

Item 5.**Development Application: 657-657A Botany Road, Beaconsfield - D/2021/1335****File No.:** D/2021/1335**Summary****Date of Submission:** 16 November 2021, amended plans submitted 15 August 2022.**Applicant:** Mr Billy Rumoong**Architect/Designer:** Hely Horne Perry Architects Pty Ltd**Owner:** Pico Alfa Pty Ltd**Cost of Works:** \$720,000**Zoning:** The site is located in Part SP2 and part B4 Mixed Use zone. The proposal is defined as a commercial retail premises and is prohibited within the SP2 zone however permissible within the B4 Mixed Use zone.**Proposal Summary:** Approval is sought for the demolition of existing structures, lot consolidation, minor excavation and construction of a two (2) storey commercial building for one retail tenancy. The development includes a loading dock at the rear on Emanuel Lane.

The site is located within Green Square.

The application is referred to the Local Planning Panel for determination as the proposal includes a voluntary planning agreement.

The application is accompanied by a public benefit offer for the provision of community infrastructure as required under the Sydney LEP 2012. The offer includes dedication and embellishment of approximately 12.8sqm being 1.4m by 9.14m for a footpath along Botany Road frontage within the B4 Mixed Use zone and monetary contribution for community infrastructure in the Green Square urban renewal area. The planning agreement (VPA/2021/15) was exhibited for 28 days between 8 September and 6 October 2022. At the time of writing the report no submissions had been received.

A deferred commencement condition is recommended to require the planning agreement to be executed prior to the consent becoming operative.

The application was referred to TfNSW for comments to ensure the proposal did not impact on the future widening of Botany Road within the SP2 zoned land. General conditions of consent were identified and form part of the recommended condition of consent in Attachment A.

The application has been amended to address several issues identified by Council during assessment in particular:

- Facade design;
- Colours and materials;
- Poorly integrated signage;
- Finished floor levels and non-compliance with minimum flood planning levels; and
- Lack of information on historical uses on the site and whether this has resulted in soil contamination.

Whilst the site is not heritage listed, nor is it within a heritage conservation area, the existing Victoria Terrace is over 50 years old and has been assessed by the City's heritage specialist for significance.

To address the development history of the site, conditions proposed by the City's heritage specialist are recommended to require the photographic documentation of the existing building, and a written record of the site's development history. A condition is also recommended to require the salvaging and recycling of traditional building materials, to support the conservation and repair of similar buildings located within heritage conservation areas.

Following the application being amended in July 2022, further information was requested requiring a Plan of Subdivision and current land titles to be provided to assist of lot consolidation.

The application was notified for 14 days between 30 November 2021 and 15 December 2021. As a result, four (4) submissions were received, which raised the following concerns:

- Privacy impacts to residential dwellings at rear.
- Overshadowing
- Bulk and scale.

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

Overall, the proposal responds satisfactorily to surrounding developments and the desired future character of Botany Road.

Summary Recommendation: The development application is recommended for deferred commencement approval.

Development Controls:

- (i) State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land
- (ii) State Environmental Planning Policy (Industry and Employment) 2021
- (iii) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

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

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2021/1335 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) The proposal complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal represents appropriate development for the site and is in line with transition of the Botany Road corridor.
- (C) Subject to conditions, the proposal satisfies design excellence provisions.
- (D) A public benefit offer has been made and satisfies 6.14 of the Sydney LEP relating to the provision of community infrastructure within Green Square. This is subject to deferred commencement to execute the associated Voluntary Planning Agreement.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 2, Section 1 in DP 2269 and Lot 3, Section 1 in DP 2269, known as 657-657A Botany Road, Rosebery. It is rectangular in shape with an area of approximately 292sqm.
2. It has a primary street frontage of 9m to Botany Road and a secondary street frontage of 9m to Emanuel Lane. The site is located close to the intersection of Botany Road and Cressy Street and Cressy Street and Emanuel Lane. The site falls from Botany Road towards the rear of the site. The site is also identified as being subject to flooding.
3. The site contains two (2) commercial buildings fronting Botany Road. This includes a two-storey terrace building and a single storey building with existing car parking within the front setback. The terrace building has an inconsistent front setback compared to neighbouring buildings and its front portion is located within SP2 zoned land.
4. The surrounding area is characterised by a mixture of land uses, primarily being commercial, along Botany Road and residential along the eastern side of Emanuel Lane. Surrounding building typologies vary, with single and two storey commercial buildings along Botany Road and single and two storey residential dwellings along the eastern side of Emanuel Lane. As discussed above, most buildings have a significant setback to Botany Road due to land being zoned SP2 Classified to allow for future road widening. Refer to Figure 4 below.
5. The site is located within the Green Square area and also within the Beaconsfield locality and is identified as being subject to flooding.
6. A site visit was carried out on 16 February 2022. Photos of the site and surrounds are provided below: Photos of the site and surrounds are provided below:
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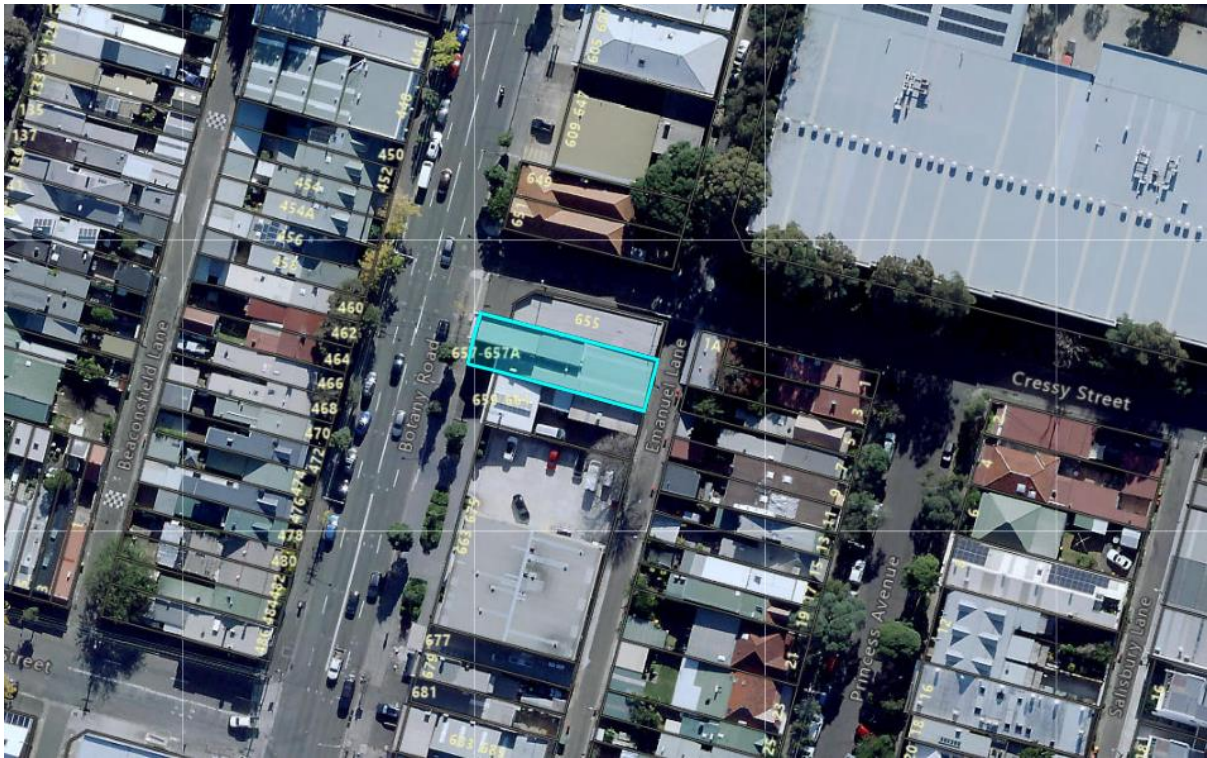


