

Item 5.**Development Application: 108-112 Victoria Street, Beaconsfield - D/2021/1054****File No.:** D/2021/1054**Summary****Date of Submission:** 16 September 2021; with the latest set of amendments and additional information received on 14 April 2022.**Applicant/Owner:** 110 Victoria Street Pty Ltd**Architect:** Derek Raithby Architecture**Cost of Works:** \$1,075,000.00**Zoning:** The site is located in the R1 General Residential zone. The proposal is defined as attached dwellings and secondary dwellings and is permissible with consent.**Proposal Summary:** The subject application seeks consent for the demolition of existing structures, construction of three 3-storey attached dwellings, each with a part-two part-three storey laneway structure containing a garage and a studio and subdivision of the site into three lots.**Issues**

The application has been amended to address several issues identified by council during assessment. The main issues relate to:

- compliance with the maximum floor space ratio;
- consistency with the predominant Victoria Street setback;
- additional visual bulk and overshadowing of the third storey of the principal dwellings;
- height and form of the laneway structures;
- privacy treatments to upper level windows of the principal dwellings and laneway structures; and

- additional information regarding party walls, shared chimneys, land contamination, stormwater design, and subdivision.

Notification

The application was notified for 28 days between 28 September and 27 October 2021. As a result, six (6) submissions were received, which raised the following concerns:

- The height and bulk of the proposed development, and the resultant overshadowing and visual bulk impacts;
- The potential privacy impacts of the proposed development;
- The proposed development is inconsistent with the existing and desired future character of the locality; and
- The proposed development will generate additional demand of on-street parking.

All concerns raised in the submission are addressed within the report.

Voluntary Planning Agreement (VPA)

The site is located within the Green Square urban renewal area and the application is accompanied by a public benefit offer for a monetary contribution for the provision of community infrastructure in Green Square in accordance with section 6.14 of the Sydney LEP 2012.

The draft VPA has commenced its public exhibition period, which is for a duration of 28 days, in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

It is recommended that authority be delegated to the Chief Executive Officer to determine the application once the exhibition of the draft VPA has closed.

Consideration should be given to granting deferred commencement consent subject to the recommended condition requiring the execution and registration of the VPA on the title of the land prior to the consent becoming operative.

The application is referred to the Local Planning Panel for determination as the development application is accompanied by an offer to enter into a voluntary planning agreement (VPA).

Overall, the proposal has been amended to address issues identified by Council and concerns raised in the public submissions.

Subject to the recommended conditions included in Attachment A, the proposal will respond satisfactorily to the surrounding developments and its context and achieves an acceptable standard of architectural design that is considered to satisfy the design excellence requirements.

Summary Recommendation: Authority be delegated to the Chief Executive Officer to determine the application after completion of the Voluntary Planning Agreement public exhibition process and considering any public submissions received in response.

Development Controls:

- (i) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (ii) State Environmental Planning Policy (Resilience and Hazards) 2021
- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012
- (vi) City of Sydney Development Contribution Plan 2015
- (vii) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Public Benefit Offer
- D. Draft Voluntary Planning Agreement
- E. Demolition Methodology

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2021/1054, after the completion of the public exhibition period of the draft Voluntary Planning Agreement and after considering any public submissions received; and
- (B) if the Chief Executive Officer determines to approve Development Application No. D/2021/1054, then consideration be given to granting a deferred commencement consent, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Attachment A of the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the R1 General Residential zone pursuant to Sydney Local Environmental Plan 2012.
- (B) The development, subject to conditions, satisfies the design excellence requirements under section 6.21C of Sydney Local Environmental Plan 2012.
- (C) The development is generally consistent with the objectives of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site comprises three adjoining lots, each being rectangular in shape, with a combined area of 399.3 sqm. The site has a primary street frontage to Victoria Street and a secondary frontage to Victoria Lane. The three lots are identified as:
 - (a) Lot 10 in DP 11215, commonly known as 108 Victoria Street, Beaconsfield; and
 - (b) Lot A in DP 440632, commonly known as 110 Victoria street, Beaconsfield; and
 - (c) Lot B in DP 440632, commonly known as 112 Victoria street, Beaconsfield.
2. The site is located on the western side of Victoria Street, 41m south of its intersection with Reserve Street. The site falls by approximately 3.2m from the rear (west) to the front (east), including a 1m drop between its boundary with Victoria Lane and the rear of the site. The site also has a cross fall of 0.29m from the north to the south.
3. The site contains three single storey terraces, each with a single storey rear wing and a shed in the rear yard. The three existing terraces are at the southern end of a row of 12 nearly identical single storey terraces (90-112 Victoria Street). These terraces, typically in pairs, step down in height following the topography of Victoria Street.
4. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial. To the south, are two single storey residential terraces (114-116 Victoria Street) with a nil front setback; four 2-storey terraces at 118-122 and 128 Victoria Street with a varying front setback; and a 2- storey commercial building with full site coverage at 124-126 Victoria Street.
5. A similar single storey terrace row is also located further south at 142-164 Victoria Street, which reinforces the predominant setback of development to Victoria Street along the subject portion of the street block.
6. The opposite (western) side of Victoria Street features a mix of single storey and two storey attached dwellings.
7. The eastern side of Victoria Lane remains predominantly single storey in character. New laneway developments at 122 and 166 Victoria Street maintain a single storey street wall, with a gabled/mansard roof form above to reduce their visual bulk.
8. The site is not a heritage item nor is it located within a heritage conservation area. It is located within the Green Square urban renewal area and is identified as being flood-affected.
9. A site visit was carried out on 14 October 2021. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of the site and surrounds



Figure 2: Site viewed from Victoria Street



Figure 3: View of 108 and 110 Victoria Street, showing the shared chimney between 106 and 108 Victoria street



Figure 4: View of 112 and 114 Victoria Street, showing the shared front chimney



Figure 5: Single-storey terrace row (90-112 Victoria Street) viewed from Victoria Street, facing north



Figure 6: Pair of single-storey terraces (114-116 Victoria Street) viewed from Victoria Street



Figure 7: Commercial building at 124-126 Victoria Street and two storey terraces at 118-122 Victoria Street



Figure 8: Site viewed from Victoria Lane



Figure 9: Existing laneway structure at the rear of 122 Victoria Street



Figure 10: Streetscape of Victoria Lane

History Relevant to the Development Application

Development Applications

10. The following applications are relevant to the current proposal:

- D/2014/1320 - 122 Victoria Street** – Development consent was granted by the Land and Environment Court on 9 March 2016 for the construction of a garage with a studio above at the rear of the site fronting Victoria Lane. The approved side elevation is provided below:

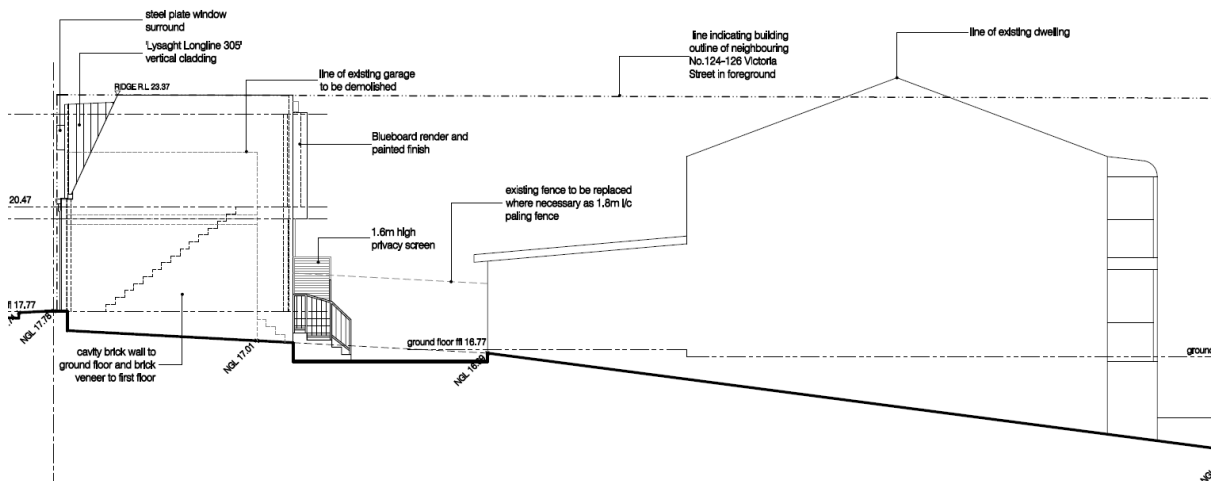


Figure 11: Approved side elevation of development at 122 Victoria Street (D/2014/1320)

