




	
DEVELOPMENT ASSESSMENT PANEL REPORT	
<b>Application No.</b>	DA/2024/0700
<b>Address</b>	95 Australia Street CAMPERDOWN
<b>Proposal</b>	Alterations and additions to an existing dwelling house, including partial demolition of existing structures and construction of ground and first floor additions.
<b>Date of Lodgement</b>	21 August 2024
<b>Applicant</b>	Andrew Ireland
<b>Owner</b>	Mrs Marilyn O Ireland
<b>Number of Submissions</b>	Notification: Eight (8) Renotification: Six (6)
<b>Cost of works</b>	\$420,000.00
<b>Reason for determination at Planning Panel</b>	Number of submissions
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>Section 4.4 – Floor Space Ratio variation</li> <li>Part 2.7 – Solar Access and Overshadowing</li> </ul>
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended Conditions of Consent
<b>Attachment B</b>	Plans of Proposed Development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards
	
LOCALITY MAP	
<b>Subject Site</b> 	<b>Objectors</b> 
<b>Notified Area</b> 	<b>Supporters</b> 
Note: Due to scale of map, not all objectors could be shown.	

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling house, including partial demolition of existing structures and construction of ground and first floor additions at No. 95 Australia Street CAMPERDOWN.

The application was notified to surrounding properties and seven (7) submissions of objection were received in response to the initial notification, with one (1) submission in support of the proposal.

Amended plans and associated documentation were submitted and accepted during the assessment of the application, as a result, the application was renotified to surrounding properties and six (6) submissions of objection were received.

The main issues that have arisen from the application include:

- Section 4.4 – Floor Space Ratio variation
- Part 2.7 – Solar Access and Overshadowing variation

Despite the issues noted above, it is considered that the proposed development is capable of generally complying with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022 (IWLEP)*, and Marrickville Development Control Plan 2011 (MDCP), subject to the imposition of conditions included in the recommendation.

The potential impacts to surrounding properties have been considered as part of the assessment process, given the context of the site and the desired future character of the precinct, these are considered acceptable, subject to recommended design change conditions.

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

## 2. Proposal

The proposal seeks consent for alterations and additions to an existing dwelling house, including partial demolition of existing structures and construction of ground and first floor alterations and additions. The proposal includes the following works:

- Demolish the existing roof form, some internal walls and improvements;
- The existing ground floor layout is to be amended to accommodate a lounge room, toilet, laundry and open-plan kitchen, dining and living areas;
- Construction of a first-floor addition which includes four (4) bedrooms, a front and rear-facing balcony, one (1) ensuite and one (1) bathroom;
- A hard-stand parking space to the rear yard;
- Planting of a tree to the rear yard;

- New brick fence with an associated roller door to the rear boundary; and
- Installation of a privacy screen behind the existing roller door to the side boundary fence adjoining Eton Lane.

It should be noted that the existing painted mural on the side elevation along Eton Lane will be retained.

### 3. Site Description

The subject site is located on the south-western side of Australia Street, between Eton Lane and Derby Lane. The site consists of one (1) allotment and is generally rectangular shaped with a total area of 126.5sqm and is legally described as Lot 22 in DP 2036.

The subject site is a corner allotment, and has a frontage to Australia Street of 5.03m, a side frontage to Eton Lane of 25.145m and a secondary frontage of 5.03m to Australia Lane. The subject site is not affected by any easements.

The site currently supports a single storey dwelling house. Surrounding land uses are a mix of single and two-storey dwelling houses. No. 30 Eton Street consists of a commercial premises on ground floor and residential accommodation on first floor.

The subject site is not located in a Heritage Conservation Area and is not a listed Heritage Item; however, the existing dwelling on-site is considered a period building as defined under MDCP 2011.

The following trees are located within the vicinity of the subject site:

- *Banksia integrifolia* (Coast Banksia) – located in the Council verge on Australia street; and
- *A Fraxinus griffithii* (Himalayan Ash) – located in the rear yard of the neighbouring property to the west of the subject site.



Figure 1 – Site Photo



Figure 2 – Zoning Map

## 4. Background

### Site history

The following application outlines the relevant development history of the subject site.

Application	Proposal	Decision & Date
CDC201700045	External and internal alterations to a dwelling house.	Approved, 02/05/2017



Application history

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

Date	Discussion / Letter / Additional Information
21/08/2024	Application lodged.
27/08/2024 to 10/09/2024	Notification period.
14/10/2024	A Request for Further Information letter was sent to the applicant requiring amended plans to address a Floor Space Ratio variation, streetscape and design, period building controls, solar access and overshadowing, parking, private open space and pervious landscaping, tree planting, visual privacy, visual bulk and scale and floor plan layout matters. The provided Section 4.6 Exception to Development Standards request was also requested to be amended.
23/10/2024	In person meeting held between Council and the applicant to discuss the proposal. In addition to other matters addressed in the Request for Further Information letter, Council recommended deleting the third storey entirely from the proposal and minimising the number of bathrooms proposed and reducing the size of the bedrooms to accommodate a smaller building footprint and reduced Floor Space Ratio variation that is commensurate to the existing period building.
8/11/2024	Amended plans and supporting documentation were received. Renotification was required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.
19/11/2024 to 3/12/2024	Renotification period.

## 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* (EP & A 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*.

## 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 satisfies this Section as follows:</p> <ul style="list-style-type: none"> <li>The proposal prevents adverse social, economic, and environmental impacts on the local character of the Inner West; and</li> <li>The proposal prevents adverse social, economic, and environmental impacts, including cumulative impacts.</li> </ul>	Yes, as conditioned

**Part 2 – Permitted or prohibited development**

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table  <i>R2 – Low Density Residential</i>	<ul style="list-style-type: none"> <li>The application proposes alterations and additions to an existing <b>dwelling house</b>, including partial demolition of existing structures and construction of ground and first floor additions which is permissible with consent in the R2 – Low density Residential zone. <b>Dwelling houses</b> are permissible with consent in the R2 zone; and</li> <li>The proposal is consistent with the relevant objectives of the zone, as the proposal seeks to provide housing on-site that satisfies the needs of its occupants.</li> </ul>	Yes
Section 2.7 Demolition requires development consent	<p>The proposal satisfies this Section as follows:</p> <ul style="list-style-type: none"> <li>Demolition works are proposed, which are permissible with consent; and</li> <li>Standard conditions are recommended to manage impacts which may arise during demolition.</li> </ul>	Yes, as conditioned

**Part 4 – Principal development standards**

Control	Proposed		Compliance
Section 4.3 Height of buildings	Maximum	9.5m	Yes
	Proposed	9m	
Section 4.4 Floor space ratio	Maximum	1.1:1 or 139.15sqm	No – See Section 4.6 Assessment below
	Proposed	1.206:1 or 152.6sqm	
	Variation	9.6% or 13.45sqm	
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 of the <i>IWLEP 2022</i> .		See below under the relevant heading for further details

**Section 4.6 – Exceptions to Development Standards****Floor Space Ratio Development Standard**

The applicant seeks a variation to the above-mentioned development standard under Section 4.6 of the *IWLEP 2022* by 9.6% or 13.45sqm. Section 4.6 allows Council to vary Development Standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

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A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the Development Standard. 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.

***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 Development Standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4 – Floor Space Ratio** is “to establish a maximum floor space ratio to enable appropriate development density”.

The written request states that *the proposal maintains, is consistent with and reinforces existing development density, character, style, orientation, pattern of development, streetscapes and landscape area*. The proposed development, as conditioned, is consistent in height, bulk, and massing as other previous approvals in the immediate vicinity of the site under the current controls and objectives (i.e., MDCP 2011), such as, Nos. 26 and 28 Eton Street and Nos. 70 and 76 Denison Street (refer to Figures 3, 4, 5 and 6 below for details). Therefore, it is considered that the proposal is of a development density that is consistent with the established pattern of development. Accordingly, the breach is consistent with the first objective.

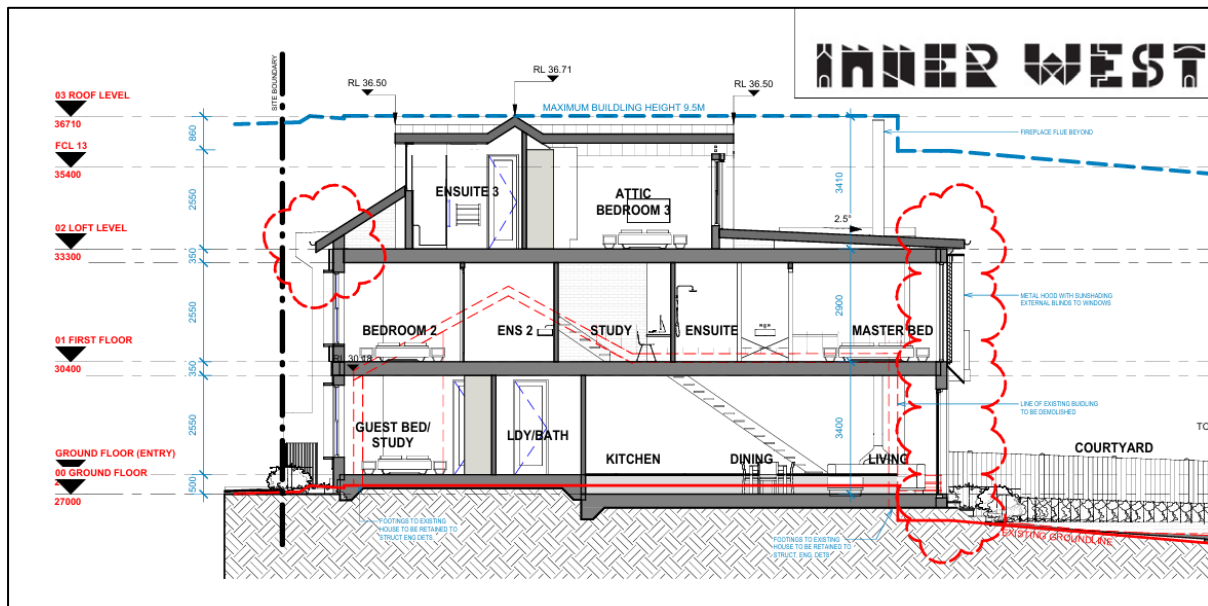


Figure 3 - No. 26 Eton Street Section Diagram as Approved under DA/2021/1080

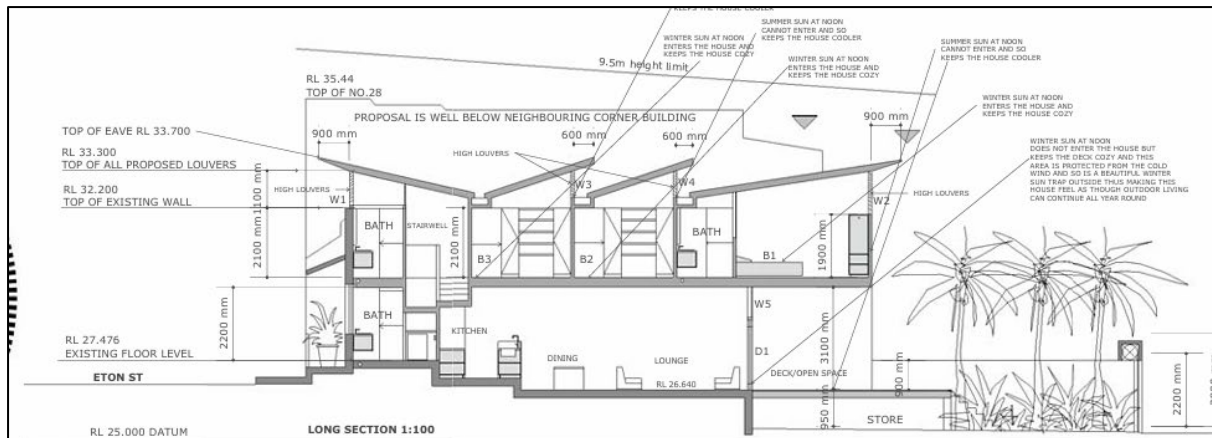


Figure 4 - No. 28 Eton Street Section Diagram as Approved under DA201300194

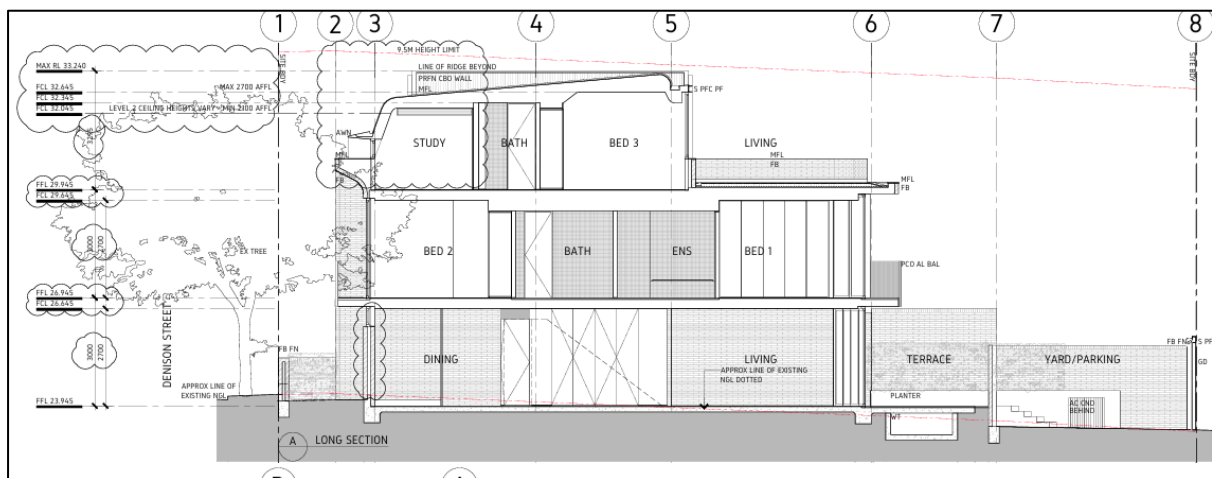


Figure 5 - No. 70 Denison Street Section Diagram as Approved under DA201800565



Figure 6 - No. 76 Denison Street Section Diagram as Approved under DA201400210

The second objective of Section 4.4 – Floor Space Ratio is “to ensure development density reflects its locality”.

The written request states that the proposal maintains, is consistent with and reinforces existing development density, character, style, orientation, pattern of development,



*streetscapes, and landscape area.* The proposal reflects the character of the existing period building on-site by utilising a traditional roof form of the existing building. Further, the proposed side, front and rear setbacks are in keeping with the prevailing setback pattern and is of a building massing (two-storey) that is in keeping with the predominant two-storey streetscape with evidence of three-storey dwellings. As such, it is considered that the proposed development is of a density that reflects its locality. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4 – Floor Space Ratio** is *“to provide an appropriate transition between development of different densities”*.

The written request states that *the site is within a locality and streetscape that primarily two and three storey dwellings with a number of three to four storey building.* As evident in Figures 3, 4, 5 and 6 (abovementioned previous approvals) and along Australia Street, there is a high prevalence of two-storey dwelling houses, along with three-storey dwelling houses in the form of an attic floor addition. Given that the proposed development is a two-storey form, the proposed density and massing is consistent with the pattern of development within the locality. As outlined in the Applicant's written request, there is evidence of three to four-storey buildings within the vicinity of the site, including in nearby R1 – General Residential zones. These buildings are residential flat buildings and are in a different zone in contrast to the subject site. Therefore, the three to four storey buildings referred to in the Applicant's written request are not a similar form of development as what is proposed under this subject application. However, form and height of the development, as conditioned, will be sympathetic to the development density of nearby residential flat buildings, and therefore, will allow for an appropriate transition between development of different densities. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4 – Floor Space Ratio** is *“to minimise adverse impacts on local amenity”*.

The written request states *as established by comparison with surrounding period-built form (terraces at 89, 91 & 38 Australia St) and recent approvals (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St) the proposed scale, bulk, massing, heights, and setbacks are considered to be consistent the visual cohesiveness and pattern of the existing streetscape and desired future pattern of development within the area. The envelope of the revised proposal and any minor overshadowing impact would be reasonably expected within the area.* As discussed under *Part 2.7 – Solar Access and Overshadowing* of this report, the height of the development is the significant contributor to the extent of overshadowing cast to Nos. 22 to 30 Eton Street's private open space areas. Therefore, subject to the recommended condition to reduce the pitching points on first floor to a maximum of 2.1m in height, the amenity of the locality in terms of solar access and overshadowing, outlook and visual bulk and scale will be significantly improved from the development as proposed. In addition to the above, the form, massing, setbacks, and design of the dwelling is in keeping with the prevailing streetscape character and pattern of development, and therefore, the extent of impacts to the locality will be similar to other previously approved developments within the immediate vicinity of the site. Further, as discussed throughout this report, the proposal has acceptable visual and acoustic privacy and bulk and scale

implications to the street and neighbouring properties. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4 – Floor Space Ratio** is “*to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain*”.

The written request states that *the proposal increases existing landscaped areas...and...includes the addition of a substantial tree in the rear open space*. As part of this application the proposal seeks to increase the extent of landscaping on-site and provide a tree to the rear yard. Although the proposal continues to vary the minimum private open space and minimum pervious landscaping requirements, the proposal allows for a substantial improvement from existing and will be of a use (dual use zone with off-street parking), area and depth similar to neighbouring private open space areas. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the Floor Space Ratio Development Standard, compliance is considered unreasonable and unnecessary in this instance.

***Whether there are sufficient environmental planning grounds to justify contravening the development standard***

Pursuant to Section 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the Floor Space Ratio Development Standard:

**Environmental Planning Ground 1** - *Provides consistency with the streetscape and existing built form. By replicating streetscape contributions, details, proportions and scale of massing, forms, heights, and front alignments of nearby period (historical) dwellings.*

This environmental planning ground is accepted because the proposed form, as conditioned (refer to *Part 2.7 – Solar Access and Overshadowing* of this report for details), is in keeping with the prevailing pattern of development (setbacks, height and two-storey massing) and previously approved applications along Australia Street, Denison Street and Eton Street. Therefore, it is considered that the first-floor addition and the area associated with the Floor Space Ratio variation will be in keeping with the existing development density of the immediate vicinity of the site. Further, the proposed first floor building location (front setback) is well-integrated with the established front setback pattern along Australia Street as established by the two-storey frontage dwellings, such as Nos. 69, 71, 75, 85, 87 and 89 Australia Street. In addition, the proposed form of the dwelling, as conditioned, will have acceptable visual bulk and scale implications on adjoining properties and the streetscape in terms of maintaining the streetscape character and density and protecting the visual privacy, outlook, and solar access of neighbours.