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Botany Road



8. Figure 3:

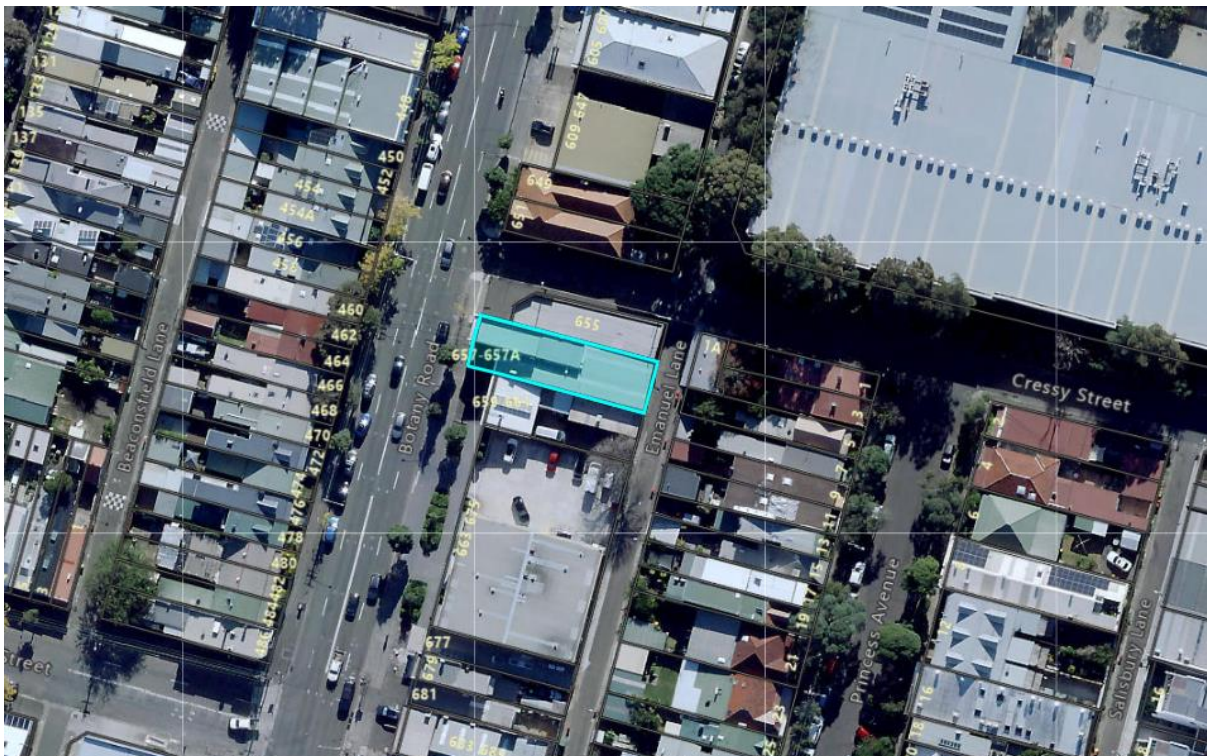


Figure 4: Aerial view of site and surrounds



Figure 5: Site viewed from Botany Road



Figure 6: Photo showing the existing northern elevation of the existing terrace building, as seen from Cressy Street. The existing terrace building retains the original setback along Botany Road.

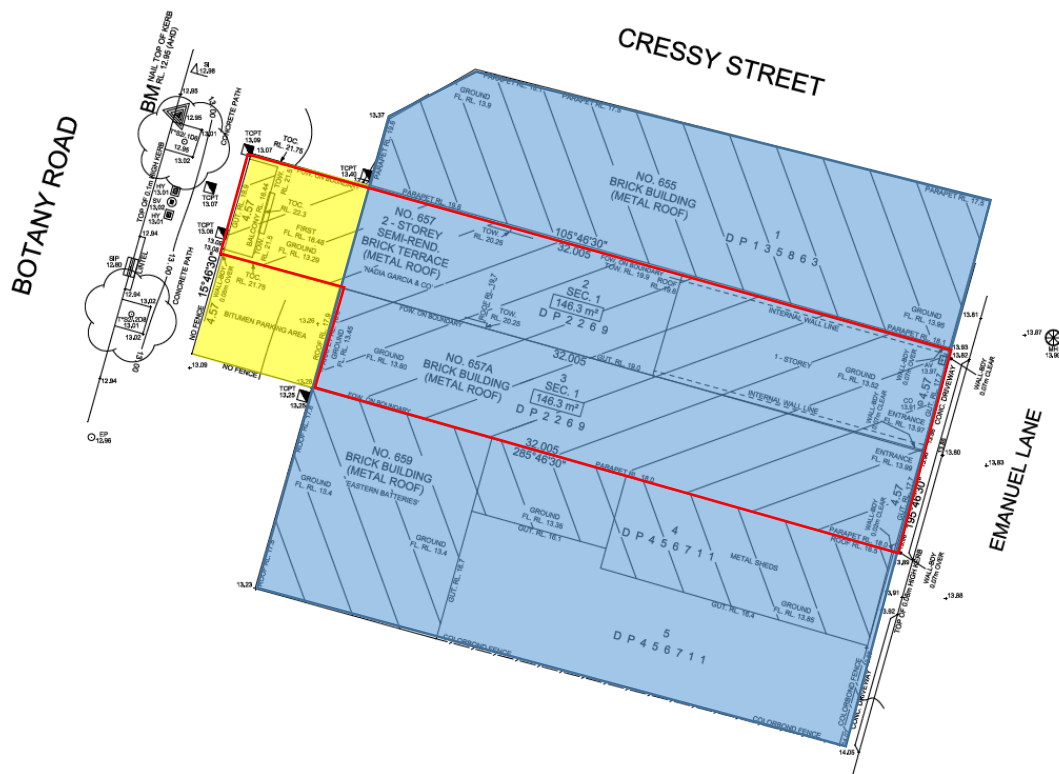


Figure 4: Survey plan demonstrating existing structures on the site within SP2 zoned land (yellow) along Botany Road and the location of B4 Mixed Use zoned land (blue).

