45-degree sloping plane (above 7.5m height). This will assist in reducing the overall visual bulk of the proposed building as viewed from Percival Lane West as per the below two figures.</p>  <p>Figure 52 – Perspective view without proposed rear building, looking south along Percival Lane West (Source: HPA Architects)</p>  <p>Figure 53 – Perspective view with proposed rear building, looking south along Percival Lane West (Source: HPA Architects)</p> <p>The eastern side of Percival Lane West consists primarily of rear vehicle access to the shops along Percival Road many</p>	

Proposed works	Heritage Assessment	Impact
	<p>with first floor levels above, along with the four-storey structure on the corner of Percival Lane West and Douglas Street. As such, the proposal will not disrupt any significant rear lane uniformity.</p> <p>Due to its siting behind the existing subject building and larger adjoining building (No. 40 Percival Rd) the proposed new building will not adversely impact any identified significant views or adversely impact the appreciation of any nearby listed items.</p> <p>The proposed new building will be constructed of face brick with a flat roof used as a terrace. The use of masonry references that of the subject building and other structures along Percival Lane West in which the predominant building material is brick. Overall, the design will utilise a simple palette of contemporary materials, finishes and detailing with a muted colour palette. This will ensure the new structure does not visually detract from the subject building or the character of the HCA, whilst being readily identifiable as new work.</p> <p>The proposed new, rear building is considered to have a 'Moderate' impact on the site's contribution to the HCA.</p>	
6. Modifications to shopfront entry	<p>The proposal includes the removal of the existing terrazzo finished shopfront entry floor and replacement to meet accessible access requirements. Although not likely original, the existing floor is an early, high-quality element, part of the layered history of the site and its removal will have a direct, localised impact on early fabric and on the character of the shopfront. The proposed replacement should be designed to minimise this impact, potentially using a terrazzo finish similar to the existing.</p>	Moderate

9.0 CONCLUSION

No. 136 Percival Road, Stanmore is not listed as a heritage item in the Inner West Local Environmental Plan (2022). However, it is located within the 'Annandale Farm' Heritage Conservation Area and in close proximity to several locally listed items, as well as Stanmore Railway Station Group which is listed at a State level. The subject shopfront and residence is estimated to have been constructed c. 1899 and, despite some minor alterations to the primary façade and interior, retains much of its historic character, form and detailing, contributing to the group of shopfronts along the western side of Percival Road.

The proposed works to the site will involve internal modifications/new openings, a rear extension, an elevated walkway and a new building (as part of the shop top housing development) fronting Percival Lane West. Apart from modifications to the shopfront entry floor, no other changes are proposed to subject building's primary Percival Road facing façade or its primary roof form.

The proposed internal modifications and new openings to the subject building will retain the majority of the site's significant internal elements, however will alter the original first floor room configuration and access paths and are considered to have an overall 'Moderate' impact on the site's contribution to the HCA.

The proposed rear first floor extension will have no impact on the Percival Road streetscape and will not disrupt any significant rear facade uniformity and is considered to have a 'Minor' impact on the site's contribution to the HCA.

Following Pre-DA advice, the overall height and form of the proposed new building have been revised, reducing its overall scale and visual bulk, which will allow the building to provide a visual transition in scale between neighbouring structures. The proposed new building is considered to have an overall 'Moderate' impact on the site's contribution to the HCA.

The proposed replacement of the shopfront entry floor to provide accessible access will involve removal of early fabric and will have a 'Moderate' impact on the site's contribution to the HCA. This could be partially mitigated through ensuring the new floor matches the finish of the existing terrazzo floor.

Taking into account the above, the proposed works are considered to have an overall 'Moderate' impact on the significance of the subject building and its contribution to the surrounding HCA.