**Environmental Planning Ground 2** - *Conserves the existing built heritage including ground floor-built form and fabric and privately owned artwork along Eton Lane Façade in lieu of demolition of the existing dwelling and construction of a new 2/3 storey dwelling. (70 Denison St, 26 Eton St, 28 Eton, 103 Australia St).*

This environmental planning ground is accepted because the proposed retention of the existing period building will allow for enhanced streetscape implications (i.e., historical streetscape character will remain intact post-development) instead of demolishing the entire period building to accommodate a contemporary dwelling on-site. During the Request for Further Information period, design options were discussed between the Applicant and Council, and it was considered that a first-floor front building line that is in-line with the ground floor front building line with vertically proportioned windows, front-facing gable roof with an identical pitch and a rear gable roof form is an appropriate response to Council's period building and streetscape and design controls under the MDCP 2011. Although, the rear gable roof form is not a predominant feature along Australia Lane and / or the immediate vicinity of the site, the proposed roof form allows for an appropriate transition from the period building to the contemporary additions above and to the rear as it adopts a historical design element to ensure that the development is sympathetic to the period building. Therefore, it is considered that the proposal, as conditioned, effectively manages heritage on-site.

**Environmental Planning Ground 3 - *The proposal replicates the established (historical) side and rear building pattern and alignments and heights of nearby period (historical) dwellings (terraces at 89, 91, 38 Australia St).***

This environmental planning ground is accepted because the proposed rear setback on first floor is within the rear setback character of the street as established by historical and previously approved developments, such as Nos. 59 (nil setback), 61 (nil setback), 71-73 (nil setback), 83 (approximately 2.5m), 89 (approximately 4.68m), and 91 (approximately 3.9m) Australia Street. In addition, the proposed nil side setbacks on first floor are in keeping with the prevailing side setback pattern and will have minimal amenity implications on adjoining properties.

Cumulatively, the grounds are considered sufficient to justify contravening the Development Standard.

For the reasons outlined above, it is recommended that the Section 4.6 exception be granted.

## Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.2 Earthworks	<ul style="list-style-type: none"> <li>The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.</li> </ul>	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> <li>The proposal will remain satisfactory with respect to the provisions of this Section of the <i>IWLEP 2022</i> subject to conditions, and these conditions will remain in force as part of any future consent granted.</li> </ul>	Yes, as conditioned
Section 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> <li>The site is located within the ANEF 20-25 contour. The proposal is capable of satisfying this section as conditions have been included in the development consent to ensure that the proposal will meet the</li> </ul>	Yes, as conditioned

Section	Proposed	Compliance
	relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.8 of the <i>IWLEP 2022</i> .	

## B. Development Control Plans

### Summary

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

MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes, as conditioned – see discussion
Part 2.6 – Acoustic and Visual Privacy	Yes, as conditioned – see discussion
Part 2.7 – Solar Access and Overshadowing	Acceptable on merit, as conditioned – see discussion
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes, as conditioned – see discussion
Part 2.11 – Fencing	Yes, as conditioned – see discussion
Part 2.18 – Landscaping and Open Space	Acceptable, on merit – see discussion
Part 2.20 – Tree Management	Yes, as conditioned – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes, as conditioned – see discussion
Part 2.25 – Stormwater Management	Yes, as conditioned
Part 4.1 – Low Density Residential Development	Acceptable, on merit – see discussion
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

### Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.1 Urban Design	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>Subject to conditions, the proposal does not impact the definition between the public and private domain and is</li> </ul>	Yes, as conditioned

Control	Assessment	Compliance
	<p>appropriate for the character of the locality given its form, massing, siting, and detailing. Refer to <i>Part 2.7 – Solar Access and Overshadowing</i> of this report for a detailed assessment; and</p> <ul style="list-style-type: none"> <li>The proposal seeks to preserve the existing character of the streetscape by translating positive design characteristics from the ground floor period building and streetscape, such as a front-end gable pitched roof and vertically proportioned glazing.</li> </ul>	
Part 2.6 Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on visual and acoustic privacy levels of the surrounds as follows:</p> <ul style="list-style-type: none"> <li>A condition has been included in the recommendation to ensure that the proposed alterations and additions are compliant with the relevant provisions of AS 2021:2015 in order to mitigate aircraft noise implications;</li> <li>The proposal maintains / proposes a low impact residential use and as such is unlikely to result in adverse acoustic impacts;</li> <li>The proposed off-street parking space within the rear yard of the subject site is in a similar location to neighbouring off-street parking spaces, and therefore, will have similar acoustic implications upon neighbouring properties;</li> <li>The principal living area and area of Private Open Space (POS) is designed and located to offer reasonable amenity to occupants and any direct view corridors into neighbouring POS areas will be mitigated by the boundary fences;</li> <li>The proposed glazing and associated first floor balcony to the eastern elevation of the dwelling (front-facing) will overlook Australia Street, and therefore, will have minimal overlooking opportunities into neighbouring main living room glazing and POS areas;</li> <li>The ground floor glazing to the southern elevation of the dwelling (side-facing along Eton Lane) is the same as existing, and therefore, the impacts generated from these windows will have substantially the same visual privacy implications as existing;</li> <li>The proposed first floor glazing to the southern side elevation of the dwelling is positioned in a location which is contrary to C3(iii) of this Part of the MDCP 2011. However, all the glazing consists of a sill height of 1.6m or fixed privacy screening to 1.6m above finished floor level which is consistent with C3(v)(b) of this Part of the MDCP 2011. Therefore, given the design proposed, it is considered that the development protects the visual privacy of nearby properties when utilising their POS areas, primary living areas, and bedrooms, etc., particularly along Eton Street. As such, it is considered that the proposed first floor side-facing glazing satisfies O1 and C3(v)(b) of this Part of the MDCP 2011;</li> <li>The proposed ground floor rear-facing glazing to the western elevation of the dwelling overlooks the subject site's POS</li> </ul>	Yes, as conditioned



Control	Assessment	Compliance
	<p>area. The boundary fences will obscure any direct overlooking into neighbouring POS areas and main living room glazing. Therefore, it is considered that the visual privacy of adjoining and nearby properties is protected;</p> <ul style="list-style-type: none"> <li>• The proposed first floor rear-facing glazing to the western elevation of the dwelling is considered to have satisfactory visual privacy, and associated security impacts on adjoining (Australia Lane) and nearby properties (along Eton Street and Denison Street). This is because the clerestory window above W11 consists of a sill height that will not allow for any overlooking opportunities. Further, W11 is located approximately 2.6m from the boundary shared with No. 93 Australia Street and to the southern boundary, a road (Eton Lane) separates W11 from any adjoining property boundaries which aids in mitigating any adverse overlooking opportunities. In addition, given that W11 services a bedroom, which is a low-use / low-trafficable room within the dwelling. Therefore, for the above reasons, it is considered that the glazing in question will have acceptable visual privacy impacts on adjoining properties;</li> <li>• The proposed first floor rear-facing balcony is of a trafficable dimension (1.4m depth and 2.9sqm in area) that is compliant with C3(ii) of this Part of the MDCP 2011. It is considered that there will be minimal opportunity to overlook into neighbouring POS areas and main living room glazing for the following reasons: <ul style="list-style-type: none"> <li>○ The balcony consists of a 550mm deep planter bed to the rear elevation. A condition is recommended to be imposed as part of this consent granted to ensure that the planter bed is fixed to ensure the permanent protection of neighbouring visual privacy. A condition is included in the recommended conditions of approval requiring the height of the planter be increased to a minimum of 1.2 metres to ensure it limits accessibility of the balcony be included in any consent;</li> <li>○ A 1.6m high privacy screen is fixed to the southern elevation of the balcony; thus, assisting in mitigating any direct view corridors into any south-eastern adjoining properties; and</li> <li>○ The balcony is located sufficiently away from No. 93 Australia Street's property boundary. However, to ensure the further protection of No. 93 Australia Street when they are occupying their POS area, a condition is recommended to be imposed to erect a 1.6m high privacy screen to the northern elevation of the balcony.</li> </ul> </li> </ul> <p>Overall, subject to conditions, the proposed first floor rear-facing balcony is consistent with C3(ii) and C3(v) of this Part of the MDCP 2011; and</p>	

Control	Assessment	Compliance
	<ul style="list-style-type: none"> <li>No air-conditioning units are proposed as part of this application. However, air conditioning units may be installed under the exempt development provisions for air conditioning under <i>State Environmental Planning Policy (Exempt and Complying Development) 2008</i>.</li> </ul>	
Part 2.7 Solar Access and Overshadowing	<p>The proposal as conditioned will have a satisfactory impact in terms of solar access and overshadowing on the surrounds as follows:</p> <p><i>Overshadowing</i></p> <ul style="list-style-type: none"> <li>The development as proposed will result in additional overshadowing to Nos. 20, 22, 24, 26, 28 and 30 Eton Street and No. 86 Denison Street's POS, resulting in less than two (2) hours solar access to these areas during mid-winter; thus, varying C2 of this Part of the MDCP 2011. See below for a detailed assessment of this variation; and</li> <li>The proposed development will result in additional overshadowing to some portions of the Eton Street properties' rear-facing main living room glazing at various points of the day during mid-winter. The main living room glazing in question will continue to maintain a minimum two (2) hour solar access to 50% of the glazed surface during mid-winter, other than No. 28 Eton Street given the first floor on the site results in self-shadowing of their own main living room glazing. As such, the proposal will comply with C2 of this Part of the MDCP 2011, which is a satisfactory outcome. Nevertheless, the extent of overshadowing to Eton Street's rear-facing main living room glazing will be reduced substantially as a result of the recommended design change condition. See discussion below for further details.</li> </ul> <p><i>Solar Access</i></p> <ul style="list-style-type: none"> <li>Although the rear open living areas (kitchen, dining and lounge rooms) do not obtain solar access on June 21 due to the orientation of the site, the front-facing glazing to the lounge room obtains a minimum two (2) hour solar access to 50% of the surface area during mid-winter.</li> <li>The total area of glazing equates to less than 15% of the floor area of the room; thus, varying C8(i) of this Part of the MDCP 2011. Given that the windows in question that are dependent on access to sunlight to the subject site's main living room glazing are original fabric of the period building, its expansion will not be supported as it will be contrary to the provisions contained under Part 4.1.11 - Additional Controls for Residential Period Dwellings. Therefore, the variation from C8(i) is supported in this instance; and</li> <li>The POS provided for the dwelling house does not maintain a minimum two (2) hours solar access to 50% of its entire surface area; thus, varying C8(ii) of this Part of the MDCP 2011. Refer to the below discussion for a detailed assessment of the variation in question.</li> </ul>	Acceptable, as conditioned – See below discussion for details

Control	Assessment	Compliance
<u>Consideration of non-compliances</u>		
<b>Part 2.7 Solar Access and Overshadowing</b>		
<i>Overshadowing</i>		
<p>An assessment of the submitted shadow diagrams and the proposed development's impact indicate that the proposed additions will result in additional overshadowing to Nos. 20, 22, 24, 26, 28 and 30 Eton Street and No. 86 Denison Street's POS from morning to afternoon on June 21 (shown with red dots in image below, subject site in yellow). The extent of shadows cast to the neighbouring properties will result in less than two (2) hours solar access to be obtained during mid-winter; thus, varying C2 of this Part of the MDCP 2011.</p>		
		
<p>The Shadow Diagrams provided during the assessment of the application indicate that the extent of overshadowing to the affected properties is mostly restricted to their off-street parking spaces, not their dedicated POS areas. However, the properties along Eton Street which are impacted by the proposal consist of dual-use POS areas, where their hardstand parking areas are also utilised for recreational purposes when a car is not parked within the property. Considering the above, the extent of shadows cast to the dedicated off-street parking areas as outlined in the Shadow Diagrams is considered as additional overshadowing to the neighbouring properties POS areas, resulting in a variation to C2 of this Part of the MDCP 2011.</p>		
<p>In addition to the above, the subject site does not maintain a minimum two (2) hour solar access to 50% of the POS on June 21. As such, the proposed development results in a variation to C8(ii) of this Part of the MDCP 2011.</p>		

Control	Assessment	Compliance
	<p>Where a development proposal results in a decrease in sunlight available on 21 June resulting in less than two (2) hours of solar access for the subject site and adjoining property, the proposal may be considered on its merit with regard to the criteria of points a to d in C2 contained in Part 2.7 of MDCP 2011. The planning principle regarding access to sunlight as developed in the case law <i>Benevolent Society v Waverley Council</i> [2010] NSWLEC 1082 is also used as a tool to interpret the following control.</p> <p>C2(ii) of Part 2.7.3 of MDCP 2011 states:</p> <p><i>If the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:</i></p> <p><i>a. The development potential of the site;</i></p> <p>The development potential of the site prescribed by the development standards under the <i>IWLEP 2022</i> is a maximum 9.5 metre height limit and 1.1:1 FSR. In addition, the subject site is zoned R2 – Low Density Residential under the <i>IWLEP 2022</i>, which permits mainly low-density residential development.</p> <p>The following is noted with respect to this matter:</p> <ul style="list-style-type: none"> <li>• The proposal retains the dwelling use, which is a form of low density, residential development permissible within the site's R2 – Low Density Residential zone under the <i>IWLEP 2022</i>;</li> <li>• As discussed earlier in this report, the proposal complies with the Height of Building Development Standard;</li> <li>• The proposal does seek to vary the Floor Space Ratio Development Standard by 9.6% or 13.45sqm. The variation is supported given that the proposed ground floor and first floor building footprints are in keeping with the prevailing setback pattern and is of a massing (as conditioned) that is generally consistent with nearby development along Australia Street and the immediate vicinity of the subject site. Further, as indicated by the submitted Shadow Diagrams of the proposed development and the Shadow Diagrams provided which reflect a 2.4m pitching point on first floor, the height of the additions is the predominant factor rather than the footprint and rear setback which are considered reasonable in the context of the site;</li> <li>• Although the subject site is located adjacent to Eton Lane and the rear yards of Nos. 20, 22, 24, 26, 28 and 30 Eton Street's POS, the orientation of the development is consistent with the prevailing streetscape orientation.</li> <li>• To improve the visual bulk and scale of the development and the associated overshadowing impacts, the proposed additions have been reduced in scale by deleting an entire storey from the proposal originally submitted. However, as mentioned above, the predominant element that causes the extent of overshadowing to surrounding properties is the height of the first-floor addition. The applicant submitted revised Shadow Diagrams showing shadows cast based on the amended plans and a second set with a scenario of a 2.4m pitching point at the request of Council. A comparison of the plans illustrates a clear reduction of shadows cast to neighbours' POS areas; however, it is considered that there can be a further reduction in overshadowing if the height is further reduced to a point that allows for compliance with the National Construction Code and protecting the internal amenity of the occupants of the subject site. The proposed floor-to-ceiling heights of the raked ceilings on first floor are generous, and as such, there is sufficient capacity to reduce the height and resultant scale of the development. Therefore, in order to reduce the extent of overshadowing cast to surrounding properties and to alleviate any associated visual bulk and scale implications, a condition is</li> </ul>	

Control	Assessment	Compliance
	<p>included in the recommendation to reduce the side wall height ie first-floor pitching points to a maximum of 2.1m in height; and</p> <ul style="list-style-type: none"> <li>Based on the above, it is considered the development, as conditioned, is within its development potential and is of an appropriate bulk and scale that is supported by Council.</li> </ul> <p><i>b. The particular circumstances of the neighbouring site(s), for example, the proximity of any residential accommodation to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;</i></p> <p>The following is noted with respect to this matter:</p> <ul style="list-style-type: none"> <li>The site's orientation and the location of the Eton Street properties and No. 86 Denison Street's POS are significant constraints for the neighbouring property's POS to obtain natural solar access. As such, the proposed built form is elevated in comparison; therefore, resulting in south-eastern and south-western adjoining properties to be naturally vulnerable to a reduction in solar access from midday onwards;</li> <li>The subject site adjoins five (5) Lots fronting Eton Street to the south-east of the subject site. As such, any development on the subject site will result in these properties to be naturally vulnerable to additional overshadowing on June 21; and</li> <li>The subject site, No. 86 Denison Street and Nos. 20, 22, 24, 26, 28 and 30 Eton Street will still receive solar access as a result of this proposal to portions of their POS at various times of the day during mid-winter and this will be further improved as a result of the design change condition recommended.</li> </ul> <p><i>c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and</i></p> <p>The following is noted with respect to this matter:</p> <ul style="list-style-type: none"> <li>The site's orientation is a significant constraint for the subject site's POS to obtain natural solar access. The site has a north-east, south-west orientation, resulting in the dwelling house to self-shadow the subject site's POS. Therefore, any additions on the subject site make compliance or near compliance more difficult due to the orientation of the subject site; and</li> <li>As mentioned above, the subject site is oriented north-east, south-west, noting that any first-floor addition on the subject site will make the south-eastern adjoining properties vulnerable to additional overshadowing to their POS areas. Therefore, given the orientation of the subject site and its position on the corner of Australia Street and Eton Lane will make compliance with C2 of this Part of the MDCP 2011 extremely difficult.</li> </ul> <p><i>d. Whether the sunlight available in March to September is significantly reduced, such that it impacts upon the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March/September period must be submitted.</i></p> <p>Shadow Diagrams in plan form for the Equinox were submitted to demonstrate the development's impact during this time. Based on an assessment of these diagrams, the following is evident:</p> <ul style="list-style-type: none"> <li>The submitted Equinox Shadow Diagrams show that Nos. 20, 22, 24, 26, 28 and 30 Eton Street and No. 86 Denison Street achieve more than 50% solar access to their POS for a minimum of two (2) hours which is a satisfactory outcome; and</li> </ul>	