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal and detail applications on the subject site:
 - **D/2021/793** – The Development Application was withdrawn on 9 August 2021 for the demolition of all structures on site and construction of a two storey commercial building. The proposal sought to build upon SP2 zoned land and did not include a public domain setback. After discussions with the applicant, it was agreed that the application be withdrawn and a revised design be explored.
 - **D/2010/728** - A Development Application was granted on 13 July 2010 to change the use of the first floor tenancy as an Oriental Healing Centre.

Amendments

10. Following a preliminary assessment of the proposed development by Council Officers, a request for amendments was sent to the applicant on 24 March 2022 and included the following:

Design:

- Increased level of glazing on the ground floor on the Botany Road facade was recommended to improve activation of the street and passive surveillance.
- Provide a continuous permanent awning along the Botany Road frontage to allow for improved weather protection for pedestrians and assist in articulating the facade and breaking up its proportions.
- Explore improved facade designs on Botany Road including use of high quality materials such as brick, incorporate public art, and improved parapet.
- Improvements to the proposed signage including better integration with the design of the development and colour schemes.

Flood Levels:

- Increase proposed floor levels to comply with the minimum Flood Planning Levels as identified in the Interim Flood Risk Management Policy. Revised plans were requested to demonstrate compliance with the policy. Access ramps were recommended to be provided internally to reduce impacts on the public domain.

Contamination:

- Details of the historical land use of the site were requested to ensure no significant soil contamination was present. A Detailed Environmental Site Investigation (DESI) was requested to identify any past or present potentially contaminating activities that have occurred on the site.
11. The applicant responded to the request on 28 July 2022, and submitted the following information:
- Revised plans detailing an improved Botany Road facade including improved ground floor glazing, improved signage and use of brick and installation of an awning on the Botany Road facade.
 - Minor increase in floor levels to comply with the minimum requirements of the Interim Flood Risk Management Policy.
 - A DESI was provided demonstrating safe levels of soil contamination, permitting the proposed use of the site.
12. On 16 August 2022, the following was requested:
- A Plan of Proposed subdivision prepared by a registered surveyor.
 - Current titles of the properties.
 - Updated survey plan prepared by a registered surveyor

- Updated site plan showing the existing and proposed site boundary.
13. The information was provided on 2 September 2022.

Proposed Development

14. The application seeks consent for the following:
- Demolition of existing buildings.
 - Construction of a two (2) storey commercial building with mezzanine level consisting of a brick facade on Botany Road and masonry material on Emanuel Lane and on side elevations
 - Two illuminated signs are proposed on the Botany Road facade, including one (1) building name sign and one (1) under awning sign. Signs are proposed to display the name of the "Aquaristic Aquarium".
 - Amalgamation of existing lots and subdivision into two lots.
 - Loading and servicing access from Emanuel Lane at the rear of the site.
 - Use of building as an aquarium retail premises.
 - Trading hours of Monday 10.00am to 6.00pm, Tuesday 9.00am to 5.00pm, Wednesday 10.00am to 6.00pm, Thursday 10.00am to 7.00pm, Friday and Saturday 10.00am to 6.00pm and Sunday 11.00am to 4.00pm.
15. The use will include 4 full time staff and up to 7 casual staff, and have a maximum 10 deliveries per week.
16. The proposal is subject of a voluntary planning agreement (VPA) for the dedication of a 1.4m strip of land to Council for the use as public domain and a monetary contribution of \$4,776 towards community infrastructure. At the time of writing this report the VPA is on public notification for 28 days between 8 September 2022 to 6 October 2022.
17. Plans and elevations of the proposed development are provided below.