10.0 BIBLIOGRAPHY

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Attachment E – Draft conditions of consent in the event of approval by Panel

CONDITIONS OF CONSENT

GENERAL CONDITIONS

	Condition
1.	<p>Permits</p> <p>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:</p> <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
2.	<p>Insurances</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
3.	<p>Separation of Commercial and Residential Waste and Recycling</p> <p>The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.</p> <p>Reason: Commercial/retail premises and residential properties pay separate charges for waste and recycling collection.</p>

4.	<p style="text-align: center;">Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>																												
5.	<p style="text-align: center;">Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table><tr><th>Plan, Revision and Issue No.</th><th>Plan Name</th><th>Date Issued</th><th>Prepared by</th></tr><tr><td>010 - Revision E</td><td>Site/Roof Plan</td><td>12-08-24</td><td>Hely Horne Perry Architects Pty Ltd</td></tr><tr><td>011 - Revision F</td><td>Buildings 1 & 2 Ground Floor Plans</td><td>24-08-24</td><td>Hely Horne Perry Architects Pty Ltd</td></tr><tr><td>012 - Revision F</td><td>Buildings 1 & 2 - First, Second & Third Floor</td><td>24-08-24</td><td>Hely Horne Perry Architects Pty Ltd</td></tr><tr><td>013 - Revision F</td><td>Elevations</td><td>12-08-24</td><td>Hely Horne Perry Architects Pty Ltd</td></tr><tr><td>014 - Revision E</td><td>Sections</td><td>12-08-24</td><td>Hely Horne Perry Architects Pty Ltd</td></tr><tr><td>Reference number: 5676R001.DK.230927</td><td>External Noise Intrusion Assessment</td><td>27 October 2023</td><td>Acoustic Dynamics</td></tr></table> <p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>	Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	010 - Revision E	Site/Roof Plan	12-08-24	Hely Horne Perry Architects Pty Ltd	011 - Revision F	Buildings 1 & 2 Ground Floor Plans	24-08-24	Hely Horne Perry Architects Pty Ltd	012 - Revision F	Buildings 1 & 2 - First, Second & Third Floor	24-08-24	Hely Horne Perry Architects Pty Ltd	013 - Revision F	Elevations	12-08-24	Hely Horne Perry Architects Pty Ltd	014 - Revision E	Sections	12-08-24	Hely Horne Perry Architects Pty Ltd	Reference number: 5676R001.DK.230927	External Noise Intrusion Assessment	27 October 2023	Acoustic Dynamics
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6.	<p style="text-align: center;">Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>																												
7.	<p style="text-align: center;">Storage of Materials on public property</p> <p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>																												
8.	<p style="text-align: center;">Other works</p>																												

	<p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
9.	<p>National Construction Code (Building Code of Australia)</p> <p>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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
10.	<p>Notification of commencement of works</p> <p>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:</p> <ol style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
11.	<p>Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
12.	<p>Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
13.	<p>Dial before you dig</p> <p>Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
14.	<p>Noise – Consultant's Recommendations</p>

	<p>All the recommendations contained in the acoustic report prepared by Acoustic Dynamics, reference 5676R001.DK.230927 dated 27 October 2023 must be implemented. Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.</p>
15.	<p>Mechanical Ventilation System Certification</p> <p>The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:</p> <ol style="list-style-type: none"> 1. Australian Standard AS 1668 Part 1 – 1998; 2. Australian Standard AS 1668 Part 2 – 2012; 3. Australian Standard 3666.1 – 2011; 4. Australian Standard 3666.2 – 2011; and 5. Australian Standard 3666.3 - 2011. <p>The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.</p> <p>Reason: To ensure compliance with the relevant Australian Standards.</p>
16.	<p>Loading/Unloading on Site</p> <p>All loading and unloading are to be conducted within the site at all times. Reason: To ensure public roads are not used for loading/unloading activities.</p>
17.	<p>Operation of Commercial Tenancy</p> <p>The operation of the commercial tenancy is to be maintained in accordance with development consent DA201300062.</p> <p>Reason: To ensure the site operates in accordance with the approved development.</p>
18.	<p>Car & Bicycle Parking</p> <p>The development must provide and maintain within the site: One (1) car parking space must be dedicated to the existing commercial tenancy for parking for staff and use by delivery vehicles; Four (4) Bicycle storage capacity within the site. Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p>
19.	<p>Residential Units – Hot Water Systems</p> <p>Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street. Reason: To protect the visual amenity of the neighbourhood.</p>
20.	<p>Residential Units – Air Conditioning Systems</p>

	Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street. Reason: To protect the visual amenity of the neighbourhood.
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BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
21.	<p>Security Deposit - Custom</p> <p>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.</p> <p>Security Deposit:</p> <table border="1"> <tr> <td>Security Deposit:</td><td>\$9210.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$374.50</td></tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$9210.00	Inspection Fee:	\$374.50
Security Deposit:	\$9210.00				
Inspection Fee:	\$374.50				
22.	Stormwater Drainage System – Minor Developments (OSD is not required)				

	<p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ol style="list-style-type: none"> a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. SW02 prepared by NEILLYDAVIES CONSULTING ENGINEERS and dated 30/08/2022. b. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road. c. 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. d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks. e. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes. f. As there is no overland flow/flood path available from the rear and central courtyards to the Percival Rd frontage, the design of the sag pit and piped drainage system is to meet the following criteria: <ol style="list-style-type: none"> 1. 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. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. 3. A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings. g. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. j. No nuisance or concentration of flows to other properties. k. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required. l. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
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	<p>n. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.</p> <p>o. 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.</p> <p>p. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings.</p> <p>q. No impact to street tree(s).</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
23.	<p>Public Domain Works – Prior to Construction Certificate</p> <p>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:</p> <p>a. The public domain along the Percival Lane frontage of the site must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;</p> <p>b. The construction of light duty vehicular crossing to the vehicular access location and removal of all redundant vehicular crossings to the site; and</p> <p>c. The vehicular crossing to the site shall be designed to satisfy the ground clearance template for a B99 vehicle using dynamic ground clearance software. A long section, along both sides of the vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be provided for review. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing and proposed surface levels including information including chainages.</p> <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards</p>
24.	<p>Parking Facilities - Domestic</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <p>a. The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.</p>

	<ul style="list-style-type: none"> b. The garage slab or driveway must then rise within the property to be a minimum of 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. c. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B95 vehicle. 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. d. 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. e. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces. f. 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 unless otherwise approved. g. The external form and height of the approved structures must not be altered from the approved plans. <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
25.	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
26.	<p>Bin Storage Area</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.</p> <p>The submitted Waste and Recycling Management Plan must demonstrate that that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, a weekly</p>

	<p>collection of organics which includes food and garden organics (FOGO), and a fortnightly collection of mixed recycling.</p> <p>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.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
27.	<p>Long Service Levy</p> <p>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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
28.	<p>Balcony</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the erection of a privacy screen on the second floor on the eastern elevation of building 2, having a minimum block out density of 75% and a height of 1.6 metres above the finished floor level of the balcony/terrace.</p> <p>Reason: To ensure that visual privacy treatment protects the amenity of the neighbourhood.</p>
29.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
30.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p>

	Reason: To ensure relevant utility and service provides requirements are provided to the certifier.														
31.	<p>Acoustic Report – Aircraft Noise</p> <p>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.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>														
32.	<p>Street Numbering</p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to Street Numbering Application</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>														
33.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td><td>\$21,113.00</td></tr> <tr> <td>Community Facilities</td><td>\$3,868.00</td></tr> <tr> <td>Transport</td><td>\$3,389.00</td></tr> <tr> <td>Plan Administration</td><td>\$300.00</td></tr> <tr> <td>Drainage</td><td>\$1,608.00</td></tr> <tr> <td>TOTAL</td><td>\$30,277.00</td></tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ <p>Where:</p> <p>C_{payment} = is the contribution at time of payment</p> <p>C_{consent} = is the contribution at the time of consent, as shown above</p>	Contribution Category	Amount	Open Space & Recreation	\$21,113.00	Community Facilities	\$3,868.00	Transport	\$3,389.00	Plan Administration	\$300.00	Drainage	\$1,608.00	TOTAL	\$30,277.00
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Plan Administration	\$300.00														
Drainage	\$1,608.00														
TOTAL	\$30,277.00														