Control	Assessment	Compliance
<ul style="list-style-type: none"> <li>The submitted Equinox Shadow Diagrams show that the subject site's POS obtains a minimum two (2) hours solar access to 50% of the POS which is a satisfactory outcome.</li> </ul> <p>In assessment of the above and solar access principles, it is considered that the impacts are reasonable, and that the proposal, as conditioned, satisfies the objectives of Part 2.7 of the MDCP 2011.</p>		
Part 2.10 Parking	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>One (1) car parking space is proposed. Standard conditions are recommended to ensure compliance with the design requirements contained within this Part;</li> <li>The proposed off-street parking on-site will not result in a loss of on-street parking given that the proposed vehicular crossing will be situated on Australia Lane, not Australia Street;</li> <li>In accordance with C1 of this Part of the MDCP 2011, one (1) off-street parking space is required for all residential dwelling houses, regardless of the number of bedrooms proposed. The proposal consists of one (1) off-street parking space which is compliant with C1 of this Part of the MDCP 2011. As such, it is envisaged, that the proposed alterations and additions and use of the subject site will not result in a loss of street parking and / or heightened traffic / congestion impacts; and</li> <li>Given the rear laneway (Australia Lane) is narrow, the width of the roller door opening will need to be increased to 3.30m. This change is included in the recommended conditions and will also require the relocation of the adjacent retaining wall on the southern side of the hardstand parking space.</li> </ul>	Yes, as conditioned
Part 2.11 Fences	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>The proposal seeks to retain the existing front fencing;</li> <li>The proposal seeks to construct a 3m tall rear boundary fence with an associated automatic roller door. Although the proposed fence height varies the maximum 1.8m height requirement as stipulated under C21 of this Part of the MDCP 2011, the height is acceptable given that it is the same height as existing; and</li> <li>The proposed side-facing fence along Eton Lane is proposed to be amended by installing a privacy screen behind the existing roller door. Given that a roller door is proposed to the rear elevation to service the proposed off-street parking space, the existing roller door along the Eton Lane frontage is now redundant. As such, a condition is recommended to remove the roller door to the Eton Lane frontage and replace with a masonry fence to match existing wall.</li> </ul>	Yes, as conditioned

Control	Assessment	Compliance
<p>Part 2.18 Landscaping and Open Spaces</p> <p><u>Private Open Space (POS)</u> Min: 45sqm</p> <p><u>Pervious Landscaping</u> Min: 50% of POS</p>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• The entire front setback is to consist of pervious landscaping with the exception of the pathway;</li> <li>• The Architectural Plans identifies that a minimum of 34.6sqm, with no dimension being less than 3 metres is to be retained as POS; thus, varying the minimum 45sqm of POS required on-site as stipulated under C12(i) of this Part of the MDCP 2011;</li> <li>• This area is a dual use zone with car parking and as such is not strictly in accordance with the controls; however, is acceptable given the small lot size, the proposal does not seek to further reduce the POS area from existing, and is compatible with the POS of development in the area, such as Nos. 89, 91 and 93 Australia Street;</li> <li>• The POS would provide a suitable area of amenity for occupants of the dwelling; and</li> <li>• The development proposes approximately 7sqm of pervious landscaping which is equivalent to 20.2% of the POS area. As part of the recommended conditions of consent, this area will be further reduced given the requirement to relocate the retaining wall in the rear yard to accommodate a wider roller door opening. Thus, the proposal varies the minimum 50% of pervious landscaping required on-site as stipulated under C12(ii) of this Part of the MDCP 2011. Currently, the subject site consists of no landscaping to the POS area and the proposal seeks to enhance this situation by adding approximately 7sqm of green space and the planting of a tree. The planting of a tree in the rear yard under this application will aid in increasing the urban canopy within the Inner West; thus, satisfying O2 of this Part of the MDCP 2011. Considering the above, the departure from C12(ii) is acceptable in this instance.</li> </ul>	Acceptable, on merit
Part 2.20 Tree Management	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• A <i>Banksia integrifolia</i> (Coast Banksia) is located in the Council verge on Australia street. A condition is included in the recommendation to retain and protect the trunk and branches of this tree in question;</li> <li>• A <i>Fraxinus griffithii</i> (Himalayan Ash) is located in the rear yard of the neighbouring property to the west of the subject site. The dividing fence between the two properties shall serve as adequate tree protection for this specimen; and</li> <li>• The proposal seeks to plant a tree within the rear yard of the subject site, resulting in one (1) tree on-site which satisfies the minimum requirements according to C12 of this Part of the MDCP 2011 which is a satisfactory outcome.</li> </ul>	Yes, as conditioned
Part 2.21 Site Facilities and	The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:	Yes, as conditioned

Control	Assessment	Compliance
Waste Management	<ul style="list-style-type: none"> <li>Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal; and</li> <li>The proposed bin storage location is unscreened within the front setback of the subject site which is contrary to C13 of this Part of the MDCP 2011. As such, an ongoing condition is included in the recommendation requiring the bins to be stored in the rear yard where they will be screened by the existing boundary fence when not out for collection.</li> </ul>	

#### Part 4 – Low Density Residential Development

Control	Assessment	Compliance
Part 4.1.4 Good Urban Design Practice	<p>The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>Subject to conditions, the height, bulk, and scale of the development complement existing developments in the street and the architectural style of the proposal is in keeping with the character of the area.</li> </ul>	Yes, as conditioned
Part 4.1.5 Streetscape and Design	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>Subject to conditions requiring a reduction in height, the development complements the uniformity and visual cohesiveness of the bulk, scale, and height of the existing streetscape.</li> <li>The proposal is a contemporary design that complements the historical character and aesthetic of the area whilst complementing the character of the existing period building;</li> <li>The proposed colours, materials and finishes are in keeping with other previously approved developments within the immediate vicinity of the site to ensure that the development is in keeping with the established neighbourhood character and aesthetic;</li> <li>The dwelling house addresses the principal street frontage and is orientated to complement the existing pattern of development found in the street;</li> <li>The architectural treatment of the façade interprets and translates positive characteristics in the locality by adopting prevailing elements of design, such as window fenestration and roof form (i.e., front end gable and side gable roof form to the front portion of the dwelling); and</li> <li>The front façade of the dwelling house has been divided into bays of an appropriate size that complements the scale of the building and surrounding dwelling houses.</li> </ul>	Yes, as conditioned
Part 4.1.6 Built form and character  <u>Front setback</u>	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>The proposal complies with the Height of Building Development Standard (conditioned to be reduced). However, the proposal does seek to vary the Floor Space Ratio Development Standard. Refer to <i>Part 4 – Principal</i></li> </ul>	Acceptable, on merit

Control	Assessment	Compliance
<ul style="list-style-type: none"> <li>• <i>Consistent with adjoining developments</i></li> </ul> <p><u>Side setbacks</u></p> <ul style="list-style-type: none"> <li>• <i>Lot width &lt;8m – On merit</i></li> </ul> <p><u>Rear setback</u></p> <ul style="list-style-type: none"> <li>• <i>On merit</i></li> </ul> <p><u>Site coverage</u></p> <ul style="list-style-type: none"> <li>• <i>On merit (0-300sqm lots)</i></li> </ul>	<p><i>Development Standard</i> of this report for a detailed assessment;</p> <ul style="list-style-type: none"> <li>• The existing front and rear setback of the dwelling on ground floor is to remain unaltered by the proposal;</li> <li>• The proposed first floor front setback is substantially forward in comparison to neighbouring first floor additions along Australia Street, resulting in an inconsistent front building line for existing single storey period buildings with a first-floor addition. However, the first-floor front building line will be generally in line / in-between the front setbacks established by the two-storey frontage dwellings, such as Nos. 69, 71, 75, 85, 87 and 89 Australia Street. Given that the proposed front setback is integrated within the established setback character of the street, it is considered that the proposal satisfies O14 of this Part of the MDCP 2011;</li> <li>• The side setbacks proposed are considered satisfactory, as the proposal, as conditioned, has an acceptable impact on adjoining properties in terms of overshadowing, visual bulk, and privacy. In addition, the proposed side setbacks are consistent with the established setback pattern of the street;</li> <li>• The proposed first floor rear setback (4.5m) is in keeping with the established first floor rear setback pattern along the western side of Australia Street, such as Nos. 59 (nil setback), 61 (nil setback), 71-73 (nil setback), 83 (approximately 2.5m), 89 (approximately 4.68m), and 91 (approximately 3.9m) Australia Street. As established under <i>Part 2.7 – Solar Access and Overshadowing</i> of this report, the proposed first floor rear setback is not the overriding element causing adverse overshadowing impacts to the collection of Eton Street POS areas to the south of the subject site, rather the height of the development is the predominant contributing factor. Therefore, given that the rear setback results in minimal amenity implications on adjoining properties and is well-integrated with the established rear setback pattern along Australia Street, the first-floor rear setback is acceptable in this instance; and</li> <li>• The proposed ground and first floor rear setbacks are considered appropriate, as they will not create adverse impacts on adjoining properties in terms of visual bulk, overshadowing or privacy; and</li> <li>• The proposal does not seek to alter the existing site coverage from existing given that the proposal does not seek to extend the ground floor building footprint. The extent of site coverage on-site allows for the provision of deep soil tree planting, off-street car parking and an adequate POS area for the occupants of the subject site.</li> </ul>	
Part 4.1.7 Car Parking	The proposed development, as conditioned, satisfies the relevant provisions of this Part as follows:	Yes, as conditioned

Control	Assessment	Compliance
	<ul style="list-style-type: none"> <li>• Subject to conditions, the hardstand car parking space complies with the design requirements and minimum dimension for car parking under Part 2.10 of the MDCP 2011;</li> <li>• The proposed hardstand parking space is located to the rear of the site and is safely and conveniently located for use;</li> <li>• The design of the roller door and the associated rear fence is appropriate to the dwelling house and is consistent in height and form with other approved development in the laneway; and</li> <li>• The location of the vehicular crossing is suitable within the laneway and will not impact traffic or parking.</li> </ul>	
Part 4.1.11 Additional controls for residential period dwellings	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• The proposal retains the façade and main external body of the period building visible from the street. However, the proposal seeks to demolish the existing roof form and chimneys and construct the first-floor building footprint above the existing ground floor footprint.</li> </ul> <p>Although the demolition of a period feature, such as the existing roof form, is contrary to O22, C58 and C60 of this Part of the MDCP 2011, the proposed first floor additions allow for a sympathetic alteration of the period building by adopting similar characteristics, such as two (2) vertically portioned windows that are aligned with the ground floor glazing, front-end gable pitched roof and a side-gable roof form that is of a pitch and angle similar to the existing roof form. Further, the proposal ensures that the additions, as conditioned, are commensurate to the existing built form by locating the additions behind the existing sidewall along Eton Lane to ensure that the period features of the site and the existing mural are the salient feature when viewed from the public domain. Therefore, the treatment of the period building is not diminished as a result of the first-floor addition.</p> <ul style="list-style-type: none"> <li>• The demolition of an existing roof form to accommodate a first-floor building footprint is a prevalent feature within the immediate vicinity of the site, such as No. 28 Eton Street and Nos. 101 and 118 Australia Street. Therefore, given that the proposed extent of demolition and form of the additions is consistent with the streetscape and immediate vicinity of the site and is of a design that is sympathetic to the period building, the variation to O22, C58 and C60 is acceptable in this instance;</li> <li>• Concerns were raised in the submissions regarding the visibility of the proposed additions from the public domain. Given that the subject site is located on a corner allotment and on a higher elevation of Australia Street, it will be</li> </ul>	Acceptable, on merit



Control	Assessment	Compliance
	<p>extremely difficult to hide the additions from the public domain. However, as discussed above, the contemporary additions visibility to Australia Street and Eton Lane is acceptable given that it is has been designed to be a sympathetic addition to the existing period building and the removal of the existing roof form to accommodate a first-floor addition is prevalent within the immediate vicinity of the site. As such, it is considered that the visibility of the proposed additions will be in keeping with previous determinations and the established streetscape character;</p> <ul style="list-style-type: none"> <li>• The proposal accommodates contemporary additions and alterations while retaining the significant components of the period building, such as the Australia Street and Eton Lane facades; and</li> <li>• Existing significant period features on the front elevation have been retained.</li> </ul>	

## Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.4 Newtown North and Camperdown (Precinct 4)	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> <li>• As discussed under <i>Part 4.1.11 – Additional Controls for Residential Period Buildings</i> of this report, the proposed alterations and additions are sympathetic to the existing period building on-site and seek to protect the character of the existing building and streetscape by maintaining a similar first floor building location as other nearby developments, including No. 28 Eton Street and Nos. 101 and 118 Australia Street.</li> </ul>	Yes

## C. 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 not have significant adverse environmental, social, or economic impacts upon the locality.

## D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

## E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 27 August 2024 to 10 September 2024.

A total of seven (7) submissions of objection and one (1) submission of support were received in response to the initial notification.

The application was renotified due to amended plans being submitted and six (6) submissions of objection were received. Issues raised as follows have been discussed in this report:

- Visual privacy
- Solar access and overshadowing to neighbouring properties
- Solar access to the subject site
- Exclusion of off-street parking from pos areas
- Floor space ratio variation
- Clause 4.6 – exceptions to development standards request
- Height of building
- Building articulation
- Tree planting
- Visual bulk and scale
- Character/streetscape and heritage (period building) impacts
- Non-compliance with local controls
- Private open space and pervious landscaping variations
- Compliance with period building controls
- Consistency of applying planning controls.
- Parking
- Zone permissibility
- Materials and finishes
- Excessive floor-to-ceiling heights
- Communication between council and the applicant during the request for further information period
- Bin storage

Further issues raised in the submissions received are discussed below:

Concern	Comment
Permitted use of the site	<p>The original development sought to propose two (2) kitchens, four (4) bedrooms and four (4) ensuites. The Request for Further Information letter raised concerns that the subject site would be used for purposes other than a single residential dwelling due to the proposed floor plan layout.</p> <p>The amended plans received which are the subject of this report have removed the second kitchen and a number of ensuite bathrooms. The floor plan before Council assessed as part of this application indicates the property will be utilised for the sole purpose as a single residential dwelling. However, concerns were raised regarding the size of the ground floor front lounge room and the fact that this area consists of a bathroom and is well separated from the primary living areas of the dwelling. During Council's meeting with the Applicant during the Request for Further Information period, the Applicant highlighted the need for a</p>

	<p>separate space within the dwelling to use for the purpose of a home occupation. In accordance with <i>IWLEP 2022</i>, a home occupation is a permissible use within the R2 – Low Density Residential zone and is permitted without consent. As such, no objections are raised to the proposed ground floor front lounge room / bathroom and the potential use for a home occupation.</p> <p>Further, concerns were raised regarding the appearance of the original proposal and the fact that it appears as a commercial building, rather than a residential dwelling. The deletion of the third storey and modifying the roof form and proportions has softened the streetscape view of the development; thus, making it appear as a residential dwelling.</p>
Consideration of No. 28 Eton Street's future DA proposal	A submission received indicates that No. 28 Eton Street is seeking to lodge a DA with Council to propose a similar POS area as No. 30 Eton Street (above the garage). Concerns were raised that the proposed development will result in adverse solar access and overshadowing to this potential POS area to No. 28 Eton Street. The impacts to No. 28 Eton Street's existing / current POS have been assessed under <i>Part 2.7 – Solar Access and Overshadowing</i> of this report, however Council cannot reasonably consider speculative development in the assessment of this application.
Insufficient / inaccurate details provided in Architectural Plans and associated documentation and no amended Statement of Environmental Effects was submitted in response to the Request for Further Information letter	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, and consideration of surrounding properties was carried out. In summary, the information provided was adequate to renotify to the public and the proposal, as conditioned, is considered to satisfy the relevant provisions.
Property value	It is considered that matters that may affect property value, such as amenity impacts, have been assessed and considered above. Furthermore, the proposal is consistent with the zoning objectives of the site.
Bulk, scale, impact on neighbouring amenity, and loss of outlook and ambient light	<p>Concern was raised regarding bulk, scale, loss of ambient light and outlook to the sky, suburbs to the north of the subject site, and connection to the surrounding natural environment at the neighbouring properties along Eton Street when viewed from their POS and main living room glazing as a result of the first-floor addition.</p> <p>Impacts of bulk and scale on the amenity of neighbouring properties, including when utilising their POS areas and main living room glazing are discussed earlier in this report as part of the MDCP 2011 assessment. Further, as discussed in the Request for Further Information letter, Council requested that the third storey be deleted from the proposal in order to reduce the extent of the Floor Space Ratio variation and to ensure that the development is in keeping with the character of the street, which is predominantly two-storey structures or a third-storey attic style addition. The amended plans that are the subject of this report reflect a two-</p>

	<p>storey massing which is a satisfactory outcome in terms of minimising visual bulk and scale.</p> <p>Given the small nature of the subject properties, building to the property boundary is considered acceptable and a first-floor addition of this nature (as conditioned) is acceptable and reasonable under the current planning controls. Notwithstanding, during the assessment process the design of the proposal was amended substantially to significantly reduce the overall bulk and scale of the proposal by deleting an entire storey from the development and reducing the extent of the Floor Space Ratio variation. Additionally, a condition is included in the recommendation to reduce the height of the first-floor addition by adopting 2.1m pitching points to further limit impacts to the south-eastern neighbouring properties. While there will be some impact to the properties along Eton Street, this impact is considered reasonable in the circumstances and is considered to maintain a suitable level of amenity to the neighbouring dwellings.</p> <p>Regarding outlook, an amended first floor building height will improve outlook to the sky and distant views of surrounding suburbs to the north when viewed from Eton Street's POS areas and rear-facing main living room glazing. In addition to the above, this recommended design change condition will also improve access to ambient light to these neighbouring properties in question.</p>
Exclusion of bathrooms in Applicant's Floor Space Ratio calculations	According to the Architectural Plans provided it appears that the Applicant has included bathrooms and ensuites as part of the Floor Space Ratio calculations. Nevertheless, Council conducts an independent calculation of the proposed Floor Space Ratio as part of its assessment.
Inaccurate Shadow Diagrams	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 shadow assessment was conducted by Council against the relevant planning controls / policies on the merits of the proposal. In summary, the proposal, as conditioned, is considered to satisfy the relevant provisions. Refer to <i>Part 2.7 – Solar Access and Overshadowing</i> of this report for a detailed assessment.
Utilisation of previous DA examples to justify the scale of the development in the Applicant's documentation	<p>Concerns were raised that examples of previous approvals are considerably different to the level of bulk and scale proposed on the subject site. The Request for Further Information letter issued to the applicant required that the plans be amended to be in keeping with the established character / pattern of development of the area.</p> <p>The amended proposal which is the subject of this report provides a two-storey structure and consists of setbacks that are in keeping with that along the street. Therefore, it is considered that the proposal, as conditioned, is of a form, scale and height that will be in keeping with the character and pattern of development of the area.</p>