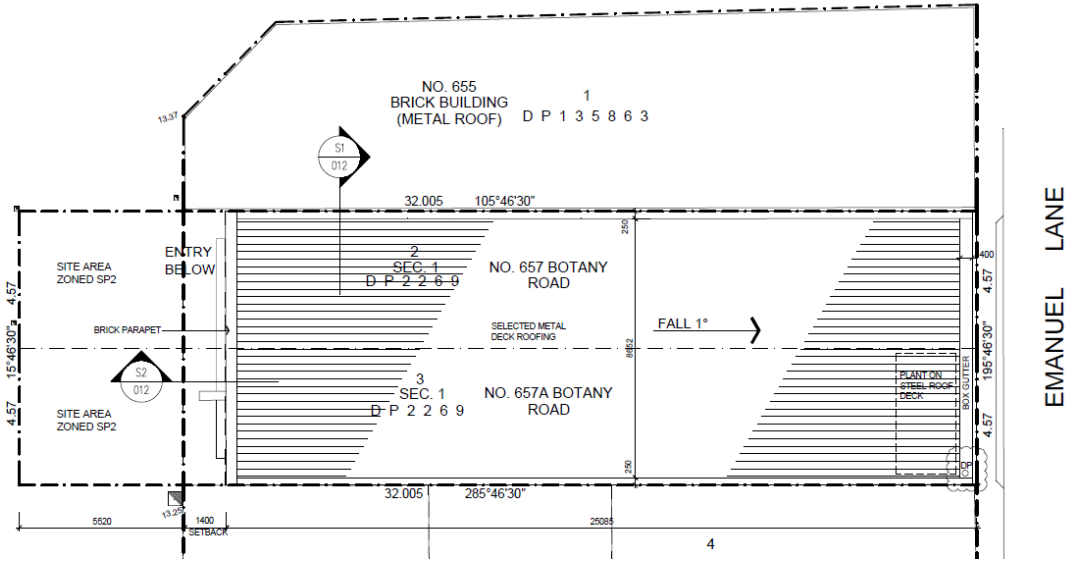


Figure 5: Proposed roof plan

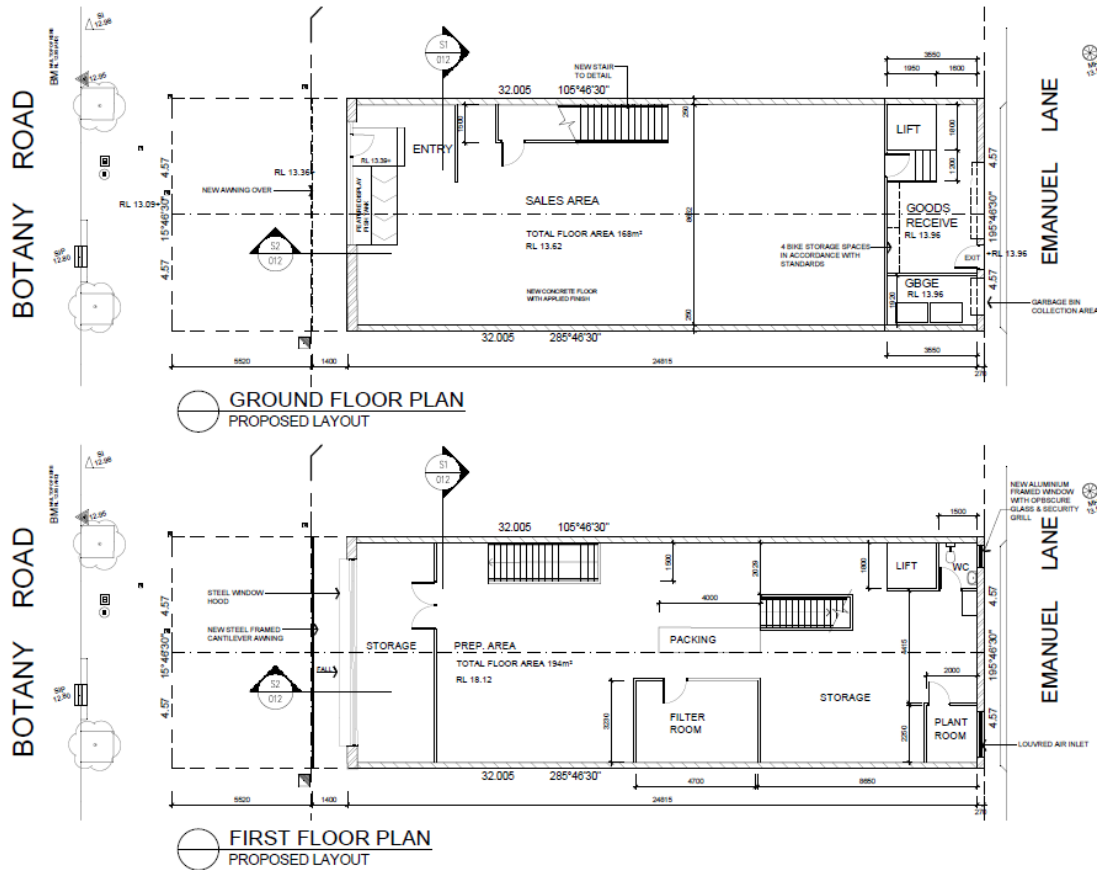


Figure 5: Proposed Ground and First Floor Plans

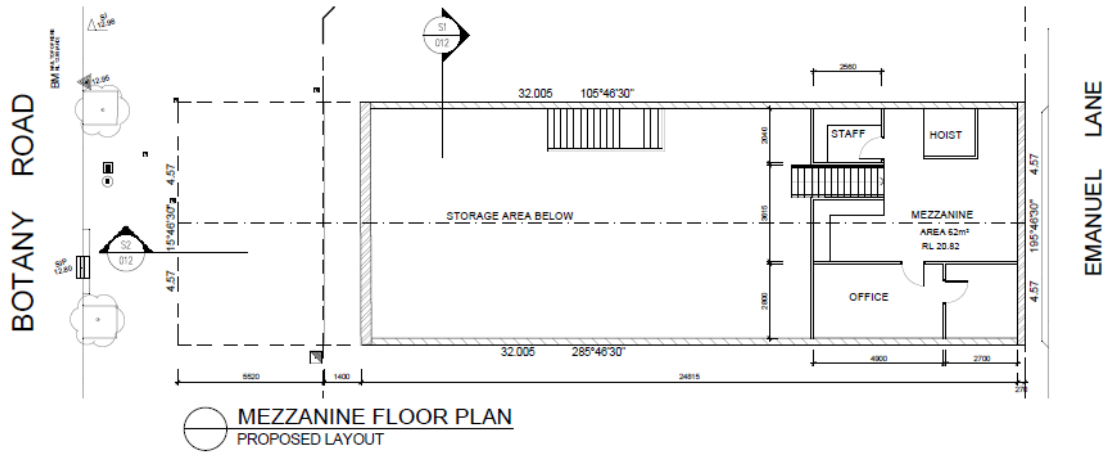


Figure 6: Proposed Mezzanine Floor Plans