- D/2021/730 - 134 Victoria Street** – Development consent was granted on 1 September 2021 for alterations and additions to residential dwelling, including a new first floor, and a laneway structure comprising a garage on the ground floor and a secondary dwelling in the attic above.

The approved laneway structure is single storey in height, with a symmetrically pitched roof and 'dormer style' inserts to achieve a habitable attic. The approved side elevation is provided below:

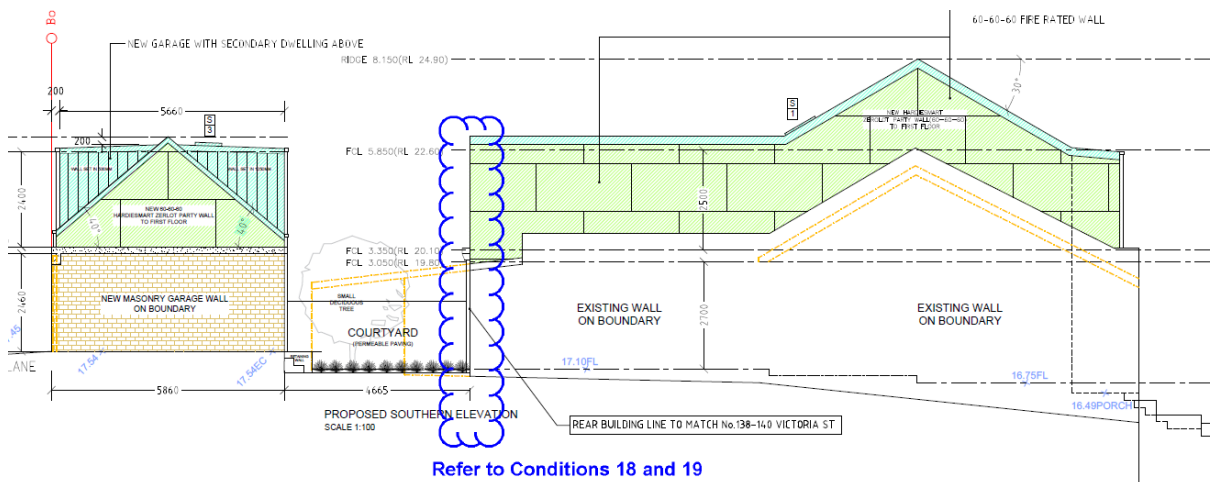


Figure 12: Approved side elevation of development at 134 Victoria Street (D/2021/730)

Amendments

11. Following an assessment of the original proposal, a request for additional information and amendments was sent on 13 December 2021 for the following items:
 - updated architectural drawings to include the following design changes:
 - increase the proposed front setback to be consistent with the existing front setbacks to Victoria Street established by the two rows of single storey terraces;
 - amend the roof form of the laneway building to achieve a single story appearance to Victoria Lane with a habitable attic above. A symmetrically pitched roof form with a maximum pitch of 40 degrees is to be provided with dormer-style inserts to achieve the required floor to ceiling height;
 - delete the proposed lower ground habitable room to the laneway structure to comply with the maximum floor space ratio;
 - provide privacy treatments to the primary dwelling's Victoria Street ground floor glazing and west-facing upper floor windows, and the east-facing upper floor windows of the laneway structure; and
 - delete the front and rear Level 2 roof terraces to remove planter boxes, balustrades and privacy screening that detracts from the two storey presentation to Victoria Street.
 - a set of demolition plans;
 - an updated survey plan to clearly identify the location of all party walls and any easements registered on title;
 - a proposed subdivision plan;
 - a signed statement from a structural engineer detailing the methodology for the demolition of existing buildings and a portion of the shed chimneys within the subject site boundary in order to demonstrate that the works can be undertaken wholly within the subject site and without damaging the neighbouring properties;
 - a heritage impact statement to comply with Section 3.9.1 of Sydney DCP 2012 as the existing buildings are over 50 years old. The statement must include photos of the exterior or interior spaces to identify any significant heritage fabric;
 - a Preliminary Environmental Site Investigation to confirm that the site is not affected by any past or present potentially contaminating activities;
 - stormwater design to indicate proposed maximum discharge from each dwelling to the curb and gutter to demonstrate compliance with the Sydney Streets Technical Specification requirements; and
 - updated Public Benefit Offer to correctly reflect the company as the registered owner of the three properties and include an appropriate signature in accordance with the Corporations Act 2001.

12. The applicant responded to the request on 14 April 2022, and submitted the following information:
- a set of amended drawings incorporating the following design changes:
 - increased the principal dwellings' front setback by 1.78m;
 - amended the roof form of the laneway structures to reduce the overall height, and the eastern parapet height;
 - deleted the proposed lower ground habitable room and maintain only an accessway and stairs to the garage above;
 - provided privacy treatments to the principal dwelling's Victoria Street ground floor glazing and to some of the west-facing upper floor windows, and the laneway structure's east-facing studio windows which also have a sill height of 1.8m; and
 - deleted the Level 2 rear roof terrace, and removed the planter boxes in front of the front terraces to reduce the perceivable height to Victoria Street.
 - a set of demolition plans;
 - updated survey plan and a proposed subdivision plan;
 - a methodology statement prepared and signed by a structural engineer to demonstrate that the existing terraces can be demolished without affecting the existing party walls with 106 and 114 Victoria Street. Similarly, a methodology statement for works to the existing shared chimneys by hand to remove portions of the existing chimneys to the alignments of the party walls;
 - preliminary Environmental Site Investigation to confirm that the site is not affected by potentially contaminating activities, and is suitable for the proposed residential use;
 - updated stormwater design; and
 - updated Public Benefit Offer.

Proposed Development

13. The application seeks consent for the demolition of all existing structures, excavation and construction of 3x three storey terraces and 3x part-two/part-three storey laneway structures at the rear of the site, comprising a garage on the Victoria Lane level and a studio above.
14. The application also includes the consolidation and subdivision of the site into three lots, corresponding with the alignments of the three new terraces and laneway structures. The proposed lot sizes are:

- 136.9sqm for 108 Victoria Street;
- 131.4sqm for 110 Victoria Street; and
- 131.4sqm for 112 Victoria Street.

15. The application is accompanied by a public benefit offer to be eligible for additional floor space under clause 6.14 of Sydney LEP 2012 for the delivery of community infrastructure in Green Square. The proposal seeks an additional 0.19:1 of FSR above the base. A draft Voluntary Planning Agreement (VPA 2021/12) is currently on exhibition and is to secure a monetary contribution of \$36,100 towards provision of community infrastructure in Green Square.