	Further, it is important to note that a consistent approach / assessment has been conducted as part of this assessment.
Enquiry regarding the issuance of the notification letters to surrounding properties	Concerns were raised from the owner of No. 22 Eton Street regarding when the notification letters were issued to neighbouring properties. The notification letters were issued by Council on 21 August 2024.
Height of Building is to stay under 8.5m	The applicable maximum Height of Building on-site is 9.5m according to Section 4.3 – Height of Building of the <i>IWLEP 2022</i> . Council does not have a requirement for the subject site and / or any other properties with a 9.5m maximum Height of Building to stay under 8.5m in height. Rather, all applications are assessed on merit, and the recommended height is determined by streetscape and neighbouring amenity implications.
Lack of building articulation to the front facade	Concerns were raised in the Request for Further Information letter regarding the lack of interest and building articulation to the front façade of the additions. The amended plans provided which are the subject of this report have substantially improved the building articulation of visible facades from the public domain to be in keeping with the established streetscape quality. Refer to <i>Part 4.1.5 – Streetscape and Design</i> and <i>Part 4.1.11 – Additional Controls for Residential Period Dwellings</i> of this report for a detailed assessment.
First floor side-facing windows – light spill and solar access	<p>Concerns were raised regarding the light that will spill onto the Eton Street properties at night when the light is turned on from the first-floor side-facing windows of the subject site. Given that the light projected from the first-floor side-facing glazing will be restricted to downlights or lamps that are typically used within residential dwellings, it is expected that the light spill will be minimal, particularly given the significant distance between the windows in question and the Eton Street rear-facing windows.</p> <p>Moreover, although direct solar access will not be gained from the first-floor side-facing windows given their poor orientation, the windows in question will allow for adequate ventilation and access to ambient light which is a satisfactory outcome for the amenity of the occupants of the subject site.</p>
Request for a detailed Landscape Plan to be provided	A Site and Landscape Tree Protection Plan was provided by the Applicant as part of the Request for Further Information letter issued by Council. It is considered sufficient details and information have been submitted with the application to allow for a complete assessment.
Concerns regarding the articulation of the second-floor balcony	Concerns were raised regarding the originally proposed second-floor balcony and its poor articulation with the existing period building on-site. This element has been deleted from the proposal as requested in the Request for Further Information letter issued by Council.
Estimated Cost of Development and associated developer contributions	7.11 Contributions are based on the net population increase of the development, not the Cost of Works. As such, any amended Cost of Works will not impact the amount of contributions paid by the Applicant.
Roof form amplifies the sense of overdevelopment	Concerns were raised regarding the proposed gable roof form over the entirety of the first-floor building footprint and the fact that this

	<p>exacerbates the visual bulk and scale of the development and is out of character within the area. As discussed throughout this report, the proposed gable roof form allows for the sympathetic alteration and addition to the existing period building on-site in comparison to a hipped, flat or skillion roof form. Further, a design change condition is recommended to be imposed as part of this consent granted to reduce the pitching points on first floor to a maximum of 2.1m for the following reasons:</p> <ul style="list-style-type: none"> <li>• Reduce the height, bulk and scale of the development;</li> <li>• Reduce the extent of potential overshadowing to neighbouring properties; and</li> <li>• Ensure that the development is of a scale that is commensurate to the existing period building and the prevailing streetscape character / pattern of development.</li> </ul>
Design Excellence	<p>Reference was made to 'Design Excellence' in a submission. The criteria contained under Section 6.9 – Design Excellence of the <i>IWLEP 2022</i> is only applicable for buildings with a height of 14m or more. Therefore, this Section of the <i>IWLEP 2022</i> is not applicable in this instance given that the height of the additions is well under 14m.</p> <p>Notwithstanding, it is considered that the proposal, as conditioned, is of a design, bulk and scale that is acceptable and reasonable.</p>
Third level concealed in design	<p>Concerns were raised regarding that the Sectional Plans provided show mezzanine platforms. The mezzanine platforms referred to in this submission is the ceilings of the bathroom and ensuite areas. As such, there is no mezzanine and / or third level proposed.</p> <p>Further, a condition is recommended to be imposed as part of this consent granted to reduce the pitching points of first floor to a maximum of 2.1m which will reduce the overall height and internal floor-to-ceiling heights on first floor to an extent that will not allow for a mezzanine level and will ensure that the scale of the development is in keeping with the prevailing pattern of development.</p>
Heritage conservation policy and working with heritage buildings	<p>Concerns were raised regarding the utilisation of controls rooted from heritage conservation policy and the efforts from Council's Heritage Team to enforce these provisions. The subject site is not a listed Heritage Item and is not located within a Heritage Conservation Area. As such, the proposal was not assessed against Section 5.10 – Heritage Conservation of the <i>IWLEP 2022</i> and / or Part 8 – Heritage of the MDCP 2011 and was not referred to Council's Heritage Team for advice.</p> <p>Rather, the subject site consists of an identified Period Building, and therefore, the proposed alterations and additions were assessed in accordance with Part 4.1.11 – Additional Controls for Residential Period Buildings.</p> <p>In terms of working with historic buildings to bring them up to a level of liveability that is compliant with the Australian Standards, standard conditions are recommended to be imposed as part of this</p>



	<p>consent granted to ensure that the development is compliant with the National Construction Code / Building Code of Australia, and relevant Australian Standards (i.e., aircraft noise, drainage, parking).</p> <p>Moreover, it is considered that the dwelling is well-ventilated given the multiple openings proposed at the front, rear and side of the dwelling which will assist in minimising mould growth and condensation management. Further, matters related to energy efficiency, waterproofing and building health are matters for consideration during construction.</p>
Colour scheme will contribute to urban heat island effect and does not make the additions appear reduced in scale	<p>The first-floor addition is proposed to be in 'Monument'. Although the colour scheme will not reduce the scale of the additions when viewed from the public domain, a dark colour scheme is prevalent within the vicinity of the subject site, such as Nos. 25, 69 and 71-73 Australia Street, Nos. 16 and 26 Eton Street and Nos. 67 and 69 Denison Street.</p> <p>Further, the proposal seeks to increase the extent of pervious landscaping on-site and plant a tree in the rear yard to increase urban canopy within the Inner West and the immediate vicinity of the site which will assist in mitigating urban heat island effect on the site.</p>

## F. The Public Interest

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

This has been achieved in this instance.

## 6. Section 7.11 / 7.12 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 \$12,906\_would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

## 7. Referrals

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

- Development Engineer; and
- Urban Forest.

## 8. Conclusion

The proposal generally complies 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, as conditioned, will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

## 9. Recommendation

- A. In relation to the proposal by the development in Development Application No. DA2024/0729 to contravene the development standard in 4.4- Floor Space Ratio of Inner West Local Environmental Plan 2022 the Panel is 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*, grant consent to Development Application No. DA/2024/0700 for alterations and additions to an existing dwelling house, including partial demolition of existing structures and construction of ground and first floor additions at No. 95 Australia Street, CAMPERDOWN subject to the conditions listed in Attachment A below.

## Attachment A – Recommended Conditions of Consent

### CONDITIONS OF CONSENT

#### GENERAL CONDITIONS

	Condition
1.	<p><b>Stormwater Drainage System – Simple</b></p> <p>Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.</p> <p>Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.</p> <p>If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.</p> <p>Reason: To ensure adequate disposal of stormwater.</p>
2.	<p><b>Permits</b></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"> <li>• 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;</li> <li>• A concrete pump across the roadway/footpath;</li> <li>• Mobile crane or any standing plant;</li> <li>• Skip Bins;</li> <li>• Scaffolding/Hoardings (fencing on public land);</li> <li>• Public domain works including vehicle crossing, kerb &amp; guttering, footpath, stormwater, etc.;</li> <li>• Awning or street veranda over the footpath;</li> <li>• Partial or full road closure; and</li> <li>• Installation or replacement of private stormwater drain, utility service or water supply.</li> </ul> <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>

3.	<p style="text-align: center;"><b>Insurances</b></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>																																								
4.	<p style="text-align: center;"><b>Documents related to the consent</b></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/Received</th><th>Prepared by</th></tr><tr><td>A1759249_04</td><td>BASIX Certificate</td><td>11/11/2024</td><td>Chapman Environmental Services Pty Ltd</td></tr><tr><td>A00</td><td>Materials and Finishes Schedule</td><td>24/1/25</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A20, Rev B</td><td>Ground, First &amp; Roof Plans</td><td>06/12/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A02, Rev A</td><td>Site Plan / Context Analysis</td><td>26/06/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A10, Rev A</td><td>1/200 Site/Landscape Tree Protection Plan</td><td>26/06/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A11, Rev A</td><td>Soil/Water/Stormwater/Site Management Concept Plan</td><td>26/06/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A15, Rev B</td><td>Existing/Demo Plans</td><td>08/11/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A23, Rev B</td><td>Elevations</td><td>08/11/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></td></tr><tr><td>A25, Rev B</td><td>Sections</td><td>08/11/2024</td><td>[a<sup>4</sup>A]<sup>d</sup></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/Received	Prepared by	A1759249_04	BASIX Certificate	11/11/2024	Chapman Environmental Services Pty Ltd	A00	Materials and Finishes Schedule	24/1/25	[a <sup>4</sup> A] <sup>d</sup>	A20, Rev B	Ground, First & Roof Plans	06/12/2024	[a <sup>4</sup> A] <sup>d</sup>	A02, Rev A	Site Plan / Context Analysis	26/06/2024	[a <sup>4</sup> A] <sup>d</sup>	A10, Rev A	1/200 Site/Landscape Tree Protection Plan	26/06/2024	[a <sup>4</sup> A] <sup>d</sup>	A11, Rev A	Soil/Water/Stormwater/Site Management Concept Plan	26/06/2024	[a <sup>4</sup> A] <sup>d</sup>	A15, Rev B	Existing/Demo Plans	08/11/2024	[a <sup>4</sup> A] <sup>d</sup>	A23, Rev B	Elevations	08/11/2024	[a <sup>4</sup> A] <sup>d</sup>	A25, Rev B	Sections	08/11/2024	[a <sup>4</sup> A] <sup>d</sup>
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5.	<p style="text-align: center;"><b>Works Outside the Property Boundary</b></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>																																								

6.	<p style="text-align: center;"><b>Storage of materials on public property</b></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>
7.	<p style="text-align: center;"><b>Other works</b></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>
8.	<p style="text-align: center;"><b>National Construction Code (Building Code of Australia)</b></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>
9.	<p style="text-align: center;"><b>Notification of commencement of works</b></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> <ul style="list-style-type: none"> <li>a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> <li>i. The name and licence number of the principal contractor; and</li> <li>ii. The name of the insurer by which the work is insured under Part 6 of that Act.</li> </ul> </li> <li>b. In the case of work to be done by an owner-builder: <ul style="list-style-type: none"> <li>i. The name of the owner-builder; and</li> <li>ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</li> </ul> </li> </ul> <p>Reason: To ensure compliance with legislative requirements.</p>
10.	<p style="text-align: center;"><b>Dividing Fences Act</b></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>

11.	<p style="text-align: center;"><b>Construction of Vehicular Crossing</b></p> <p>The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for Construction of a Vehicular Crossing &amp; Civil Works form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.</p> <p>Reason: To protect assets, infrastructure and pedestrian safety.</p>
12.	<p style="text-align: center;"><b>Lead-based Paint</b></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 style="text-align: center;"><b>Dial before you dig</b></p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
14.	<p style="text-align: center;"><b>Asbestos Removal</b></p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
15.	<p style="text-align: center;"><b>Bin Storage - Residential</b></p> <p>All bins are to be stored within the rear yard of 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, and that the bins are suitable screened in the rear yard.</p>
16.	<p style="text-align: center;"><b>Retention of Mural</b></p> <p>The existing painted mural on the southern elevation wall of the existing building along Eton Lane is to be retained.</p> <p>Reason: To ensure the retention of the existing mural and its contribution to the laneway.</p>



## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
17.	<p><b>Security Deposit - Custom</b></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> <table border="1"> <tr> <td>Security Deposit:</td><td>\$6,238.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.00</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:	\$6,238.00	Inspection Fee:	\$389.00
Security Deposit:	\$6,238.00				
Inspection Fee:	\$389.00				
18.	<p><b>Dilapidation Report – Pre-Development – Minor</b></p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure Council assets are protected.</p>				

19.	<p><b>Public Domain Works – Prior to Construction Certificate</b></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> <ul style="list-style-type: none"> <li>a. The public domain along the Australia 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;</li> <li>b. The construction of a light duty vehicular crossing to the vehicular access location and removal of all redundant vehicular crossings to the site; and</li> <li>c. The vehicular crossing to the site shall be designed to satisfy the ground clearance template for a B85 vehicle using dynamic ground clearance software. A long section, along both sides of the vehicular crossing, 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.</li> </ul> <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>
20.	<p><b>Parking Facilities - Domestic</b></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> <ul style="list-style-type: none"> <li>a. The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the adjacent edge of bitumen level plus 110mm [rear lane only] at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.</li> <li>b. The slab or driveway must then rise within the property to be a minimum of 170mm (as quickly as possible) above the adjacent road gutter level and/or higher than the street kerb and footpath across the full width of the vehicle crossing.</li> <li>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 B85 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.</li> <li>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.</li> <li>e. The parking space must have minimum clear internal dimensions of 5400 x 3000 mm (length x width) and a door opening width of 3300 mm at the street</li> </ul>

	<p>frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.</p> <ul style="list-style-type: none"> <li>f. 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.</li> <li>g. 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.</li> <li>h. The external form and height of the approved space must not be altered from the approved plans.</li> </ul> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
21.	<p><b>Long Service Levy</b></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>
22.	<p><b>Design Change</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <ul style="list-style-type: none"> <li>a. The width of the roller door to the Australia Lane frontage is to be increased to be 3.30m wide;</li> <li>b. As part of the design change stipulated under Point (b) of this condition, the retaining wall adjacent to the off-street parking space is to be shifted accordingly;</li> <li>c. The existing roller door to the Eton Lane frontage is to be removed and replaced with a masonry fence to match existing; and</li> <li>d. The first floor is to consist of maximum 2.1m high wall height on the northern and southern elevations and associated pitching point, making the maximum side wall height RL 31,000. As a result of this change, the maximum height of the overall development is also to be reduced to RL 33,701 and top of window heights can be amended accordingly.</li> </ul> <p><i>Please note that the first floor is to adopt raked ceilings to the habitable areas of the level in order to comply with the minimum floor-to-ceiling heights as stipulated under the National Construction Code.</i></p> <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>

23.	<p><b>Balcony</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the following</p> <p>A. the erection of a privacy screen for the length of the northern side of the first-floor rear-facing balcony having a minimum block out density of 75% and a height of 1.6 metres above the finished floor level of the balcony.</p> <p>B. the height of the planter bed is to be increased to 1.2metres from the FFL and is to be a fixed / permanent structure on the balcony.</p> <p>Reason: To ensure that visual privacy treatment protects the amenity of the neighbourhood.</p>
24.	<p><b>Structural Certificate for retained elements of the building</b></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>
25.	<p><b>Sydney Water – Tap In</b></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 <a href="http://www.sydneywater.com.au/tapin/index.htm">http://www.sydneywater.com.au/tapin/index.htm</a> for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>
26.	<p><b>Acoustic Report – Aircraft Noise</b></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>

27.	<p><b>Section 7.11 Contribution</b></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" data-bbox="438 454 1145 757"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space &amp; Recreation</td><td>\$9,228.00</td></tr> <tr> <td>Community Facilities</td><td>\$1,710.00</td></tr> <tr> <td>Transport</td><td>\$1,213.00</td></tr> <tr> <td>Plan Administration</td><td>\$118.00</td></tr> <tr> <td>Drainage</td><td>\$636.00</td></tr> <tr> <td><b>TOTAL</b></td><td><b>\$12,906.00</b></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><math>C_{\text{payment}}</math> = is the contribution at time of payment</p> <p><math>C_{\text{consent}}</math> = is the contribution at the time of consent, as shown above</p> <p><math>CPI_{\text{consent}}</math> = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.8 for the September 2024 period.</p> <p><math>CPI_{\text{payment}}</math> = 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 <a href="http://www.innerwest.nsw.gov.au">www.innerwest.nsw.gov.au</a> 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 <a href="mailto:council@innerwest.nsw.gov.au">council@innerwest.nsw.gov.au</a> or 9392 5000 to request an invoice confirming the</p>	Contribution Category	Amount	Open Space & Recreation	\$9,228.00	Community Facilities	\$1,710.00	Transport	\$1,213.00	Plan Administration	\$118.00	Drainage	\$636.00	<b>TOTAL</b>	<b>\$12,906.00</b>
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Plan Administration	\$118.00														
Drainage	\$636.00														
<b>TOTAL</b>	<b>\$12,906.00</b>														

	<p>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 <a href="http://www.innerwest.nsw.gov.au/invoice">www.innerwest.nsw.gov.au/invoice</a>; 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>
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### BEFORE BUILDING WORK COMMENCES

	Condition						
28.	<p><b>Hoardings</b></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>						
29.	<p><b>Tree Protection</b></p> <p>To protect the following tree, trunk and branch protection must be installed prior to any works commencing:</p> <table><tr><th>Tree No.</th><th>Botanical/Common Name</th><th>Location</th></tr><tr><td>1</td><td><i>Banksia integrifolia</i> (Coast Banksia)</td><td>Australia street Council verge</td></tr></table> <p>The protection must be installed and certified by a person holding a minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, and must include the following in accordance with AS4970—<i>Protection of trees on development sites</i> / Council's Development Fact Sheet—Trees on Development sites;</p> <p>a. Tree trunk and major branches must be protected by wrapped thick carpet underlay or similar padding material to limit damage;</p>	Tree No.	Botanical/Common Name	Location	1	<i>Banksia integrifolia</i> (Coast Banksia)	Australia street Council verge
Tree No.	Botanical/Common Name	Location					
1	<i>Banksia integrifolia</i> (Coast Banksia)	Australia street Council verge					

	<p>b. Timber planks (50mm x 100mm must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals and must be fixed against the trunk with tie wire, or strapping. The thick carpet underlay or padding material and timber planks must not be fixed to the tree in any instance, or in any fashion;</p> <p>c. Tree trunk and major branch protection is to remain in place for the duration of construction and development works and must be removed at the completion of the project.</p> <p>Reason: To protect and retain trees.</p>
30.	<p><b>Waste Management Plan</b></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 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>
31.	<p><b>Erosion and Sediment Control</b></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>
32.	<p><b>Standard Street Tree Protection</b></p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>
33.	<p><b>Dilapidation Report</b></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 property (No. 93 Australia Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</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>



<b>34.</b>	<b>Construction Fencing</b> 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.  Reason: To protect the built environment from construction works.
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### DURING BUILDING WORK

	Condition
<b>35.</b>	<b>Advising Neighbours Prior to Excavation</b> 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.  Reason: To ensure surrounding properties are adequately notified of the proposed works.
<b>36.</b>	<b>Construction Hours – Class 1 and 10</b> Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.  Reason: To protect the amenity of the neighbourhood.
<b>37.</b>	<b>Survey Prior to Footings</b> 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.  Reason: To ensure works are in accordance with the consent.

### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
<b>38.</b>	<b>No Encroachments</b> 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.  Reason: To maintain and promote vehicular and pedestrian safety.