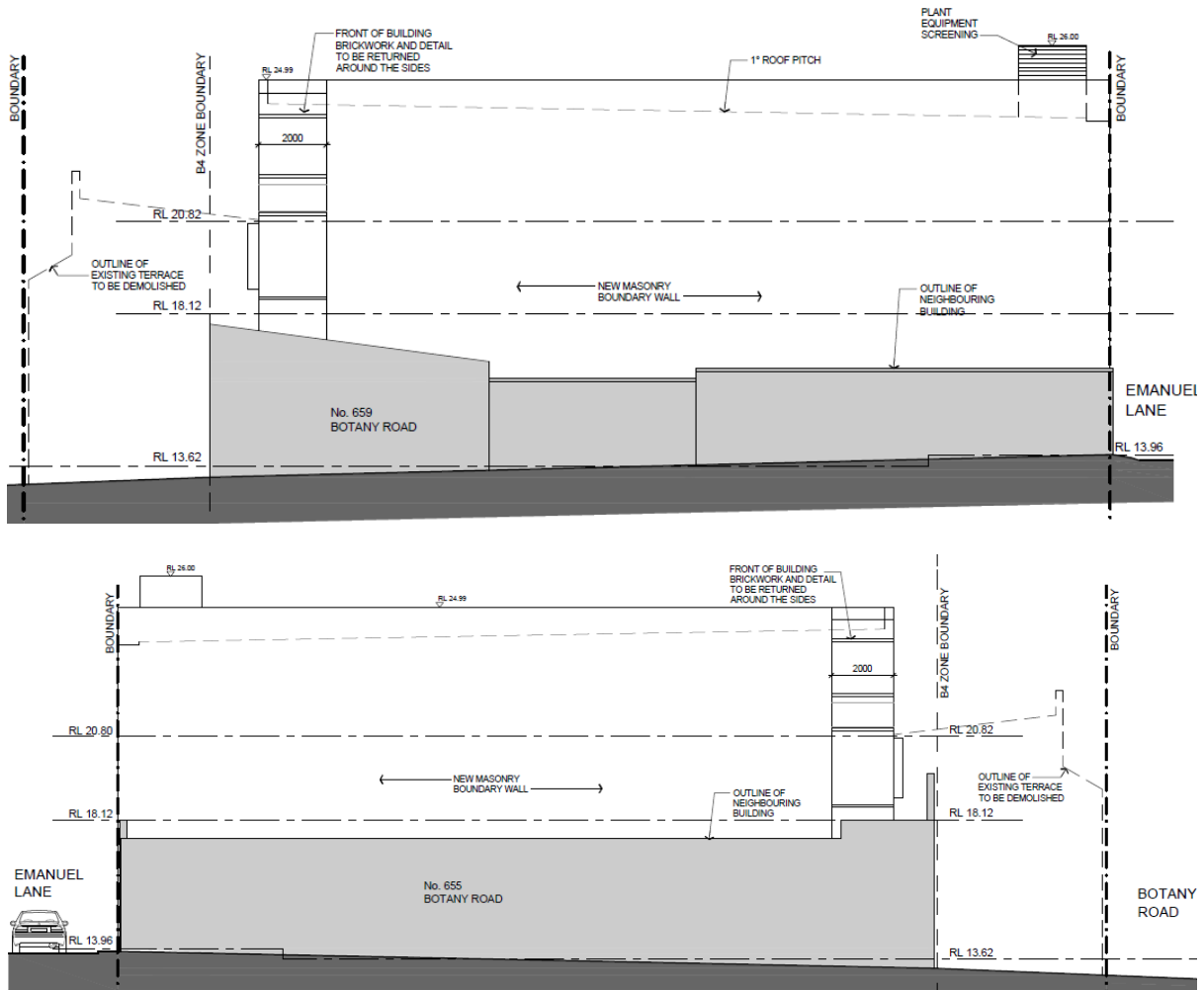


Figure 7: Proposed South (top) and North (bottom) Elevation Plans

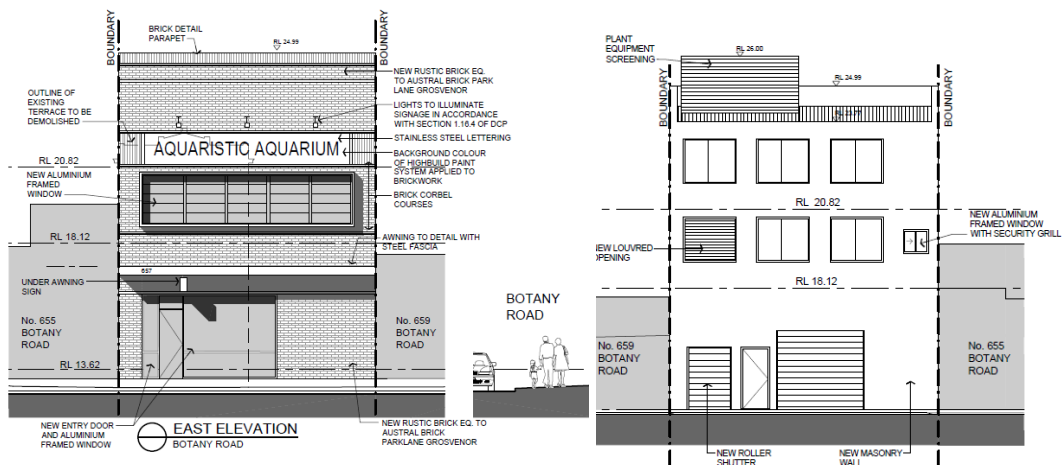


Figure 8: Proposed East (left) and West (right) elevation plans.