	<p>CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.1 for the June 2024 quarter.</p> <p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>				
34.	<p>Housing and Productivity Contribution</p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table border="1" data-bbox="491 1435 1112 1574"> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> <tr> <td>Total housing and productivity contribution</td><td>\$2,913.54</td></tr> </table>	Housing and productivity contribution	Amount	Total housing and productivity contribution	\$2,913.54
Housing and productivity contribution	Amount				
Total housing and productivity contribution	\$2,913.54				

	<p>b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:</p> <p style="text-align: center;"><i>Highest PPI number</i></p> <p style="text-align: center;"><i>Consent PPI number</i></p> <p>Where:</p> <p><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p><i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p>c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table border="1" data-bbox="493 992 1211 1541"> <thead> <tr> <th>Development</th><th>Time by which HPC must be paid</th></tr> </thead> <tbody> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td><td>Before the issue of the first subdivision certificate</td></tr> <tr> <td>High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td><td>Before the issue of the first strata certificate</td></tr> <tr> <td>Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building</td><td>Before the issue of the first strata certificate</td></tr> <tr> <td>Manufactured home estate for which no construction certificate is required</td><td>Before the installation of the first manufactured home</td></tr> </tbody> </table> <p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p>	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home
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Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home										

	<p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> a. the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, b. the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>
35.	<p>Hazardous Materials Survey</p> <p>Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.</p> <p>A copy of any SafeWork NSW approval documents is to be included as part of the documentation.</p> <p>Reason: To ensure compliance with the requirements of SafeWork NSW.</p>
36.	<p>Noise General – Acoustic Report</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
37.	<p>Concealment of Plumbing and Ductwork</p>

	<p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.</p> <p>Reason: To protect the visual amenity of the neighbourhood.</p>
38.	<p>Enclosure of Fire Hydrant</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that any fire hydrant and sprinkler booster valves and the like are enclosed by a suitably designed accessible screen and in accordance with the requirements of AS 2419.1 2005.</p> <p>Reason: To protect the streetscape.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
39.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
40.	<p>Construction Traffic Management Plan</p> <p>Prior to any works commencing, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained. If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note."</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
41.	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste</p>

	<p>Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
42.	<p>Erosion and Sediment Control</p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
43.	<p>Dilapidation Report</p> <p>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 identified properties (132 & 140 Percival Road) 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.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
44.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>
45.	<p>Verification of Levels and Location</p> <p>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.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

DURING BUILDING WORK

	Condition
46.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p>

	Reason: To ensure surrounding properties are adequately notified of the proposed works.
47.	<p>Survey Prior to Footings</p> <p>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.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
48.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.</p> <p>In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.</p> <p>This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works. "Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
49.	<p>Public Domain Works</p> <p>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:</p>

	<ul style="list-style-type: none"> • Light/Heavy duty concrete vehicle crossing at the vehicular access location; and • Other works subject to the Roads Act 1993 approval. <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
50.	<p>No Encroachments</p> <p>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.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
51.	<p>Protect Sandstone Kerb</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
52.	<p>Whiteway Lighting - Existing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the Whiteway lighting scheme and any existing meter box being maintained and any defects (including the need to install a "special small service") in the system are repaired.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
53.	<p>Parking Signoff – Minor Developments</p> <p>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.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
54.	<p>Notice to Council to deliver Residential Bins</p> <p>Council is to be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>

55.	<p>Aircraft Noise –Alterations and Additions</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
56.	<p>Dilapidation Report</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (132 & 140 Percival Road) 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.</p> <p>Reason: To determine potential construction impacts.</p>
57.	<p>Smoke Alarms - Certification of upgrade to NCC requirements</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.</p> <p>Reason: To ensure compliance with the National Construction Code (Building Code of Australia).</p>
58.	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>

OCCUPATION AND ONGOING USE

	Condition
59.	<p>Noise General</p> <p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

	Condition
60.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
61.	<p>Construction Traffic Management Plan</p> <p>Prior to any works commencing, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained. If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note."</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>