39.	<p><b>Protect Sandstone Kerb</b></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>
40.	<p><b>Public Domain Works</b></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"> <li>a. Light duty concrete vehicle crossing at the vehicular access location; and</li> <li>b. Other works subject to the Roads Act 1993 approval.</li> </ul> <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>
41.	<p><b>Parking Signoff – Minor Developments</b></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 and that the unauthorised vehicular access off Eton Lane has been removed.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
42.	<p><b>Aircraft Noise –Alterations and Additions</b></p> <p>Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>

## OCCUPATION AND ONGOING USE

	Condition
43.	<p><b>Tree Establishment</b></p> <p>If the tree planted as a part of this consent as shown on the approved plans is found dead or dying before it reaches dimensions where it is subject to the Tree Management DCP it must be replaced.</p> <p>Reason: To protect and retain trees.</p>

[illegible]

**1** STREETScape

**2** LOCATION PLAN / AERIAL PHOTO - NTS

**3** EXISTING 1/200 - 38 AUSTRALIA ST

**4** 1/200 EAST PROPOSED

**5** SYDNEY SUNPATH

**6** SYDNEY SUNPATH

**7** EXISTING SITE PLAN

**8** PROPOSED SITE

**9** AUSTRALIA STREET

**10** AUSTRALIA LANE

**11** AUSTRALIA STREET

**12** AUSTRALIA STREET

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**14** AUSTRALIA STREET

**15** AUSTRALIA STREET

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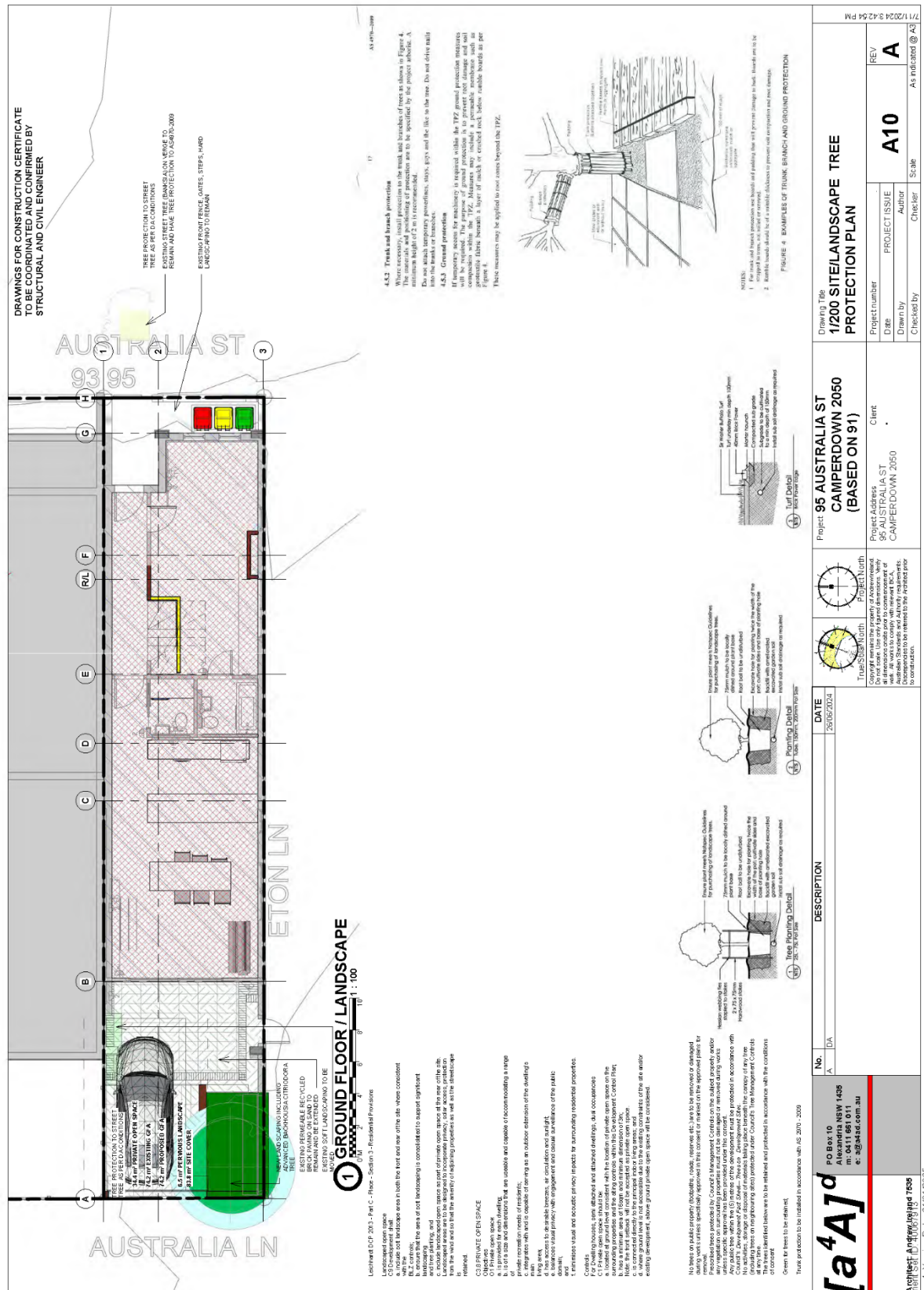
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**100** AUSTRALIA STREET



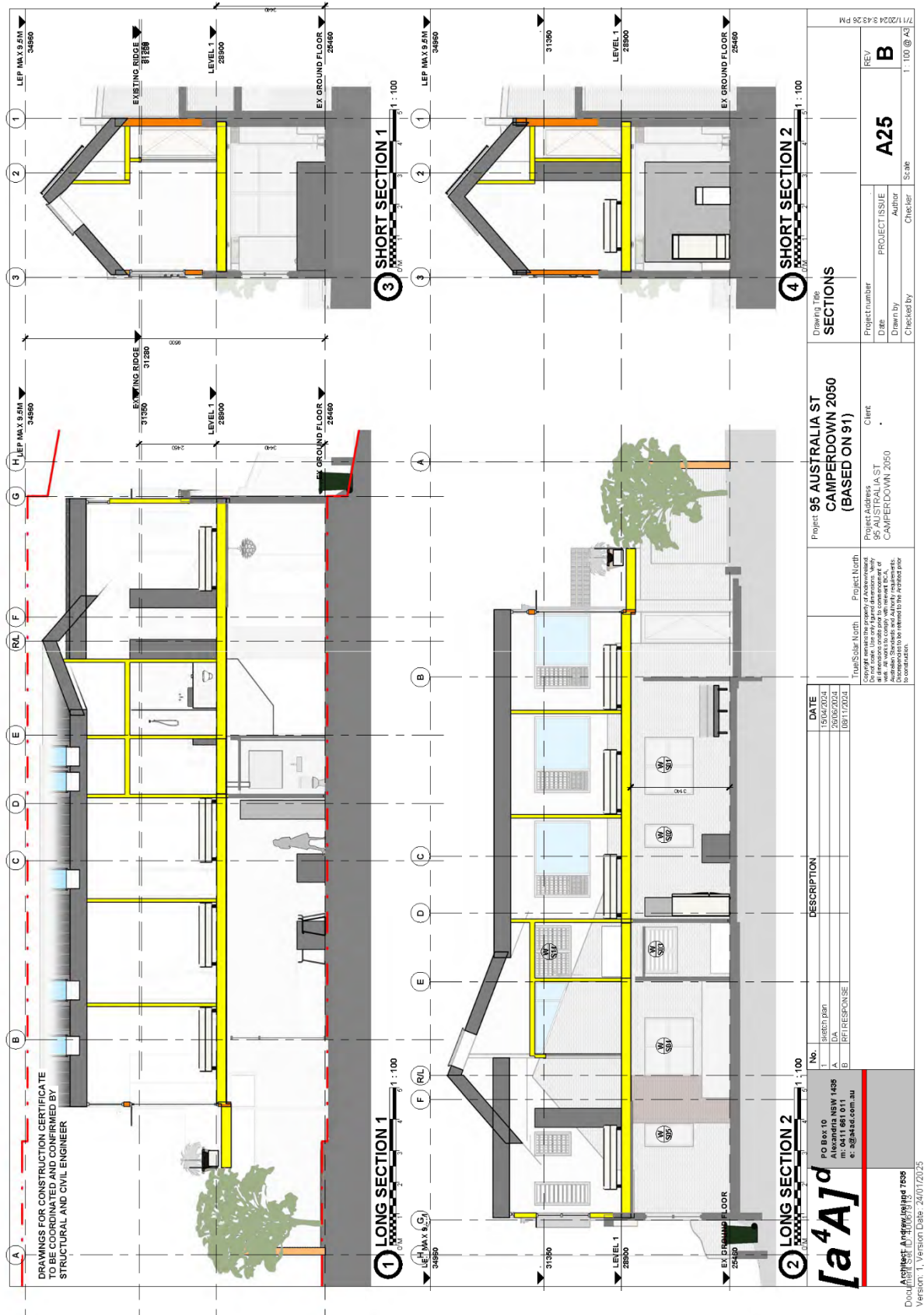


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## DRAWING LIST

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STRUCTURAL, HYDRAULIC  
MECHANICAL AND ELECTRICAL  
BE CO-ORDINATED PRIOR TO  
CONSTRUCTION (AS REQUIRED).

PORTION ABOVE 1500 AF FL - F 253AP PM



1 COVER 3D

$$[a^4A]^d$$

PO BOX 10, Alexandria, 1435  
Document Set 0411661013  
Version: 1, VesselsDisaster.mif01/2025

95 AUSTRALIA ST CAMPERDOWN 2050

## 95 AUSTRALIA ST CAMPERDOWN 2050

**(BASED ON 91) .**

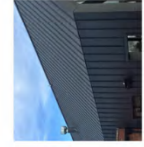
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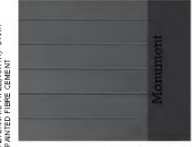
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NEW BUILT COMPONENTS AS PER BELOW.