16. Selected drawings of the proposed development are provided below.

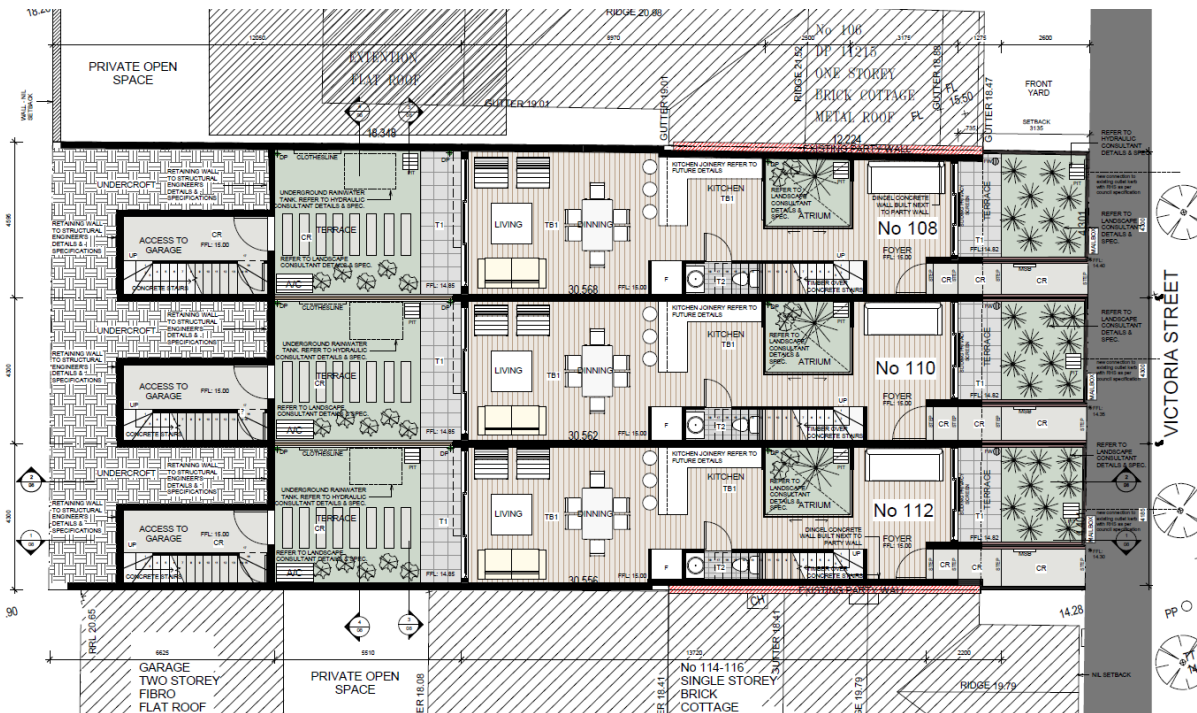


Figure 13: Proposed ground floor plan

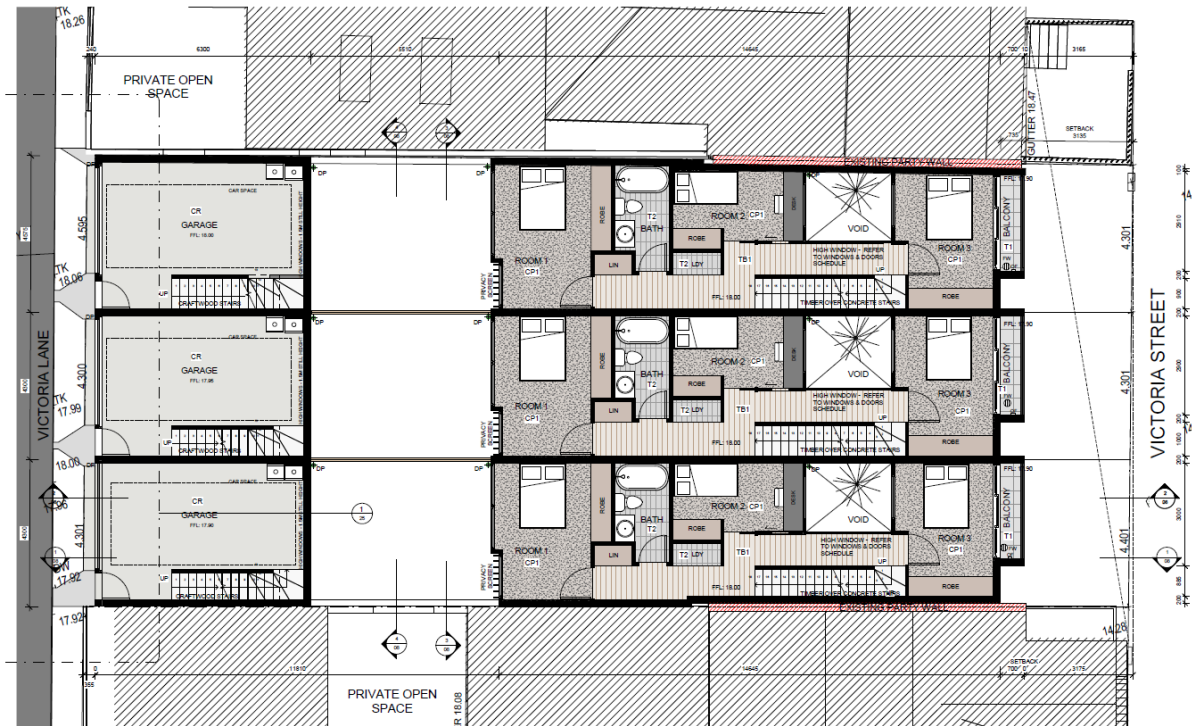


Figure 14: Proposed Level 1/garage plan

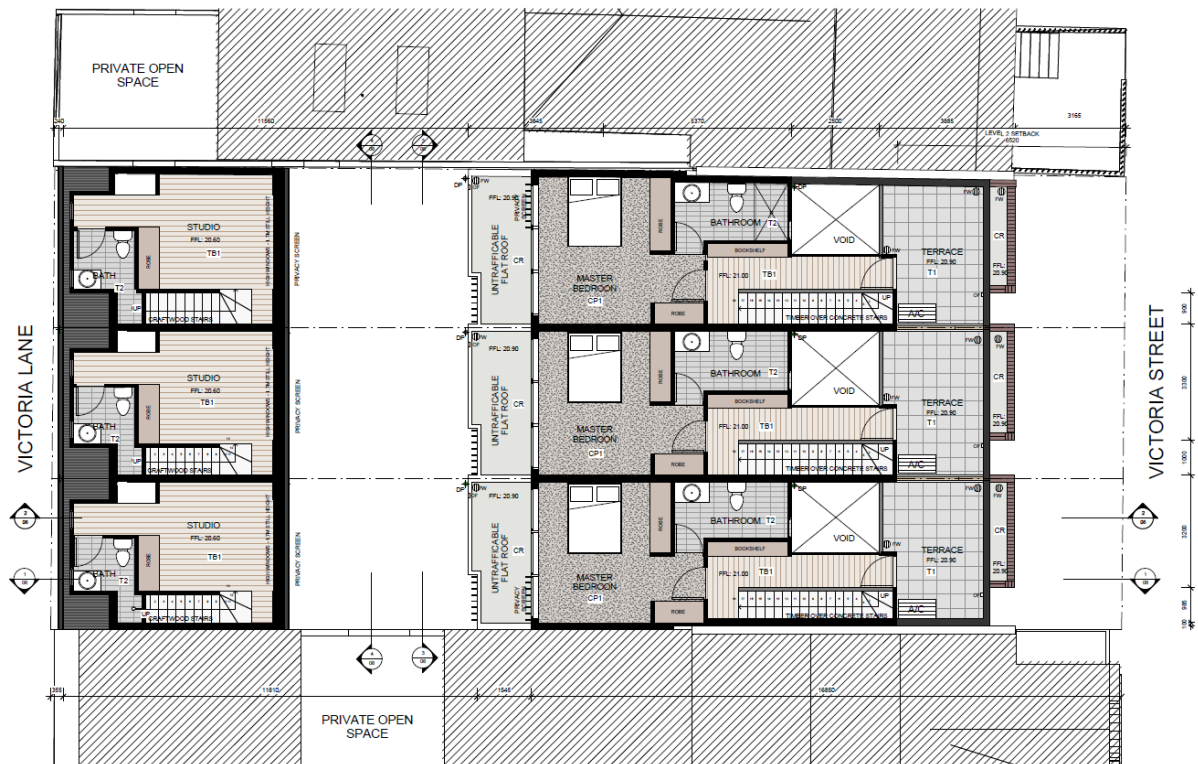


Figure 15: Proposed Level 2 plan

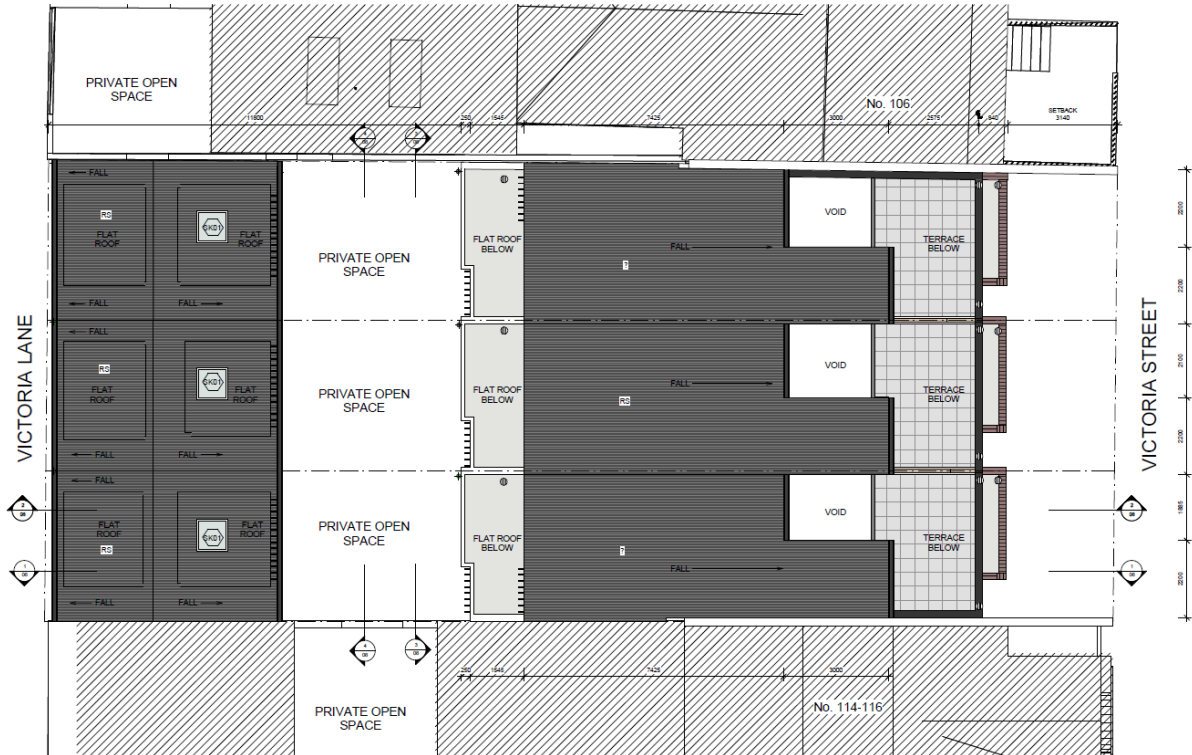