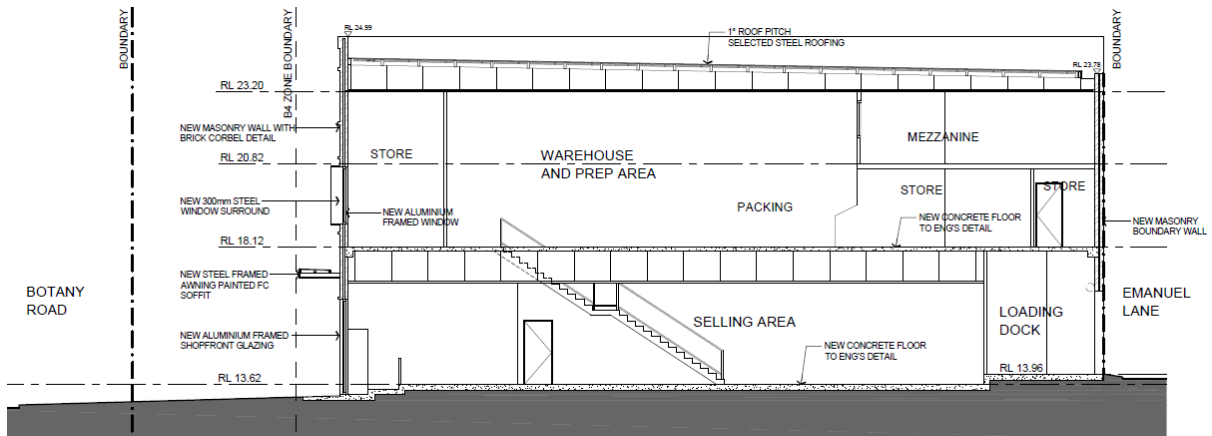


Figure 9: Proposed South Section Plan

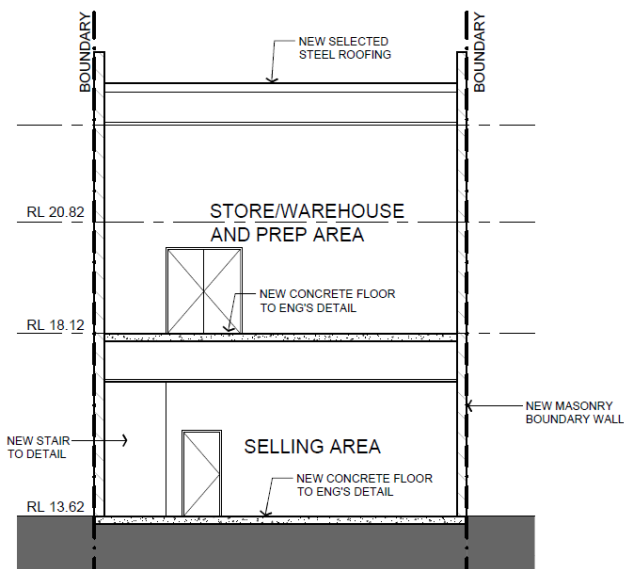


Figure 10: Proposed West Section Plan

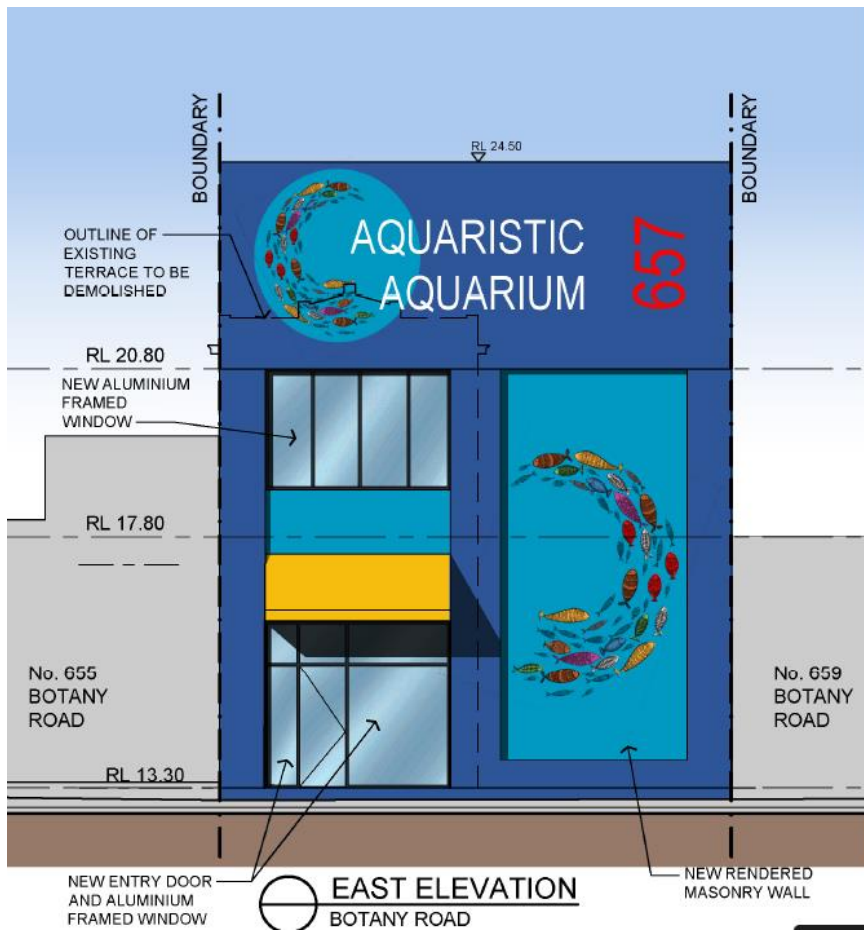


Figure 11: Originally proposal - Botany Road



Figure 12: Amended proposal - Botany Road.

Assessment

18. 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 (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

19. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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. A Detailed Environmental Site Investigation (DESI) was undertaken to determine whether historical uses of the site resulted in contamination of the site. Ten primary samples were collected and analysed and determined that the site is suitable for the proposed use of the site.
21. Council's Health Unit has reviewed the information and is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

22. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
23. Two (2) signs are proposed on the Botany Road frontage consisting of Building name sign above the first floor windows and an under awning sign. Both signs are proposed to consist of the name 'Aquaristic Aquarium' and are to be illuminated.
24. The proposed building name sign and under awning sign are consistent with the requirements of the SEPP (Industry and Employment) 2021 as outlined below.
25. The proposed overhead lighting to illuminate the building name sign will detract from the appearance of the building and is not supported. It is recommended that the sign be backlit if it is to be illuminated. Refer to Provision 3.16 of the DCP section below.
26. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

Provision	Compliance	Comment
Character of the area	Yes	<p>The proposed signage is generally consistent with the character of the area, subject to conditions.</p> <p>The site is located within the Village Main Streets signage precinct and is generally consistent with the objectives of the precinct. The proposed building name sign is consistent with other buildings along Botany Road and will not result in unacceptable impacts to the desired character of the area.</p>
Special areas	Yes	The proposed signage does not detract from the amenity or visual quality of the locality, subject to conditions.
Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
Streetscape, setting or landscape	Yes	<p>The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area.</p> <p>A condition has been recommended require plans at 1:20 detailing the proposed dimensions of both signs.</p>
Site and building	Yes	<p>The scale, proportion and positioning of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.</p> <p>A condition has been recommended require plans at 1:20 detailing the proposed dimensions of both signs.</p>
Associated devices and logos	Yes	Not applicable.
Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.

Provision	Compliance	Comment
		The overhead lighting to illuminate the top of building sign is not supported. Refer to 'Provision 3.16 of the DCP section below.
Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

27. Subject to conditions design detail and lighting, the proposed signage will be consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5. State Environmental Planning Policy (Infrastructure) 2007.

State Environmental Planning Policy (Transport and Infrastructure) 2021

28. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.118 – Development with frontage to classified road

29. The application is subject to Clause 2.118 of the SEPP as the site has frontage to Botany Road which is a classified road.
30. The application was referred to TfNSW for review and comments were received on 17 December 2021, supporting the application. Conditions of Consent are recommended.
31. The proposed development satisfies the provisions of Clause 101 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

Sydney Local Environmental Plan 2012

32. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 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 part B4 Mixed Use zone and part SP2 Infrastructure zone. The proposed development is defined as commercial building and is permissible with consent in the B4 Mixed Use zone but prohibited in the SP2 Infrastructure zone. The new building is wholly contained within the B4 Mixed Use zone and is acceptable. Works proposed within the SP2 zone only relate to demolition of existing structures. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 15m is permitted. A height of 12.38m is proposed to the top of the rooftop plant. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum base floor space ratio of 1.5:1 is permitted. The site falls within Area 5 of the Green Square additional floor space which allows for an additional 0.25:1 subject to the provisions of community infrastructure and compliance with design requirements. The proposal includes a 1.4m land dedication and a monetary continuation toward GSTC. Subject to design conditions the building will be appropriate in its context. A floor space ratio of 1.75:1 or 424sqm is proposed. The proposed development complies with the maximum bonus floor space ratio development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	Yes	<p>A 1.4 m wide strip of land on the Botany Road frontage is to be dedicated as required under the Sydney DCP.</p> <p>The proposal is supported by TfNSW. No building work will occur on the portion identified for acquisition other than demolition of existing structures.</p>
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item and is not within a heritage conservation area. However, the existing terrace building is more than 50 years old. Refer to Provision 3.9 within the Development Control Plan for further discussion.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	<p>The proposed development is eligible for an additional floor space ratio of 0.25.. The proposal includes a Voluntary Planning Agreement to dedicate 1.4m of land within the B4 Mixed Use zone setback to Council for use as public domain and a monetary contribution of \$4,776.00 towards community infrastructure. See 'Financial Contributions' section below.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development uses materials and detailing which are compatible with the existing development along the street and subject to conditions will meet the future design intent for the precinct..</p>

Provision	Compliance	Comment
		<p>The use of face brick on the Botany Road facade responds to the neighbouring property at No. 655 Botany Road. While the use of cut out lettering and the painted background of the proposed building sign responds to the historical signage design of brick buildings within the area.</p> <p>Further design refinements are required to ensure the proposal achieves high design integrity. Refer to 'Discussion' section below.</p> <p>The development has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. Subject to conditions the proposal is able to satisfy design excellence provisions.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises	Yes	The proposal does not seek car parking.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>In accordance with the City's Interim Floodplain Management Policy a finished floor level of 0.3m above the surrounding ground is required. The proposed development complies with this requirement.</p>

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

34. The site is located within the Beaconsfield locality. The proposed development is in keeping with the unique character and the design principles of the Beaconsfield locality. The proposal maintains the use of the site as commercial and subject to conditions meets with the desired future character of the precinct. Section 3 – General Provisions.