#### ADDITION MATERIAL PALLETTE



ROOF AND EXTERNAL WALLS -  
DARK STANDING SEAM METAL  
ALTERNATE WALL (NORTH) - DARK



INTERNAL UNNOVHERE

RECYCLED BRICKWORK AT NEW

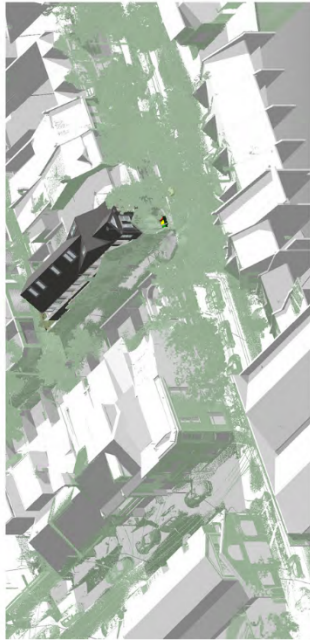


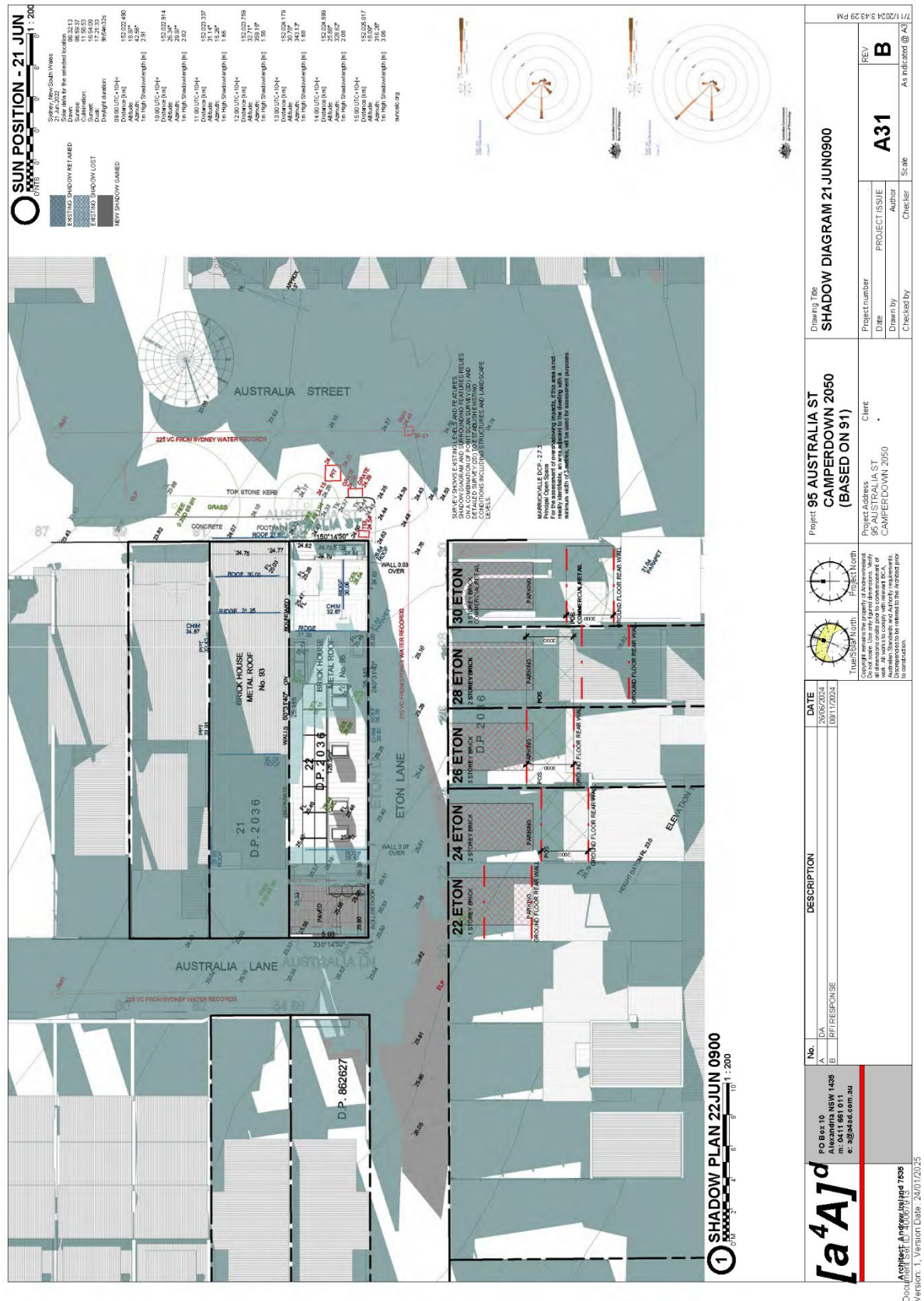
BLACK POWDER COATED  
ALUMINIUM WINDOWS

**DEVELOPMENT APPLICATION A minor stair adjustment**

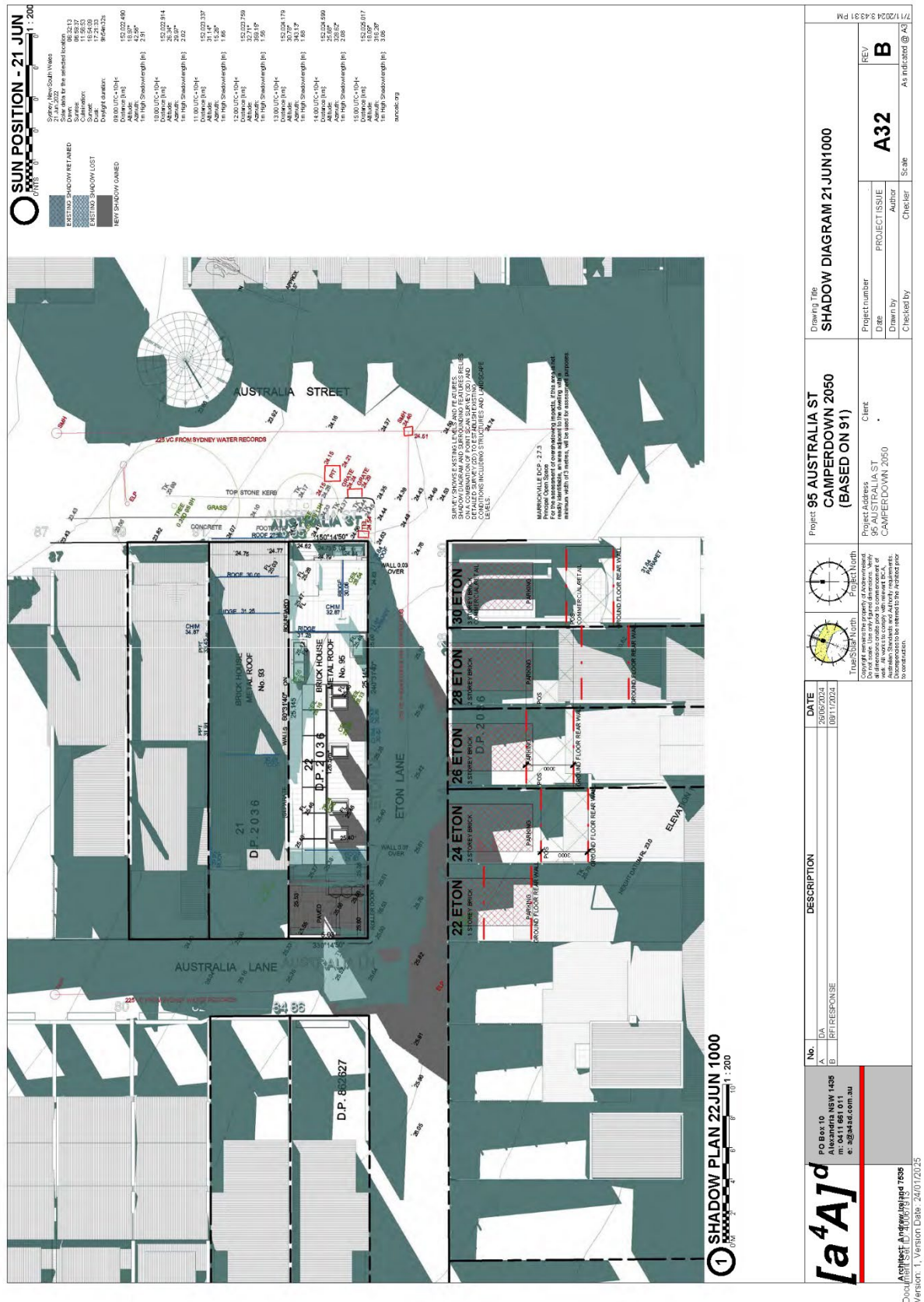


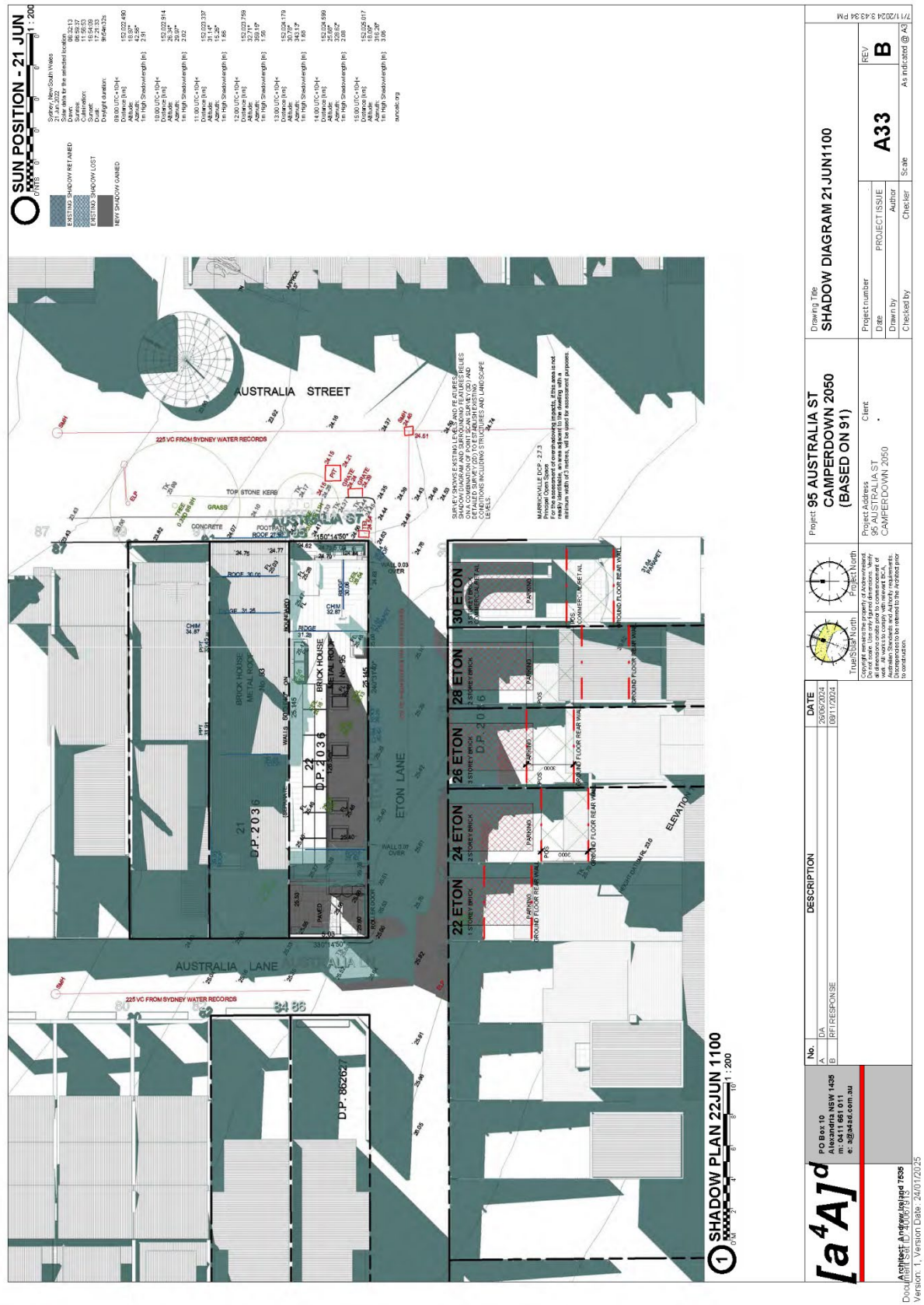
ADDITION MATERIAL PALLETTE INSPIRATION







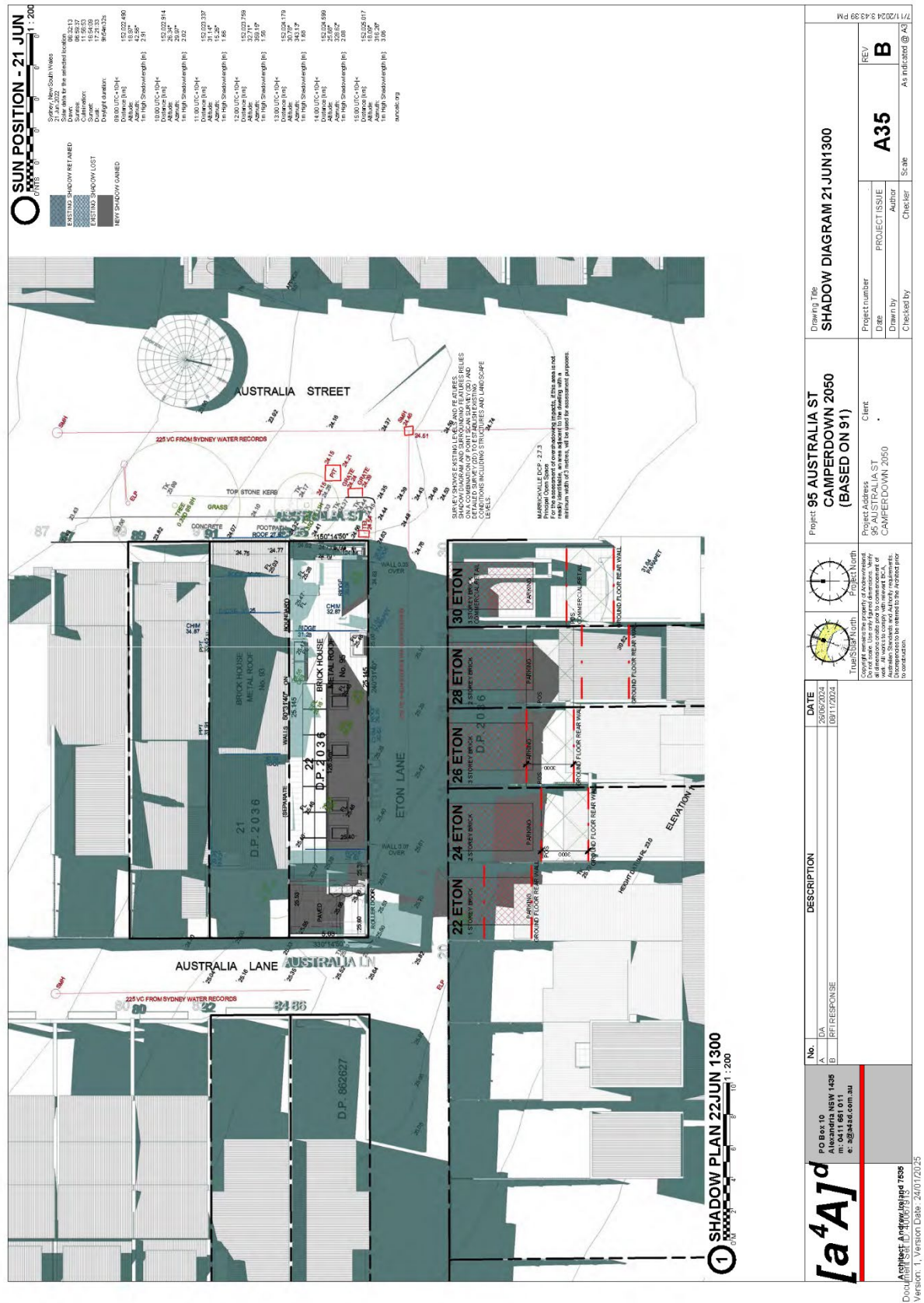


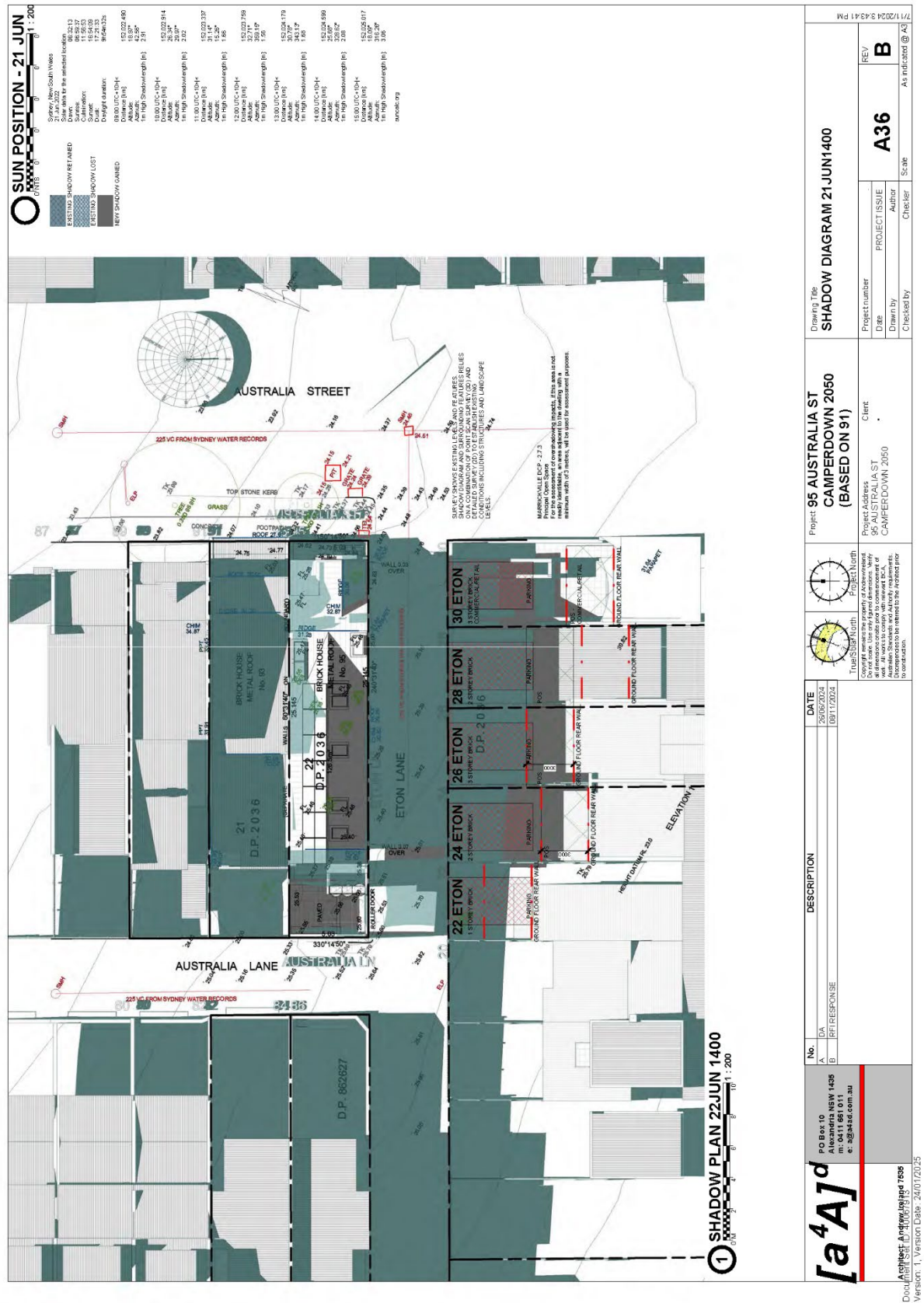


















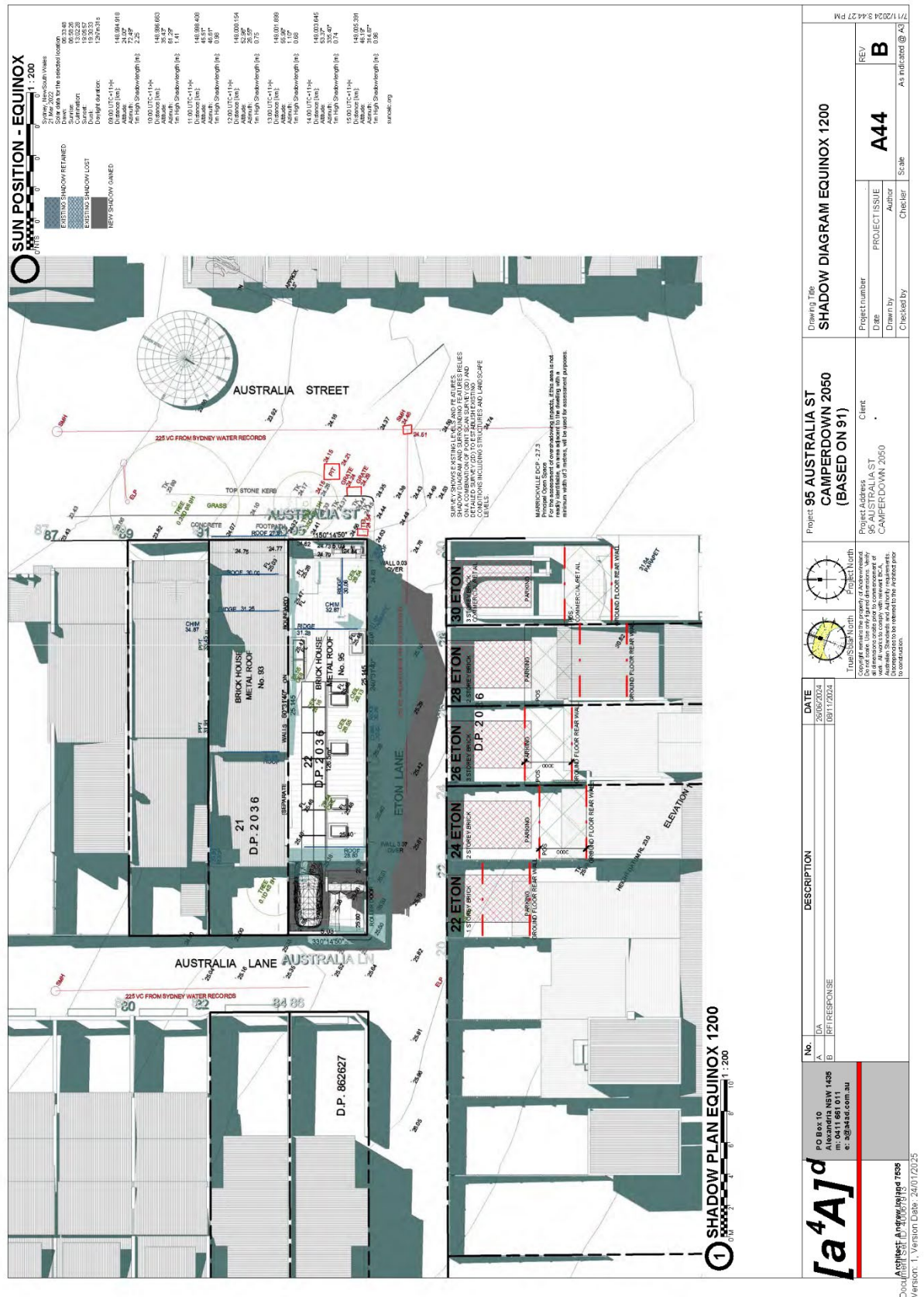












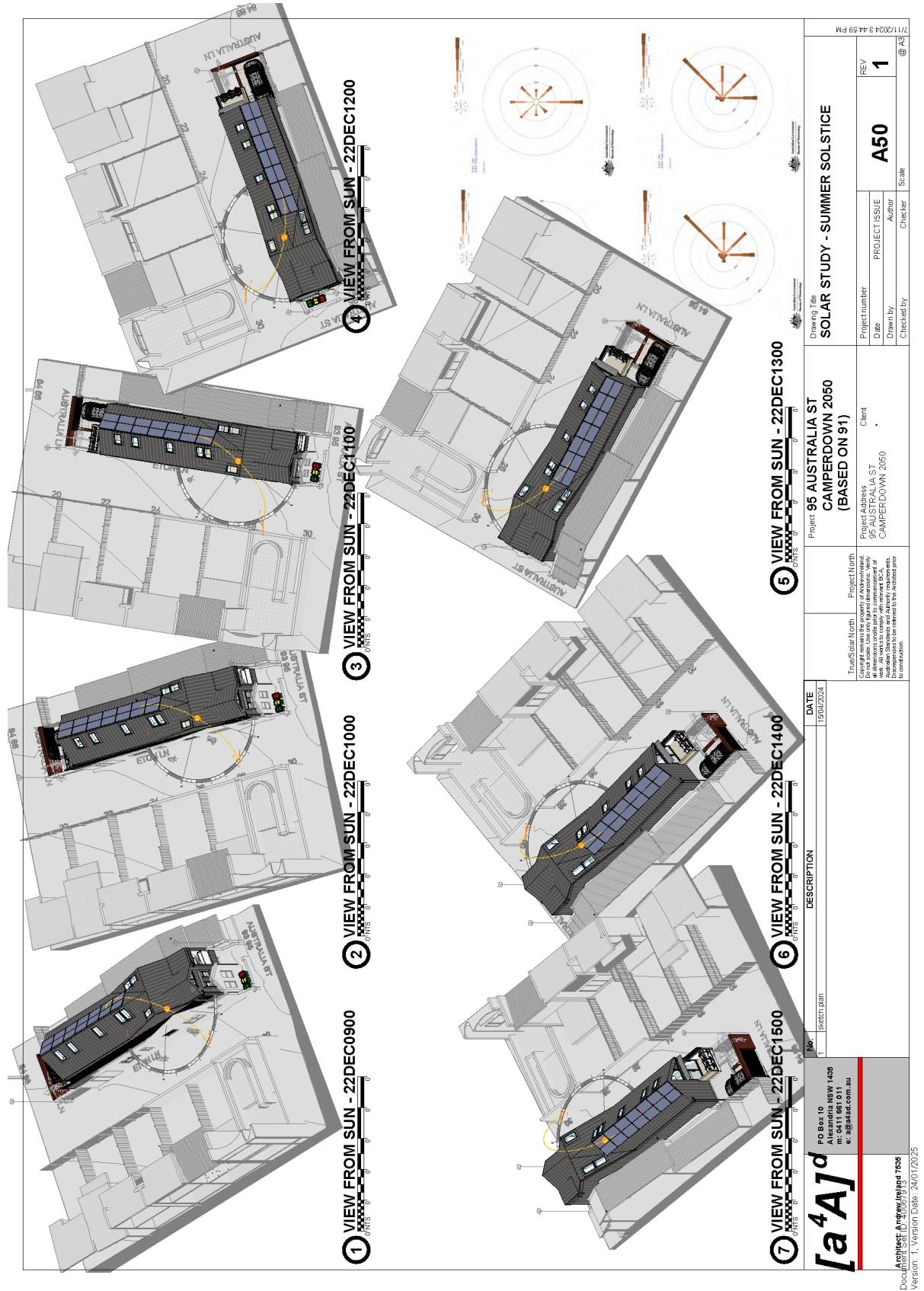






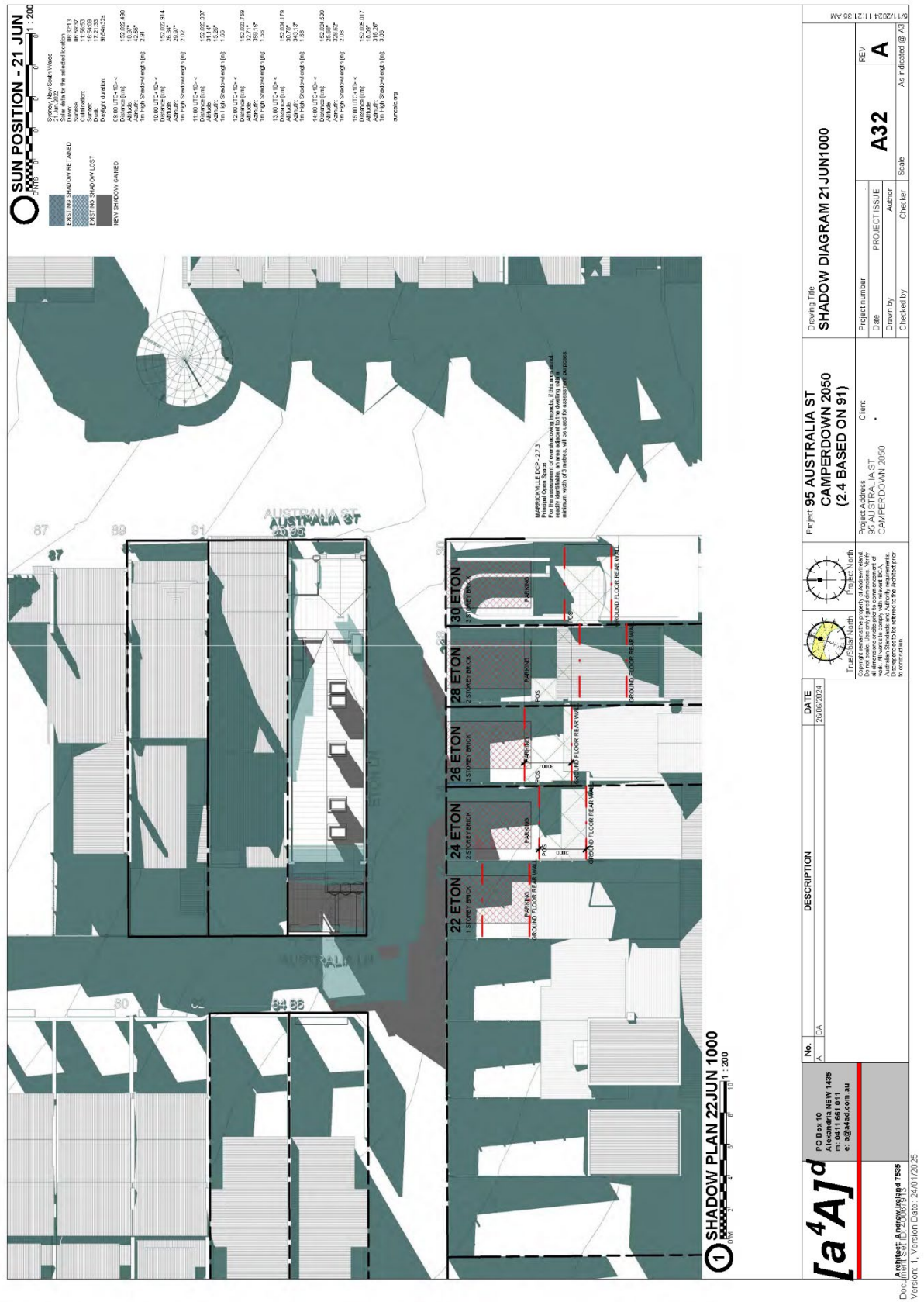










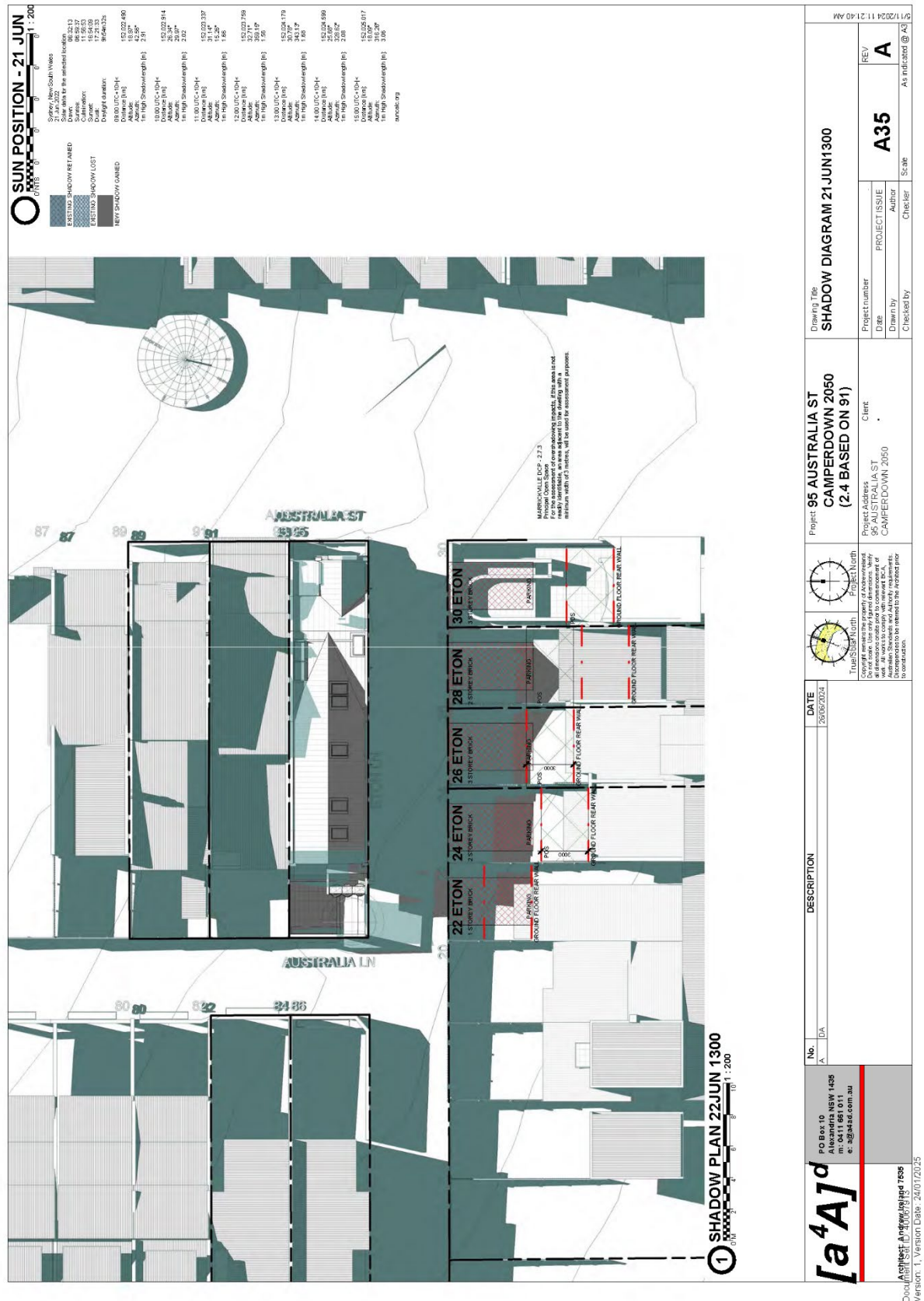




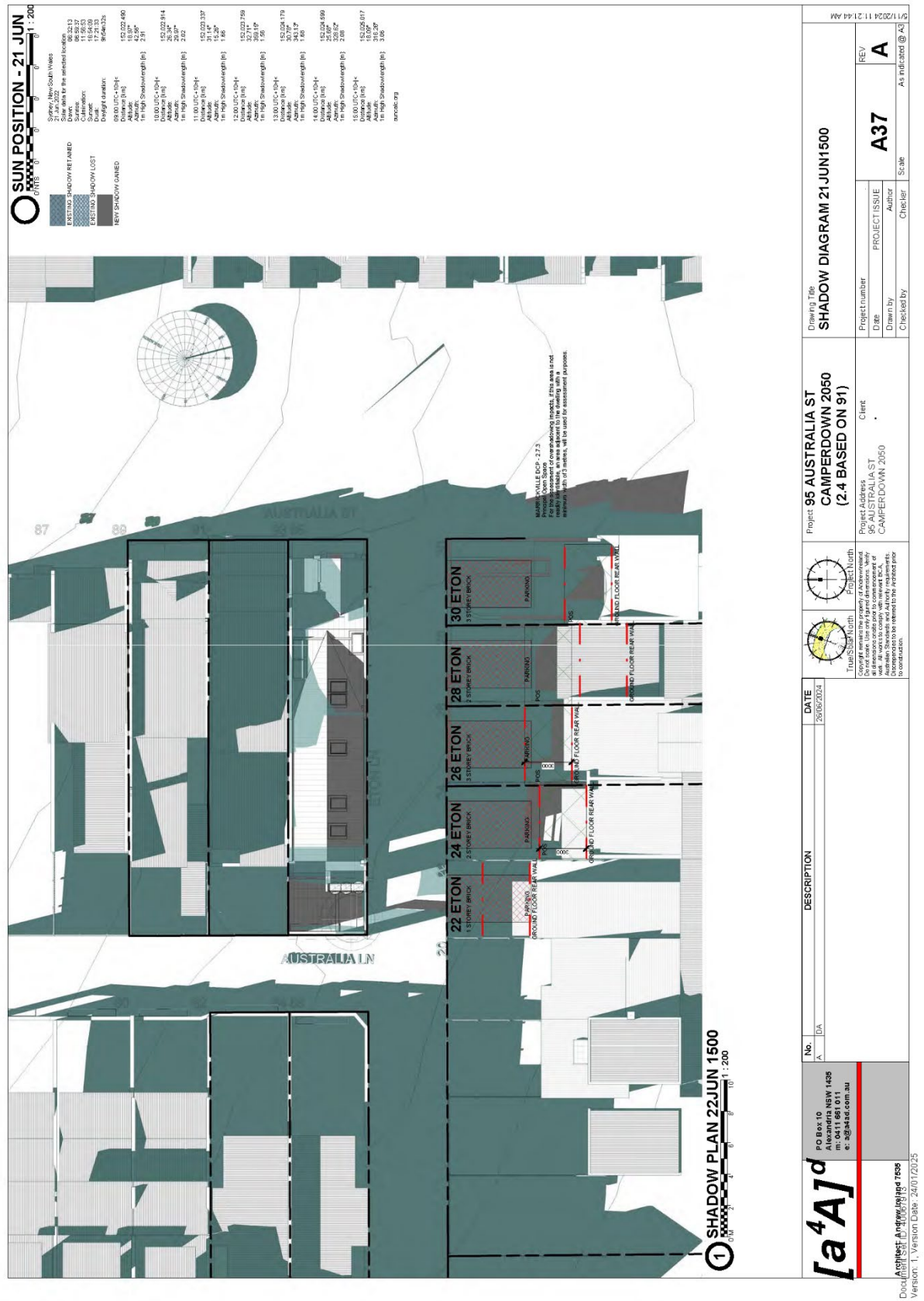












## Attachment C – Section 4.6 Exception to Development Standards

## 4.6 VARIATION REQUEST

95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036

[A<sup>4</sup>A]<sup>D</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011

## DEVELOPMENT APPLICATION

95 AUSTRALIA ST – CAMPERDOWN 2050

LOT 22 DP 2036

## LEP - 4.6 VARIATION REQUEST

Clause 4.6 – Exception to Development Standards

Clause 4.4 (2C) Floor space ratio

## INTRODUCTION

This forms the written application for a variation request to Inner West Local Environment Plan 2022 (IWLEP2022) development control **4.4 (2C) Floor Space Ratio** under **IWLEP2022 4.6 Exceptions to development standards**.

This written request is submitted in accordance with Clause 4.6(4)(a)(i) of the IWLEP2022 providing evidence and reasoning of proposed contravention of the development standard in accordance with Land and Environment Court judgements.

This 4.6 application follows and is to be read with submission of DA/2024/0700, associated council RFI dated 14 October 2024 and subsequent meeting, revisions and correspondence to address councils concerns raised.

## SITE

The variation application is to be read with associated documents submitted with the Development Application at **95 Australia St Camperdown 2050 – Lot 22 / DP 2036** - 126.5 sqm with dimensions of 5.03m x 25.145m

## PROPOSED DEVELOPMENT

Alterations and upper floor additions to the existing dwelling including associated demolition and landscape works.

## PLANNING INSTRUMENT / CLAUSE / VARIATION

Inner West Local Environmental Plan 2022 Clause 4.4 (2C) provides a **numerical** Maximum FSR of;

**FSR = 1.1:1** or**GFA = 139.15 sqm**

The proposal seeks;

**FSR = 1.206** or**GFA = 152.6 sqm**

which represents a minor variation of;

**9.6%.** or**13.45 sqm GFA**

The proposed additional floor area provides hallway & circulation to connect the upper floor bedrooms in lieu of a more efficient 3 storey structure with bedrooms accessed directly from the stair landing. The first floor hallway is located on the northern side consistent with the existing streetscape and built pattern. This hallway/circulation offset requirement provides the whole 13.45 sqm variation.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 1**



**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A4A]<sup>D</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****VARIATIONS TO A DEVELOPMENT STANDARD**

The objectives of Clause 4.6 – *Exceptions to Development Standards* of the *INNER WEST LEP 2022* are as follows:

- *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- *To achieve better outcomes for and from development by allowing flexibility in particular circumstances*

The revised proposal (over 2 storeys) complies with building envelope controls and established pattern of development and has been advocated by Inner West Council in their RFI and subsequent correspondence. The additional floor area is required to allow a hall connecting the second floor in lieu of access from a stair/landing arrangement which would be possible with a compliant 3 storey envelope. The proposed minor variation to the FSR development standard provides a level of flexibility which allows an outcome which council perceives as better than a compliant 3 storey proposal.

**JUSTIFICATION**

This application seeks variation to conform with councils request to provide the same amenity over 2 storeys in lieu of over 3 storeys.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 2**

Document Set ID: 39797105  
Version: 1, Version Date: 07/11/2024

**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A4A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****1. Environmental Planning Instrument that applies to the land?**

Inner West Local Environmental Plan 2022.