Figure 16: Proposed roof plan

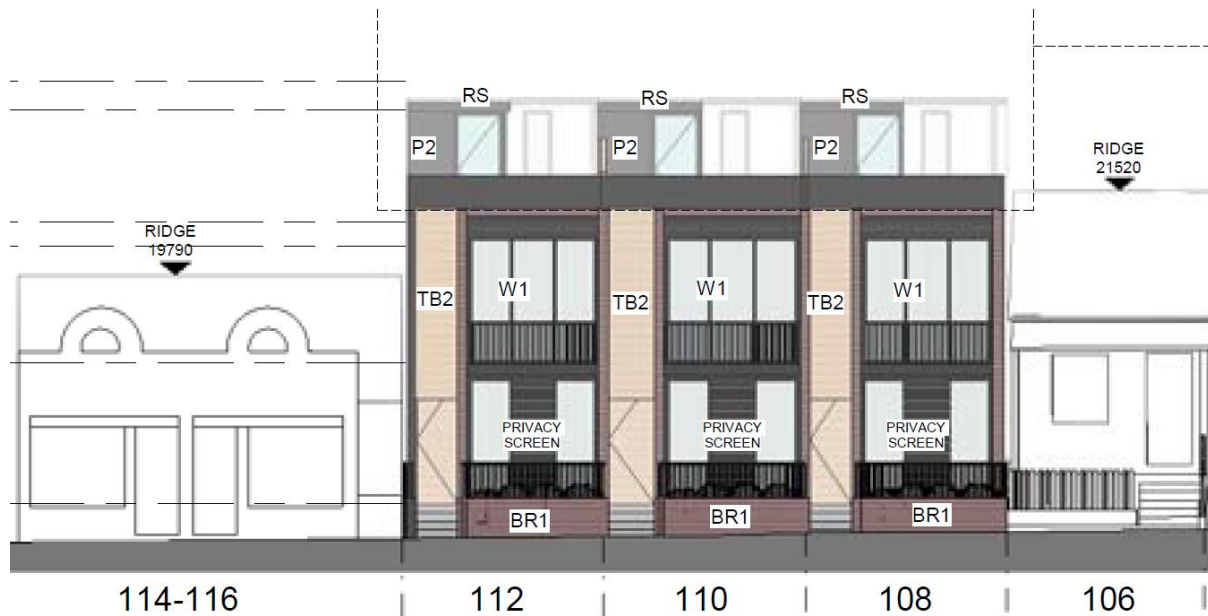


Figure 17: Proposed Victoria Street elevation

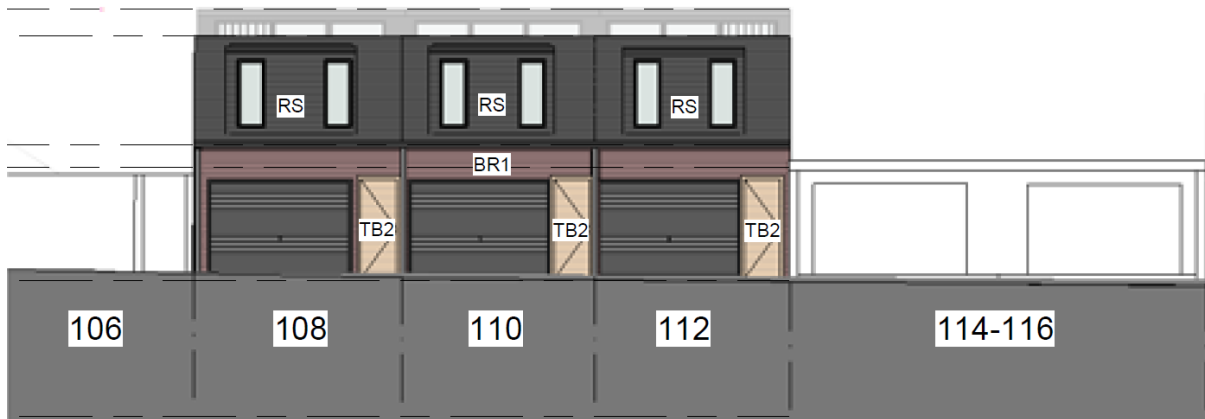


Figure 18: Proposed Victoria Lane elevation



Figure 19: Proposed rear (west) elevation of the main dwellings (left) and the internal (east) elevation of the laneway structures