Provision	Compliance	Comment
3.4 Hierarchy of Centres, City South	Yes	The proposal is defined as 'minor retail development' as it is intended to be used as a single retail premises with a gross floor area under 1,000sqm. The use and size of the site is consistent with neighbouring sites and will not have a major impact on the objectives of the provision.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development involves amalgamation of existing lots and subdivision into two lots, one containing the building and the other containing the open space at the Botany Road frontage (Lot 2). Lot 2 includes the SP2 zoned land and 1.4m public domain setback to be transferred to Council. The new allotment is regular in shape and allows for the orderly redevelopment of the site.</p> <p>The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent.</p>

Provision	Compliance	Comment
3.9 Heritage	Yes	<p>The site is not identified as a heritage item nor located within a heritage conservation area. However, the existing terrace building is more than 50 years old and is subject to the heritage considerations under this section of the DCP.</p> <p>The existing Victorian terrace is common within the local government area and does not include significant features that warrant the retention of the building.</p> <p>Notwithstanding, to address the development history of the site, conditions requiring the photographic documentation of the existing building, and a written record of the site's development history are recommended. A condition is also recommended to require the salvaging and recycling of traditional building materials, to support the conservation and repair of similar buildings located within heritage conservation areas.</p>
3.11 Transport and Parking	No	<p>Four (4) bike parking spaces are proposed within the loading area, 2 for workers and 2 for visitors. A condition is recommended requiring 2 spaces for staff and 4 spaces for customers.</p> <p>The current design of the loading dock does not allow for access for service vehicles. A condition is recommended requiring the loading dock to be redesigned to allow for sufficient vehicle access</p>
3.12 Accessible Design	Yes	<p>The proposal is required to comply with the requirements of the BCA. The proposal includes an internal lift that allows access to all levels. An internal ramp provides equitable pedestrian access from Botany Road.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>

Provision	Compliance	Comment
3.14 Waste	Yes	<p>A dedicated waste storage area is proposed at the rear of the site adjacent to the loading dock and also includes separate access to Emanuel Lane for waste collection.</p> <p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>A condition is also recommended requiring an internal access door to be provided to the waste room from the loading dock.</p>
3.16 Signage and Advertising	Yes	<p>The proposed development includes the provision for one (1) building sign and one (1) under awning sign. Both signs consist of the name of the retail premises "Aquaristic Aquarium" and are to be illuminated.</p> <p>The proposed building sign complies with the provision as it is no higher than 15m above the existing ground level.</p> <p>The redesign of the sign responds to the architectural design of the building, providing improved integration with materials and colours. The use of individual lettering allows for the architectural expression to be seen behind the sign improving the appearance on the streetscape.</p> <p>The sign is proposed to consist of the sole tenants business name being "Aquaristic Aquarium". Given the design of the proposed development, the building will only be occupied by one tenant at a time.</p> <p>The proposed overhead lighting to illuminate the sign is not supported. A condition is recommended in 'Attachment A' requiring the top of building sign to be backlit.</p>

Provision	Compliance	Comment
		The site does not require a signage strategy as it is not located within a heritage conservation area, does not involve a heritage item, is not strata titled and does not contain more than four business premises.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 4 storeys. The proposed development is 2 storeys in height and complies.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed development achieves floor to floor height of 4.5m at ground level and 2.7m at the levels above.
4.2.2 Building setbacks	Yes	The building is built to the to the rear and side boundaries. The front facade of the building will be located on the new boundary line. The proposed Botany Road awning will project over the 1.4m public domain setback. No portion of the awning will overhang SP2 zoned land.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal results in additional overshadowing to neighbouring residential sites however complies with the provision. See 'Discussion' section below.
4.2.6 Waste and recycling Management	Yes	A waste storage area is proposed at the rear of the site adjacent to the loading dock with separate access to Emanuel Lane for waste collection.

Provision	Compliance	Comment
		<p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>A condition is also recommended requiring an internal access door to be provided to the waste room from the loading dock.</p>
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

Section 5 – Specific Areas

Provision	Compliance	Comment
Green Square	Yes	The proposal retains a commercial use and includes a new building that subject to condition will meet with the design intent of the precinct. The proposed retail use will complement the desired future character of the Green Square precinct by reinforcing Botany Road as the main commercial spine.

Discussion

Solar Access

35. Section 4.1.3 of the Sydney DCP 2012 recommends that 8sqm of the principle private open space (POS) and 1sqm of the primary living room of residential dwellings achieve a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm at the winter solstice. Whilst the site is proposed for commercial use, it is located within close proximity to residential dwellings to the east along Emanuel Lane.
36. To enable a detailed assessment, the applicant has provided shadow diagrams which are reproduced below. The diagrams identify existing shadows in light grey shading and existing shadows in dark grey shading. The subject site is illustrated by the red outline.
37. The diagrams show that the proposal will result in some additional overshadowing to No's 3-17 along the western side of Princess Avenue and 1A Cressy Street, however, this will occur after 1pm. This will impact on the roof of existing laneway structures, POS and rear facing windows. These sites are already impacted by significant overshadowing from buildings along Botany Road as well as structures of their respective sites.

1-13 Princess Avenue and 1A Cressy Street:

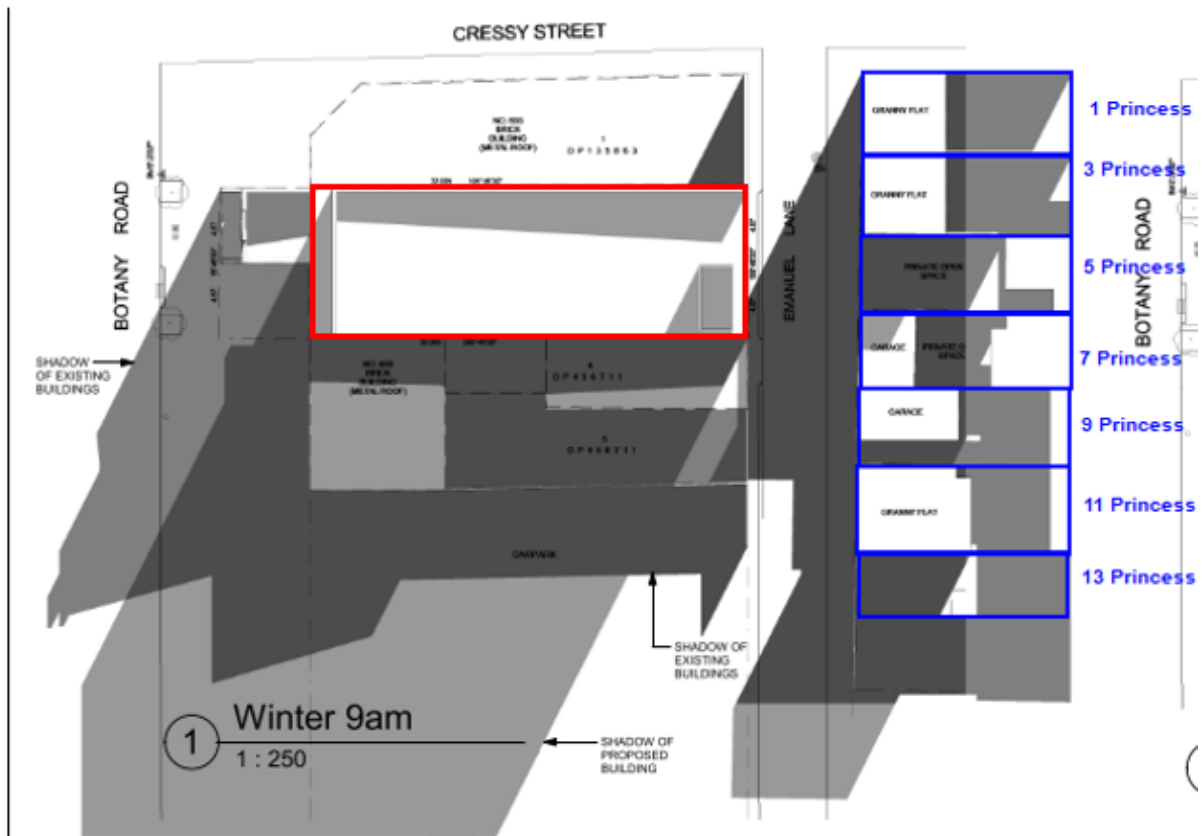
38. 1-13 Princess Avenue and 1A Cressy Street contains 8 dwellings of varying heights and building typologies. Many of the sites contain existing laneway structures, including garages, granny flats and pergolas that create existing overshadowing to the POS during mid-winter. The sites are also overshadowed by existing commercial buildings along Botany Road. As demonstrated in Tables 1 and 2 above, the proposed development will result in some overshadowing during June 21, however this will occur after 12.00pm and is minor in nature, reducing existing solar access by less than 1sqm to Nos. 5, 9 and 13.
39. The additional overshadowing is deemed acceptable for the following reasons:
- The proposal sits within the height control and is located to the west of the majority of the affected sites.
 - The majority of affected sites contain existing structures that create overshadowing for the majority of the day, the proposal creates minimal additional overshadowing.