[Inner West Local Environmental Plan 2022 - NSW Legislation](#)**2. Zoning and Zone Objectives of the land?****Zone R2 Low Density Residential****1 Objectives of zone**

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

**3. Identify the Development Standard to which this Clause 4.6 variation applies?****IWLEP2022 Clause 4.4 (2C) Floor space ratio**

The clause specifies requirements and seeks to control bulk, scale and size of development and is therefore considered a development standard to which IWLEP cl 4.6 can be applied.

**EP&A Act 1979 – cl 1.4 Definitions**

*development standards* means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

**4. What are the objectives of the development standard?****Development Standard****Clause 4.4 (2C) Floor space ratio****4.4 Floor space ratio**

(1) The objectives of this clause are as follows—

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

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 3**

Document Set ID: 39797105

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****5. What is the numeric value of the development standard in the environmental planning instrument?**

(2C) The maximum floor space ratio for development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land identified as "F" on the Floor Space Ratio Map is specified in the Table to this subclause.

Site area	Maximum floor space ratio
≤ 150m <sup>2</sup>	1.1:1
> 150 ≤ 200m <sup>2</sup>	1:1
> 200 ≤ 250m <sup>2</sup>	0.9:1
> 250 ≤ 300m <sup>2</sup>	0.8:1
> 350m <sup>2</sup>	0.6:1

The site area is 126.5 sqm, therefore the control determines that the maximum Floor Space Ratio is 1.1:1..

It is noted that the following also applies to the land and has the combined effect of effectively increasing the permissible development density in the area by 0.25:1 to 1.35:1 for the purpose of a residential flat building. The proposal does not intend to be interpreted as a residential flat building, however this control directly affects the interpretation of the area affected by the control as "low density".

**Clause 4.4 (2D)** The maximum floor space ratio for development for the purposes of residential flat buildings on land shown edged red on the Floor Space Ratio Map may be greater than the maximum floor space ratio shown for the land on the Floor Space Ratio Map by up to 0.25:1.

**6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?**

**95 Australia st Camperdown 2050** is a 126.5 sqm lot identified on the floor space ratio map as below;

Clause 4.4 Floor Space Ratio	Sheet FSR_009	FSR = F – 0.6:1	No. A Clause 4.6 Exception to Development Standards request has been lodged seeking Council's consent to vary this standard.
	Maximum	Red outline- Refer to Clause 4.4 2D	
	4.4(2C)	1.1:1 or 139.15 sqm	
	Existing	74.3 sqm = 0.58:1	
	Proposed	152.6 sqm = 1.206	
	Variation	13.45 sqm = 9.6%	
<p>gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—</p> <p>(a) the area of a mezzanine, and</p> <p>(b) habitable rooms in a basement or an attic, and</p> <p>(c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—</p> <p>(d) any area for common vertical circulation, such as lifts and stairs, and</p> <p>(e) any basement—</p> <p>(i) storage, and</p> <p>(ii) vehicular access, loading areas, garbage and services, and</p> <p>(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and</p> <p>(g) car parking to meet any requirements of the consent authority (including access to that car parking), and</p> <p>(h) any space used for the loading or unloading of goods (including access to it), and</p> <p>(i) terraces and balconies with outer walls less than 1.4 metres high, and</p> <p>(j) voids above a floor at the level of a storey or storey above.</p>			

The proposal seeks a variation to the above mentioned under Clause 4.4(2C) of the *IWLEP2022* by 9.6% or 13.45 sqm GFA.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 4**

Document Set ID: 39797105  
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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?**

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The court provided five tests

**Test 1:**

*The objectives of the zone and relevant standard are achieved notwithstanding non-compliance with the standard:*

**Zone R2 Low Density Residential****1 Objectives of zone**

- **To provide for the housing needs of the community within a low density residential environment.**

The proposal specifically looks to address the housing needs of the owners and the community while being consistent with the existing bulk, scale and massing of local area. The lot is well located close to public transport and service and the proposal provides space for an evolving family.

The objective is met notwithstanding the numerical non-compliance.