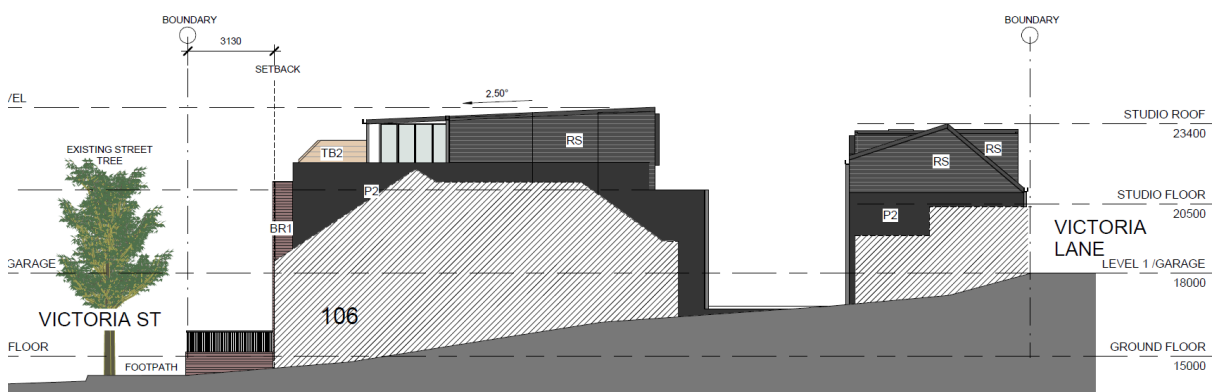


Figure 20: Proposed north elevation

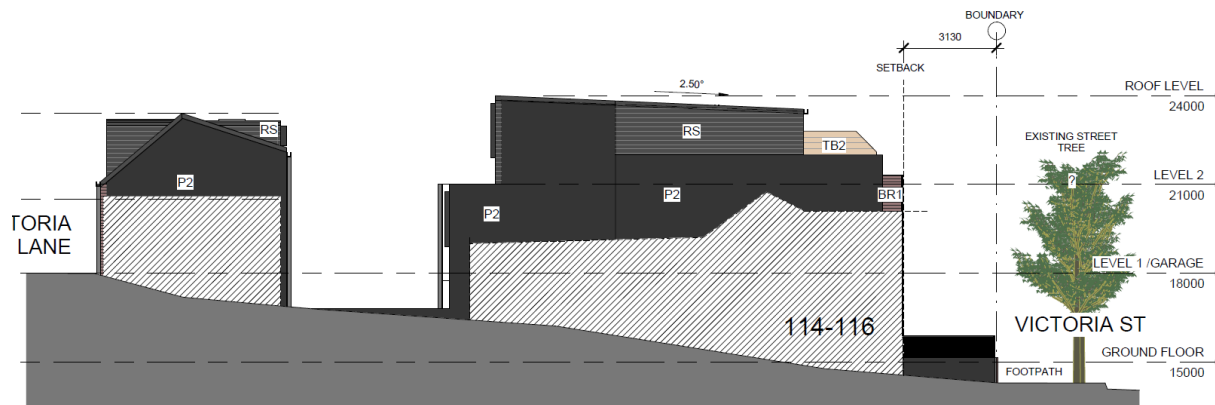


Figure 21: Proposed south elevation

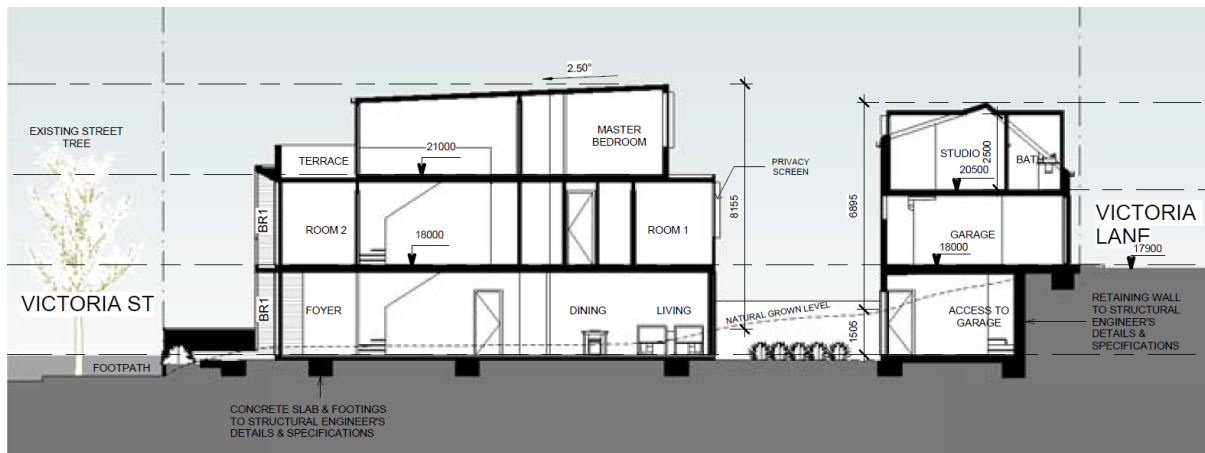


Figure 22: Proposed long section

Assessment

17. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Biodiversity and Conservation) 2021

18. The proposal includes the removal of vegetation in a non-rural area and as such is subject to Chapter 2 of the SEPP. The proposed tree removal has been reviewed by the City's Tree Management Unit and is considered acceptable as assessed against Section 3.5 of Sydney DCP 2012 below.

State Environmental Planning Policy (Resilience and Hazards) 2021

19. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

20. While the application does not involve a change of use, the proposed intensification of residential use necessitates a Preliminary Site Investigation (PESI) to assess the risk of contamination for the site.
21. A PESI has been submitted to demonstrate that the site has continuously been used for residential purposes since 1943, and its surrounding area has not been used by industrial uses that would likely result in underground contamination. As such, the site has a low and acceptable risk of contamination, and is suitable for the proposed residential development. No further investigation is necessary at application stage.
22. Council's Health Unit has reviewed the PESI and is satisfied that the site is suitable for the proposed residential use.

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

23. A BASIX Certificate has been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Local Environmental Plans

Sydney Local Environmental Plan 2012

24. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 (the LEP) is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the R1 General Residential zone. The proposed development is defined as attached dwellings and is permissible with consent in the zone. The proposal generally meets the zone objectives.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 9m is permitted. A compliant maximum height of 8.52m is proposed, measured from the existing ground levels to the highest point of the proposed principal dwellings.