	1 Princess		3 Princess		5 Princess		7 Princess	
Time	Existing	Impact	Existing	Impact	Existing	Impact	Existing	Impact
9.00am	0sqm	Nil	0sqm	Nil	3.1sqm	Nil	<1sqm	Nil
12.00pm	<1sqm	Nil	0sqm	Nil	<1sqm	Nil	1.3sqm	Nil
3.00pm	2.2sqm	Nil	0sqm	Nil	2.6sqm	<1sqm	0sqm	Nil

Table 1: Private Open Space – Existing and Impact 1-7 Princess Avenue

	9 Princess		11 Princess		13 Princess		1A Cressy Street	
Time	Existing	Impact	Existing	Impact	Existing	Impact	Existing	Impact
9.00am	<1sqm	Nil	0sqm	Nil	4sqm	Nil	0sqm	Nil
12.00pm	<1sqm	Nil	<1sqm	Nil	1.7sqm	Nil	0sqm	Nil
3.00pm	<1sqm	-1sqm	0sqm	Nil	<1sqm	-1sqm	0sqm	Nil

Table 2: Private Open Space – Existing and Impact 9-13 Princess Avenue and 1A Cressy Street.



No.	AMENDMENTS	DRAWN BY
A	ISSUED	CA 0
B	HEIGHT ADJUSTED	GS 2
C	DETAIL ADDED	JP 1
-	-	-
-	-	-
-	-	-



Figure 13: Shadow Diagrams June 21 at 9am, 12pm, and 3pm and location of affected properties (blue) and subject site (red).

Building Design

40. The amended design includes the use of brick to the Botany Road, carrying the design around to part of the side elevations. The use of a number of horizontal brick bands courses on the Botany Road facade provides articulation and detail to the facade.
41. The proposed awning on the Botany Road facade will provide weather protection for customers and pedestrians and provide further articulation to the facade. The awning is proposed over the 1.4m public domain setback to be dedicated to Council. A condition is recommended requiring details of the awning to be provided for further assessment.
42. Whilst neighbouring sites could redevelop to be of a similar height in the future, the side elevations will be highly visible along Botany Road and Cressy Street before this occurs. A condition is recommended requiring details to be provided of the intended materials and colours for further assessment to ensure impacts to the streetscape are minimised.
43. To provide an improved presentation to the laneway a condition is recommended requiring the design of the rear elevation of the building to be further refined.

Consultation

Internal Referrals

44. The application was discussed with Council's Environmental Health Unit; Heritage and Urban Design Unit, Waste Unit and Public Domain Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent.

External Referrals

Transport for NSW

45. Pursuant to Section 101 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
46. Comments were received on 17 December 2021. Conditions of consent were recommended which are included in the Recommended Conditions of Consent.

Advertising and Notification

47. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 30 November 2021 and 15 December 2021. A total of 36 properties were notified and 4 submissions were received.

48. The submissions raised the following issues:

- (a) **Issue:** The demolition of the existing 137 year old terrace building is a shame and should be protected as it is one of the oldest buildings in the area still standing. The terrace should be integrated into the proposed development to preserve the history.

Response: The terrace is located within SP2 zoned land and cannot be incorporated into the proposed development. The terrace is not heritage listed or within a heritage conservation area. Conditions are recommended for the applicant to provide documentation outlining the history of the terrace to be incorporated into the City's archives.

- (b) **Issue:** The proposal will result in overshadowing and lack of sunlight to the properties to the rear of the site on Emanuel Lane.

Response: Submitted shadow diagrams demonstrate that the proposed development will not result in significant overshadowing to residential dwellings along Emanuel Lane to the rear of the site. Refer to 'Discussions' section above.

- (c) **Issue:** Proposed windows on the Emanuel façade could result in privacy impacts to residential dwellings.

Response: A condition is recommended requiring all windows to use opaque glass to minimise visual privacy impacts.

- (d) **Issue:** The proposed floor space/ size of the development does not fit in with the community standard and is not consistent with existing buildings within the area. This will result in impacts to the existing look and feel of the area.

Response: The proposal complies with the maximum Floor Space Ratio and Height of Buildings controls of the Sydney Local Environmental Plan 2012. Whilst the proposal is the first to redevelop the site in accordance with the controls, it remains consistent with the intended future character of Botany Road. The proposal maintains the existing use of the site as a retail premises.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

49. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
50. Credits have been applied for the most recent approved use of the site as a healing centre and was identified as a business premises.
51. The proposed development is a retail premises and is classified as 'shops including neighbourhood shops (excluding supermarkets)' under the contributions plan. No additional contributions are required.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

52. The site is located within the Green Square affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of 11,599.74 per square metre of total non-residential floor area 452sqm totalling \$52,430.83. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant Legislation

53. Environmental Planning and Assessment Act 1979.

Conclusion

54. The proposal is recommended for approval as it complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012, provides a land use compatible with the locality and does not result in significant environmental impacts to the site or neighbouring sites.

ANDREW THOMAS

Executive Manager Planning and Development

Shaun de Smeth, Specialist Planner