- **To enable other land uses that provide facilities or services to meet the day to day needs of residents.**

The proposal specifically looks to provide adequate housing to meet the owners' requirements within an existing housing type and density. The proposal does not alter type or density and is considered consistent with existing character. The additional non-compliant floor space allows this objective to be met.

The objective is met notwithstanding the numerical non-compliance.

- **To provide residential development that maintains the character of built and natural features in the surrounding area.**

The proposal maintains, is consistent with and reinforces existing character, style, orientation, pattern of development, streetscapes and landscape area.

The proposal is consistent with nearby recent interpretations and approvals to which the same planning controls apply.

The proposal provides landscaped areas consistent with LEP and DCP requirements. The proposal provides for a landscaped rear yard, off the internal living areas, for the use and enjoyment of the future residents with a size and location consistent with the predominant pattern.

The variation addresses a council request to provide the same amenity across 2 levels in lieu of 3. In theory this is to maintain the character of the existing built streetscape.

The objective is met notwithstanding the numerical non-compliance.

**4.4 Floor space ratio****(1) The objectives of this clause are as follows—****(a) to establish a maximum floor space ratio to enable appropriate development density,**

- The proposal maintains, is consistent with and reinforces existing development density, character, style, orientation, pattern of development, streetscapes and landscape area.
- The proposal's built form, massing and FSR is consistent with nearby recent interpretations and approvals to which the same planning controls apply.
- The compliance with established patterns of development provides evidence of appropriate development density.
- The objective is met notwithstanding the numerical non-compliance.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 5**



**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****(b) to ensure development density reflects its locality,**

- The proposal maintains, is consistent with and reinforces existing development density, character, style, orientation, pattern of development, streetscapes and landscape area.
- The proposal's built form, massing and FSR is consistent with nearby recent interpretations and approvals to which the same planning controls apply.
- The compliance with established patterns of development provides evidence that the proposed development density reflects its locality.
- The objective is met notwithstanding the numerical non-compliance.

**(c) to provide an appropriate transition between development of different densities,**

- The site does not form a transition between development of different densities.
- The site is within a locality and streetscape that primarily two and three storey dwellings with a number of three to four storey building.
- The objective is met notwithstanding the numerical non-compliance.

**(d) to minimise adverse impacts on local amenity,**

- The proposal maintains the existing Victorian terrace form at the front streetscape and provides a sympathetic and considered addition over.
- The rear building form is consistent with recent approvals and applications.
- The form provides a model for aging development on the deep adjacent lots.
- The proposed addition is consistent with the streetscape contributions, details, proportions and scale of massing, forms, heights and front alignments of nearby period (historical) dwellings (terraces at 89, 91 Australia St) (massing and forms of existing dwelling and 38 Australia St).
- The rear lane bulk, scale and setbacks are consistent with adjoining terrace developments and the terrace form. (terraces at 89, 91 Australia St)
- The bulk and scale of the proposal is consistent with the existing pattern of development and the desired future character. (terraces at 89, 91 Australia St) (massing and forms of existing dwelling and 38 Australia St)
- The proposal retains solar access to adjoining properties in excess of the DCP requirement (Principal Open Space/Primary windows - 2 hours winter solstice/ nil additional overshadowing equinox) and what would be reasonably expected based on the pattern of development and recent approvals (terraces at 89, 91 Australia St) (massing and forms of existing dwelling and 38 Australia St) (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St)
- The proposal restricts overshadowing to adjoining beyond the DCP requirement (Principal Open Space/Primary windows - 2 hours winter solstice/ nil additional overshadowing equinox) and what would be reasonably expected based on the pattern of development and recent approvals (terraces at 89, 91 Australia St) (massing and forms of existing dwelling and 38 Australia St) (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St)
- As established by comparison with surrounding period built form (terraces at 89, 91 & 38 Australia St) and recent approvals (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St) the proposed scale, bulk, massing, heights and setbacks are considered to be consistent the visual cohesiveness and pattern of the existing streetscape and desired future pattern of development within the area. The envelope of the revised proposal and any minor overshadowing impact would be reasonably expected within the area.
- The objective is met notwithstanding the numerical non-compliance

**(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.**

- The proposal increases existing landscaped areas consistent with LEP and DCP requirements and above the adjoining lots.
- The proposal includes the addition of a substantial tree in the rear open space.
- The proposal provides for a landscaped rear yard, off the internal living areas, for the use and enjoyment of the future residents with a size and location consistent with the predominant pattern.
- The proposal does not unreasonably affect the amenity or privacy of private properties or the public domain.
- The objective is met notwithstanding the numerical non-compliance.

The proposal achieves the principal and relevant standard objectives.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 6**

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****Test 2:**

*The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary:*

**Does Not Apply.**

**Test 3:**

*The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:*

**Does Not Apply.**

**Test 4:**

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

It is noted that a number of similar recent 4.6 variations in the LGA have been approved including on neighbouring lots. These have been mainly sourced from council records; however, the records are not current or complete.

DA2021/1080 - 26 Eton St Camperdown 2050 – 25.4 sqm or 12%  
 DA2021/1117 - 30 Eton St Camperdown 2050 – 43.3 sqm or 37.5%  
 DA/2022/0658 - 36 Oxford Street NEWTOWN 2042 - 21.96sqm or 5.93%  
 DA/2023/0387 - 144 Cavendish Street STANMORE 2048 - 16.18sqm or 7.42%  
 DA/2023/0544 - Dickson Street NEWTOWN 2042 - 5.35m2 or 3.33%  
 DA/2021/1095 - 27 Edgeware Road ENMORE NSW 2042 - 6%  
 DA/2021/1052 - 78 Stanmore Road STANMORE 2048 - 34.1sqm or 15.38%  
 DA/2021/1073 - 11 Cambridge Street ENMORE 2042 - 41.9sqm or 18%  
 DA/2021/1192 - 24 Westbourne Street STANMORE 2048 - 3.9% or 7.1sqm  
 DA/2021/0885 - 31 Enmore Road NEWTOWN NSW 2042 - 6.5% (10.5sqm)  
 DA/2021/1087 - 98 Salisbury Road CAMPERDOWN NSW 2050 - 0.9% (2sqm)  
 DA/2021/0569 - 16 Cambridge Street ENMORE NSW 2042 - 9.7% (16.6sqm)  
 DA/2020/1120 - 63 Northumberland Avenue STANMORE 2048 - 64.83sqm or 34.2%  
 DA/2021/0068 - 7 Northwood Street CAMPERDOWN 2050 - 8.5%  
 DA/2020/0652 - 40 Bruce Street STANMORE NSW 2048  
 DA/2020/0235 - 2 Phillip Street STANMORE 2048 – 20.7%

The above approvals show that recent local approvals with higher densities are compatible with the desired future character.

a) The FSR development standard restricts the reasonable redevelopment of existing dwellings to carry out modest additions and alterations such as an additional bedroom, bathroom or increased living area. This has been recognised historically by state and local government and is reflected in the high number of DA's determined relying on Clause 4.6/SEPP1.

b) Former Leichhardt council identified the primary motivation for intentionally low FSR values:

*"A benefit of low FSR controls are that they provide a strong negotiating tool with developers to ensure the suite of DCP controls is adhered to."*

Leichhardt Council – Floor Space Ratio Review – Attachment 2 –

<https://www.innerwest.nsw.gov.au/ArticleDocuments/2007/Attachment%20%20-%20FSR%20Review%20-%20Background%20Report.pdf.aspx>

Despite the proposed contravention of the control, the proposal adheres to and complies with the suite of DCP controls and established pattern of development, thus addressing the stated benefit of the control.

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 7**

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> – ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011**

c) Inner West Council has itself documented the weaknesses of the FSR control on achieving the objectives.

***“What are the Weaknesses of FSR?”***

*As a density and development control, FSR is considered a poor measure. Whilst it controls the total floor space in relation to site size, it does not directly control the bulk or scale of buildings by itself. The size of the FSR itself does not determine impacts on neighbours nor internal amenity of a building.*

*FSR controls only achieve positive planning outcomes in partnership with other built form controls such as building height envelope, building alignments, setbacks, privacy distances, roof forms or landscaped areas. Overall FSR is a very coarse control of building bulk in proportion to lot size. It is particularly problematic when dealing with small scale development and minor differences in a FSR control, , such as in the Leichhardt LGA where FSR controls vary from only 0.5:1 to 0.7:1. FSR works better on larger sites and is more relevant where precincts have a much larger range in building scale, such as CBDs such as the City of Sydney, North Sydney and Chatswood.”*

*Leichhardt Council – Floor Space Ratio Review – Attachment 2 –*

*<https://www.innerwest.nsw.gov.au/ArticleDocuments/2007/Attachment%20%20-%20FSR%20Review%20-%20Background%20Report.pdf.aspx>*

In the case of the proposal at 95 Australia St:

- The proposed bulk and scale is consistent with the area and recent approvals;
- The proposal complies with building height envelope, building alignments, setbacks, solar access and overshadowing, privacy, roof forms and landscape area controls;
- The site is a small site (126.5 sqm); and
- The difference between the control FSR and proposed FSR is considered very minor (9.6%)

d) Although the development standard is still applied and generally adhered to in development applications, it can be seen from the recent approved 4.6 variations listed in test 4 that standard is applied with flexibility. As such, strict compliance with the numerical standard is deemed unnecessary and unreasonable.

**Test 5:**

*The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone:*

It is noted that R2 Low Density Residential zoning does not correctly reflect the existing approved and evolving density, scale of development and uses of immediate area which would be more appropriately termed mixed use medium density and is described in MDCP 9.4 Strategic Context (Newtown North and Camperdown) as:

**9.4.1 Existing character**

*This precinct is located in the north-eastern corner of the land where this DCP applies in the northern part of the suburb of Newtown and western part of the Camperdown. The precinct predominantly consists of medium density residential development due to small lot sizes, but also includes some large early industrial buildings many of which have been converted to residential flat buildings.*

*...*

*The streets in the central part of the precinct are noted for being narrow. The verge widths are correspondingly narrow containing only footpaths with no nature strip but random arrangement of mixed small to medium trees that indent into the footpath on both sides of the streets restricting footpath access. On-street parking is generally on both sides of the street, with the remaining carriageway being narrow single vehicle access. This, combined with the streets allowing two way access, makes this location one of the most constricted areas, with a very slow traffic movement and high pedestrian amenity.*

*...*

*The precinct mostly contains a mixture of dwelling houses, terraces and semi-detached housing of one and 2 storeys in height, **however there are a considerable number of older industrial***

**95 AUSTRALIA ST - CAMPERDOWN – ALTERATIONS AND ADDITIONS 8**

**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A4A]<sup>D</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011**

*buildings, especially clustered in the area between Australia Street, Salisbury Road, Mallet Street and Fowler Street and the northern end of Northwood Street. Most have been converted and some significantly altered for use as residential flat buildings. These are high bulk buildings mostly built hard to the street boundaries and are 2-4 storeys in height. There are also a number of Inter-War, Post-War and contemporary purpose built residential flat buildings scattered throughout the precinct.*

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A4A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011****8. Does non-compliance with the development standard raise any matter of significance for State or regional environmental planning?**

No

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

The variation in FSR allows the introduction of a hall along first floor northern plan which is required to maintain a 2 storey envelope. The previous scheme established that 3 storey (under 9.5m high) scheme was possible and provided a more efficient floor plan with the upper floor bedrooms accessed directly from a stair instead of from a hall. The proposed 2 storey scheme as requested by council provides the following environmental planning improvements to a compliant 3 storey development:

- a) provides consistency with the streetscape and existing built form. Specifically,
  - the proposal replicates streetscape contributions, details, proportions and scale of massing, forms, heights and front alignments of nearby period (historical) dwellings (terraces at 89, 91 Australia St) (massing and forms of existing dwelling and 38 Australia St)
  - The proposal replicates the established (historical) side and rear building pattern and alignments and heights of nearby period (historical) dwellings (terraces at 89, 91, 38 Australia St)
  - Retains and builds upon the existing single storey dwelling (material contribution) in lieu of demolition of the existing dwelling and construction of a new 2/3 storey dwelling. (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St)
  - Retains the established streetscape proportions of upper floor windows (terraces at 89, 91, 38 Australia St) (existing ground floor of 95 Australia St)
- b) achieves equal/better solar access than an otherwise compliant development involving the demolition of the existing dwelling and construction of a new 3 storey dwelling. (3 storey approvals at 70 Denison St, 26 Eton St, 28 Eton St, 30 Eton St, 103 Australia St)
- c) provides development which is consistent with the established/prevaling historical pattern of subdivision and development.
- d) Conserves the existing built heritage including ground floor built form and fabric and privately owned artwork along Eton Lane Façade in lieu of demolition of the existing dwelling and construction of a new 2/3 storey dwelling. (70 Denison St, 26 Eton St, 28 Eton, 103 Australia St)
- e) Achieves the Objectives of the Zone notwithstanding the minor numerical non-compliance;
- f) Achieves the Objectives of the Standard notwithstanding the minor numerical non-compliance;;
- g) Addresses site specific constraints;
- h) Maintains and reinforces the predominant existing and desired future streetscape pattern;
- e) Provides minor numerical variation on a small site with substantive functional return and little material impact on amenity of adjoining developments;
- f) Is a minor variation comparable to recent approved variations of the development standard within the LGA;
- g) Is consistent with bulk, scale, form and pattern of development of existing and approved future works in the streetscape;
- h) Provides scale and built form with the least impact and most consistent with the existing built setting compared to explored alternatives including 3 storey addition and demolition of existing development and construction of a new 3 storey dwelling (70 Denison St, 26 Eton St, 28 Eton, 103 Australia St);

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011**

i) Promotes compact, orderly, economic and efficient land use and densities within and consistent with an existing established urban pattern.

j) Allows continuity of occupation and family living within close proximity to transport and amenities providing stable communities, opportunities for families, neighbourhood development and bonding.

k) Promotes environmentally efficient renovation and investment in existing building stock and suburbs to meet modern expectations and densities in lieu of greenfields development or brownfield redevelopment, resulting in lower carbon footprint, reduced greenhouse emissions and less environmental impact.

l) the proposal complies with DCP amenity and impact controls.

In relation to the FSR development standard:

a) Strict compliance would not result in discernible benefits to neighbours, public or surrounding area but would have considerable impact on the use of the proposed dwelling.

b) It is common practice to distinguish the application of FSR standards on smaller sites, where a minor difference in floor area produces a marked change to the ratio.

c) The particular site circumstances mean that the building that results from the proposed FSR contravention has no material implications for any sensitive land.

d) The FSR control does not reasonably relate to the height control. A building to the maximum height would require an exceptionally low site coverage. This is problematic for small sites. It would produce a building form that is contrary to that envisaged by the dcp, which has an emphasis on building to the streetscape and side boundaries.

e) The FSR development standard restricts the reasonable redevelopment of existing dwellings to carry out modest additions and alterations such as an additional bedroom or increased living area. This has been recognised historically by state and local government and is reflected in the high number of DA's determined relying on Clause 4.6/SEPP1.

f) Former Leichhardt council identified the primary motivation for intentionally low FSR values:

*"A benefit of low FSR controls are that they provide a strong negotiating tool with developers to ensure the suite of DCP controls is adhered to."*

Leichhardt Council – Floor Space Ratio Review – Attachment 2 –

<https://www.innerwest.nsw.gov.au/ArticleDocuments/2007/Attachment%202%20-%20FSR%20Review%20-%20Background%20Report.pdf.aspx>

Despite the proposed contravention of the control, the proposal adheres to and complies with the suite of DCP controls, thus addressing the stated benefit of the control.

g) ***"What are the Weaknesses of FSR?"***

*As a density and development control, FSR is considered a poor measure. Whilst it controls the total floor space in relation to site size, it does not directly control the bulk or scale of buildings by itself. The size of the FSR itself does not determine impacts on neighbours nor internal amenity of a building.*

*FSR controls only achieve positive planning outcomes in partnership with other built form controls such as building height envelope, building alignments, setbacks, privacy distances, roof forms or landscaped areas. Overall FSR is a very coarse control of building bulk in proportion to lot size. It is particularly problematic when dealing with small scale development and minor differences in a FSR control, , such as in the Leichhardt LGA where FSR controls vary from only 0.5:1 to 0.7:1. FSR works better on larger sites and is more relevant where precincts*

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**4.6 VARIATION REQUEST****95 AUSTRALIA ST CAMPERDOWN 2050 – LOT 22 DP 2036****[A<sup>4</sup>A]<sup>P</sup> - ANDREW IRELAND – ARCHITECT (NSW) 7535 – 0411 661 011**

*have a much larger range in building scale, such as CBDs such as the City of Sydney, North Sydney and Chatswood."*

Leichhardt Council – Floor Space Ratio Review – Attachment 2 –

<https://www.innerwest.nsw.gov.au/ArticleDocuments/2007/Attachment%202%20-%20FSR%20Review%20-%20Background%20Report.pdf.aspx>

It is considered that there are sufficient environmental planning grounds to justify contravening the development standard.

**10. Is there any other relevant information to be considered in order to justify varying the development standard?**

1. Inner West Councils Period Dwelling controls and policies which apply to dwellings outside of Heritage Conservation Areas incentivise the demolition of existing and historical building fabric for the construction of new dwellings. This is evident through the increased restrictions placed upon structures deemed "period dwellings" which result in lower FSR, building heights and built in inefficiencies in plan and built form. This means retaining period dwellings into a liability when a new dwelling will yield less limitations. This outcome is contrary to the desired outcome of preservation of existing building fabric.
2. The proposed development promotes compact, orderly, economic and efficient land use and densities within and consistent with an existing established urban pattern.
3. The reuse and renovation of the existing building fabric to meet modern housing requirements within an established community and infrastructure results in a reduced environmental cost (carbon footprint) and should be promoted for the public benefit to climate change.

**11. Is the exception request well founded?**

It is considered that the proposed variation to the FSR control allows the proposal to fit within council's preference, interpretation and directions to provide a 2 storey structure. This was discussed and reasoned at length.

- The development is compatible with the desired future character of the area in relation to building bulk, form and scale;
- The proposal is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas;
- The proposal provides compliant landscaping and opportunity for tree planting and open space;
- The proposal is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas;
- The proposal enhances the amenity of existing residents and does not result in any unreasonably expected impacts on adjoining properties and the neighbourhood.
- The additional density presented by the minor numerical FSR variation does not result in any significant adverse amenity impacts upon adjoining properties with respect to bulk and scale impacts, solar access, or privacy and, as such, the additional density is appropriate for the site.

Compliance with the development standard is unreasonable and unnecessary in the circumstances of the proposal. There are sufficient environmental planning grounds to justify contravening the development standard.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the *INNER WEST LEP 2022*.

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

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