Provision	Compliance	Comment
4.4 Floor space ratio 6.14 Community infrastructure floor space at Green Square	Yes	<p>Section 4.4 specifies a base FSR of 1:1.</p> <p>Section 6.14 provides an opportunity for additional FSR of up to 0.25:1 where community infrastructure is provided. As part of the subject application, the owner has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with Council.</p> <p>The VPA is for a monetary contribution of \$36,100 for community infrastructure provision in Green Square.</p> <p>Considering all the relevant FSR provisions contained in the LEP, the maximum permitted FSR for the development is 1.25:1 (497.5sqm).</p> <p>The proposed development has a FSR of 1.19:1 which complies with the controls.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Part 6 Division 4 Design excellence	Yes	<p>The amended proposal, subject to conditions of consent, is of an appropriate height, bulk, scale and siting to respond to the streetscape and character of Victoria Street and Victoria Lane.</p> <p>The proposal allows for passive surveillance of Victoria Street and Victoria Lane, and provides adequate deep soil area within the Victoria Street setback to accommodate privacy planting.</p> <p>The private open spaces at the rear of the main dwellings also provide an adequate area of deep soil to accommodate the planting of new canopy trees.</p> <p>Conditions are recommended to ensure the application of high quality materials and finishes, and that BASIX requirements are implemented to achieve acceptable environmental performance.</p>

Provision	Compliance	Comment
		<p>Subject to the recommended design modification conditions in Attachment A, the proposal will achieve an acceptable level of amenity for the future occupants and will not result in unreasonable impacts to the amenity of the surrounding area.</p> <p>The proposal, subject to conditions, achieves design excellence.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	<p>A maximum of two car parking spaces are permitted per dwelling.</p> <p>The proposal includes one parking space per dwelling and is compliant.</p>
Division 3 Affordable housing		
7.13 Contribution for the purpose of affordable housing	Yes	<p>The site is located within the Green Square affordable housing contribution area. As the proposal will create more than 200m² of additional residential floor space, a contribution is payable.</p> <p>Refer to 'Financial Contribution' section for further discussion.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 5 Acid Sulfate Soils.</p> <p>The application has been reviewed by the City's Environmental Health Unit who have advised that an Acid Sulfate Soils Management Plan is not required.</p>

Development Control Plans

Sydney Development Control Plan 2012

25. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 (the DCP) is provided in the following sections.

Section 2 – Locality Statements

26. The site is located within the Beaconsfield locality. The proposal is in keeping with the unique character and the design principles of the locality. in that it will appropriately respond to the predominant building alignment on Victoria Street, maintains the existing fine-grain subdivision pattern, and reinforces the terrace typology of the area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	<p>The proposal involves the removal of three existing trees located on the property at 112 Victoria Street.</p> <p>The three trees to be removed include a semi-mature <i>Ficus benjamina</i> (Weeping Fig) in the front yard, a semi-mature <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) and a <i>Syzygium spp.</i> (Lilly Pilly) in the rear yard.</p> <p>The proposed tree removal has been reviewed by the City's Tree Management Unit, who advised that the 3 trees are of low retention value, and their removal is supported subject to replacement planting being provided as part of the development.</p> <p>The proposal includes sufficiently sized deep soil areas that can support the planting of new trees, and conditions have been recommended to require adequate replacement planting to be provided.</p> <p>Appropriate conditions are also recommended for the retention and protection of existing street trees.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.

Provision	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposed development involves consolidation and subdivision of the site into three lots. The new allotments are regular in shape and the new allotments will not have a detrimental impact on the setting of the locality.
3.9 Heritage	Yes	The site is not a heritage item nor located within a heritage conservation area. Demolition of the existing buildings is acceptable, subject to a recommended condition for photographic recording of the existing buildings for archival purposes.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney <i>Guidelines for Waste Management in New Development</i> .

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Acceptable	The site is permitted a maximum building height of two storeys. The proposed development is three storeys in height. Refer to the 'Discussion' section below.
4.1.2 Building setbacks	Acceptable	Refer to the 'Discussion' section below.
4.1.3 Residential amenity		As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the neighbouring properties' residential amenity.
4.1.3.1 Solar access	Acceptable	Refer to the 'Discussion' section below.

Provision	Compliance	Comment
4.1.3.2 Solar collectors	N/A	There are no solar panels located on the roofs of neighbouring properties to the south that are affected by the proposed development.
4.1.3.3 Landscaping	Subject to condition	<p>A landscape plan has been provided to demonstrate that tree planting can be accommodated by the proposal to achieve a 15 per cent canopy cover for each lot.</p> <p>However, the landscape plan has not been updated to be consistent with the amended architectural design. Furthermore, the proposed use of a root barrier and metal edging is not supported.</p> <p>A condition is recommended requiring an updated landscape plan to be submitted to and approved by Council officers.</p>
4.1.3.4 Deep soil planting	Yes	Each dwelling will provide approximately 20 per cent of the site area as deep soil. This is adequate for the planting of new canopy trees and is supported.
4.1.3.5 Private open space	Yes	Each dwelling will be provided with an adequately sized private open space on the ground floor that is directly accessible, and capable of serving as an extension to, the primary living area.
4.1.3.6 Visual privacy	Subject to condition	A condition is recommended to require appropriate privacy treatment be provided to the upper floor windows on the west elevation of the principal dwellings and to both east and west elevations of the laneway structures to maximise visual privacy to neighbouring properties and between the three proposed dwellings.
4.1.6 Secondary and laneway dwellings	Yes	Each laneway structure comprises a garage on the ground floor (level with Victoria Lane), a studio within the habitable attic above, and an access way below connecting from the private open space on lower ground (level with Victoria Street) to the garage.

Provision	Compliance	Comment
		<p>The design of the laneway structures has been amended to have a maximum height of 5.4m when measured from Victoria Lane; a gabled roof form with 'dormer style' inserts to achieve compliant floor to ceiling height for an attic; and a parapet/gutter line height that is more typical of a single storey structure when viewed from Victoria Lane.</p> <p>A condition is recommended to require further amendments to the roof form to enable the window design to be modified to improve the internal amenity of the attic studio, reduce visual bulk and to minimise overshadowing to the living room glazing of the adjoining property to the south.</p> <p>Subject to this condition, the built form of the laneway structure will be consistent with the DCP's built form requirements for such laneway structures to present as single storey and to be consistent with the built form of the laneway structure at 134 Victoria Street as approved by D/2021/730 and as shown in Figure 12 above.</p>
4.1.7 Fences	Yes	The proposed front fence is 1.2m in height and maintains passive surveillance of the street. A condition is recommended to require the detailed design of the fence to be submitted to and approved by Council officers.
4.1.8 Balconies, verandahs and decks	Yes	As amended, upper level balconies are only proposed to the front of the dwellings (off bedrooms). These balconies will not result in unreasonable privacy impacts to neighbouring properties.
4.1.9 Car parking	Yes	The car space is located at the rear of the site and is consistent with the requirements of this control.

Section 5 – Specific Areas

5.2 Green Square

Provision	Compliance	Comment
5.2.21 Green Square Urban Strategy	Yes	The proposal is consistent with the Green Square Urban Strategy.

Provision	Compliance	Comment
5.2.2 Objectives of Green Square	Yes	The proposal, subject to conditions, will reinforce the desired character of the Beaconsfield locality as discussed above. This includes the retention of the predominant building alignment and setbacks within the street block, the retention of the fine-grain subdivision pattern, and the reinforcement of emerging terrace typologies within the locality.
5.2.9 Building design	Yes	The proposed dwelling will address the street frontage and reinforce the street edge established by the existing single-storey terrace row. The proposed built form is also similar in size to other recent developments within the street block and will maintain the existing street trees.

Discussion

Building Height in Storeys

27. DCP provision 4.1.1 recommends a maximum two storey building height. Given the site is not located within a heritage conservation area, the relevant objective of this DCP provision is to ensure new development reinforces the existing and desired neighbourhood character.
28. At a height of 8.52m, the proposed development complies with the LEP 9m maximum height of buildings development standard. However, the proposed design incorporates a third storey that is setback by 3.885m above the two-storey street frontage height to its the Victoria Street frontage.
29. The site is located within the Beaconsfield locality, which is undergoing change with an emerging development pattern where pre-existing single storey dwellings/terraces are being replaced with new terraces that have a two-storey street frontage height and a recessed third storey above. Such development patterns can be observed along Queen Street and Victoria Street to the south, between Collins Street and Beaconsfield Street.
30. The proposed built form is consistent with this development pattern that is emerging within the Beaconsfield locality. For this reason, the proposed non-compliance with the 2-storey DCP height control is considered to be acceptable and is supported.

Building Setbacks

Front Setback

31. The proposed development has been amended to increase the front setback to Victoria Street. However, the front wall setback remains inconsistent with the predominant alignment of front walls along the street block at 90-112 Victoria Street, and which is marked in thick solid blue line in Figure 23 below. A condition is recommended for the proposed front setback to the front wall of the terraces to be increased to be consistent with that predominant alignment of front walls along the street.
32. Notwithstanding the inadequate front wall setback discussed above, the alignment of the proposed ground floor front verandah and front first floor balcony is consistent with that of 90-112 Victoria Street. This consistent alignment is marked in thick blue dotted line in Figure 23 below.



Figure 23: Analysis of building lines

First Floor Level Rear Building Line

33. There is no consistent first floor level rear building line within the street block. However, other recent development approvals, including that granted at 134 Victoria Street, have adopted the existing rear first floor level rear building line of 138, 140 and 150 Victoria Street, which is approximately 10.6m from the rear boundary. The proposed first floor level rear building line provides a greater setback from the rear boundary than the buildings at 138, 140 and 150, being set back approximately 11.8m from the rear boundary at the first floor level.

34. The proposed first floor level rear building line, illustrated in solid red line in Figure 23 above, is also behind the existing ground floor rear building line of the adjoining 114-116 Victoria Street, illustrated in red dotted line. As such, the principal dwellings will not result in significant visual impact when viewed from the private open space of 114-116 Victoria Street.
35. The proposed first floor level rear building line is therefore considered to be acceptable.

Laneway Structures

36. As illustrated in a green line in Figure 23 above, the depth of the proposed laneway structures is also consistent with the garage of the adjoining property at 114-116 Victoria Street to the south. It is also consistent with the depth of the existing/approved laneway structure of 126 and 134 Victoria Street. As such, it is an appropriate response to the pattern of development in the vicinity of the site and is supported in this regard.

Party Walls and Modifications to Shared Chimney

37. A demolition methodology statement has been prepared by a practising structural engineer following an inspection of the existing site and adjoining properties.
38. The methodology statement demonstrates that the existing terraces can be demolished without impacting on the existing party wall with the adjoining terraces at 106 and 114 Victoria Street. It also demonstrates that the existing shared chimneys can be modified by hand to realign with the property boundaries without unduly affecting the roofing and flashing of the adjoining 106 and 114 Victoria Street.
39. To ensure the proposed development will not involve work beyond the property boundary, a condition of consent has been recommended in Attachment A for works involving the party wall and existing chimneys to be carried out in accordance with the submitted methodology statement particularly that the existing chimneys are to be modified by hand.
40. A condition is also recommended in Attachment A to require dilapidation reports be prepared by a structural engineer prior to the commencement of work for neighbouring properties.

Solar Access

41. Section 4.1.3 of Sydney DCP 2012 recommends that at least 8m² of the principle private open space and 1m² of primary living room windows of the subject and neighbouring dwellings should achieve a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm at the winter solstice. To enable an assessment of the amended proposal, the applicant has provided an updated solar analysis, which is reproduced in Figure 24 below.
42. The analysis identifies the overshadowing by existing structures, including boundary fences, within the subject site and neighbouring properties in grey. Overshadowing caused by the proposed development is shown in red.

Subject Site

43. In relation to the subject site, the proposed development cannot achieve the minimum 2 hours of solar access to private open space and living room windows recommended by the DCP.
44. This is due to three factors. First, the narrowness of the lot means the new boundary fences will overshadow both the private open space and the ground floor living room glazing. Second, the northwest-southeast orientation of the site means the private open space and the ground floor living room glazing will be overshadowed by the dwelling in the morning and the laneway structure and boundary fences in the afternoon. Third, the topography of the site and surrounds results in greater overshadowing impacts by single storey developments to the north and along Victoria Lane, compared to overshadowing from these structures were there a flatter topography. Given the proposed development's non-compliance with the DCP's recommended solar access is primarily the result of contextual factors such as the size and shape of the lot, the orientation and topography of the site and the existing development context of its surrounds, the proposed non-compliance is acceptable.

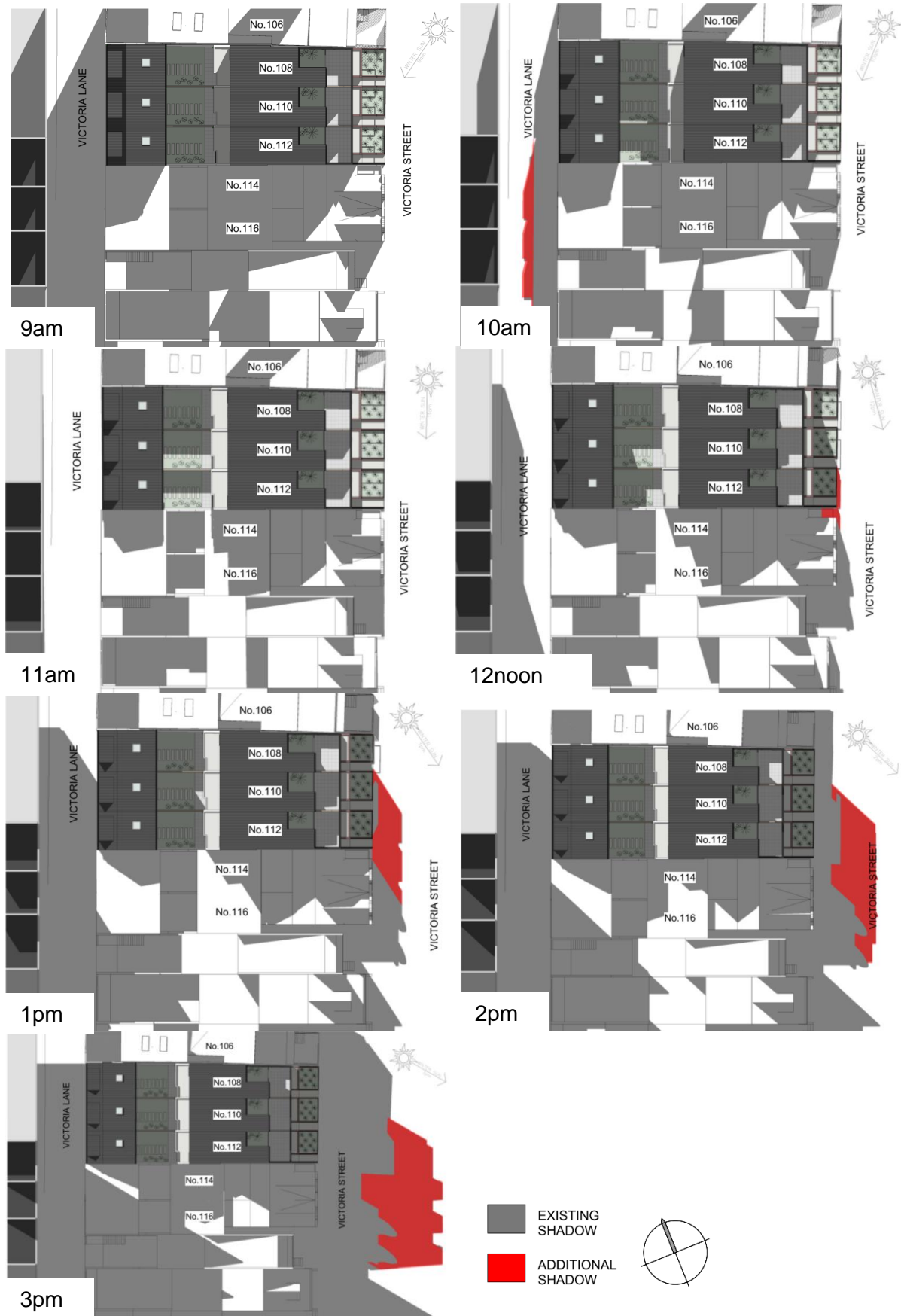


Figure 24: Shadow diagrams

Immediately Adjacent Property to the South

45. As demonstrated in the shadow diagrams above, the proposed development will not result in any additional overshadowing to the private open space of adjoining properties to the south, which are currently overshadowed by the existing laneway structures and boundary fences.



Figure 25: Shadow diagrams

46. Furthermore, the elevational shadow diagrams (reproduced in Figure 25 above) demonstrate that the proposed laneway structures will maintain direct sunlight to approximately 1sqm of the west facing primary living room glazing of the adjoining property to the south at 114 Victoria Street, which complies with the DCP solar access requirements.
47. A condition is also recommended to modify the laneway structures' roof form to comply with DCP built form controls, improve internal amenity and reduce visual bulk. These modification will further reduce the overshadowing impact to the west facing primary living room glazing of the adjoining property to the south.
48. The proposal will therefore maintain a level of solar access that is consistent with that recommended by Sydney DCP 2012, and is acceptable.

Consultation

Internal Referrals

49. The application was discussed with Council's:
- (a) Environmental Health Unit;

- (b) Heritage and Urban Design Unit;
 - (c) Public Domain Unit;
 - (d) Surveyors;
 - (e) Transport and Access Unit; and
 - (f) Tree Management Unit.
50. Relevant comments have been included in this report, and where appropriate, recommended conditions are included in Attachment A.

Advertising and Notification

51. In accordance with the City of Sydney Community Participation Plan 2020, the proposed development was notified for a period of 28 days between 28 September 2021 and 27 October 2021. A total of 171 properties were notified and 6 submissions were received, including four in objection, one in support, and one comment.
52. The submissions raised the following issues:

In objection:

- (a) **Issue:** The provision of a garage with studio above is inconsistent with the existing development pattern along Victoria Lane, and would result in additional overshadowing and visual bulk impact to neighbouring properties.
- Response:** The proposed laneway structure has been amended, and is subject to conditions requiring further design amendments, to comply with the DCP built form controls. As discussed elsewhere in this report, subject to the recommended conditions the proposed laneway structures will contribute to the desired streetscape character for Victoria Lane. As discussed elsewhere in this report amenity impacts to neighbouring properties and arising from the proposed development are considered reasonable and acceptable.
- (b) **Issue:** The proposed three storey development is inconsistent with the bulk and scale of other developments within the street block, which comprises mainly one to two storey terraces. It would also result in significant overshadowing to the properties to the south.
- Response:** The proposed development has been amended to provide a two-storey street wall to Victoria Street with its third storey set back. Overshadowing impacts have been addressed in the 'Discussion' section of this report above. Overshadowing impacts are considered acceptable.
- (c) **Issue:** The proposed development is inconsistent with the character of the locality.

Response: The proposed development will maintain the fine-grain subdivision pattern of the area. It complies with the maximum building height and floor space ratio development standards. Conditions have been recommended to require further amendments to ensure the front setback is consistent with the predominant building line along Victoria Street established by the existing single storey terraces within the street block.

The proposed development provides a modern interpretation of a two-storey terrace typology with a third floor setback above street frontage height and which is consistent with other new developments within the Beaconsfield locality. Particularly along Queen Street to the north. The building typology is residential in nature, and suitable for the site.

- (d) **Issue:** Privacy issues arise from the Level 2 front and rear roof terraces and the upper level windows of the laneway structure.

Response: The Level 2 rear roof terrace has been deleted, and the laneway structures' upper level windows have been amended to have sill heights greater than 1.4m as recommended by Sydney DCP 2012. A condition is also recommended to require privacy treatments to be provided to the west-facing upper level windows of the primary dwellings. The Level 2 front roof terrace is orientated to Victoria Street, and is not anticipated to result in unreasonable privacy impacts.

- (e) **Issue:** The proposed development will generate additional demand for on-street parking, which is already under high demand within the area.

Response: The proposed development will provide 1 off-street parking space per dwelling, which represents a net increase of one car parking space per dwelling. Demand for on-street parking is managed by the City's Neighbourhood Parking Policy.

In support:

- (f) **Issue:** The existing terraces, particularly 110 and 112 have been neglected. The proposed development appears reasonable in scope and is a cost-effective way to improve the quality and value of the site and the immediate section of Victoria Street.

Response: The proposal has been amended and is subject to recommended conditions for further amendments to minimise amenity impacts to neighbouring properties, be more consistent with the scale and form of redevelopment recommended by Sydney DCP 2012, and ensure an acceptable contribution to the streetscape of Victoria Street and Victoria Lane.

Comment:

- (g) **Issue:** What assurance is embedded within the assessment process to achieve environmental performance?

Response: The proposed development can achieve the environmental performance targets of BASIX, and a condition of consent is required for the requirements listed in the BASIX certificate to be implemented. A condition is also imposed to require the colour of roofing material to be lighter to reduce solar heat gain. Furthermore, the proposed development includes deep soil zones that can accommodate additional tree planting, and appropriate conditions have been recommended for the planting of additional trees with numerical requirements to ensure the new trees will contribute to the urban canopy to combat urban heat island effects of the wider locality.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

53. A Section 7.11 development contribution is not payable after credits are applied in accordance with the City of Sydney Development Contributions Plan 2015, as follows:
- The site is located within the South precinct, where '2-bed dwelling' and '3+ bed dwelling' attract the same contribution amount.
 - Each of the existing terraces is a '2-bed dwelling'.
 - As such, a development contribution is not payable for the three proposed '3+ bed dwellings' after credits for the three existing '2-bed dwelling' are applied.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

54. The site is located within the Green Square affordable housing contribution area. In accordance with Section 7.13, clause (1)(a)(iv), the proposed development involves the demolition of existing floor area and the subsequent creation of more than 200sqm of gross floor area. As such, a contribution is payable.
55. A calculation plan in accordance with the definition of 'total floor area' (TFA) contained in Section 7.13 of Sydney LEP 2012 has not been provided. As such, a TFA calculation has been carried out based on the amended floor plan included in Attachment B.
56. The contribution is calculated at a rate of \$11,599.74 for 3 per cent of the total residential floor area of 576sqm, totalling \$200,443.55.
57. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant Legislation

58. Environmental Planning and Assessment Act 1979.

Conclusion

59. The proposed attached dwellings are generally consistent with the zone objectives contained in Sydney LEP 2012.
60. The development, as amended and subject to conditions, achieves an acceptable standard of architectural design, materials, and detailing, with the provision of landscaping that can contribute positively to the urban canopy.
61. The development is generally consistent with the design requirements of Section 4.1 of Sydney DCP 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the proposed development or can be resolved by the recommended conditions.
62. The buildings, as amended and subject to conditions, have been designed with an acceptable bulk and scale, addressing both Victoria Street and Victoria lane. The proposal is consistent with the objectives and desired future character for the Beaconsfield locality and the Green Square locality contained within the Sydney DCP 2012.

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