

Item 4.**Development Application: 46 Victoria Street, Beaconsfield - D/2023/50**

File No.: D/2023/50

Summary**Date of Submission:** 31 January 2023**Applicant:** Local Approvals**Designer:** Rahma Khammari**Owner:** C Hernandez and A Gayla**Planning Consultant:** Local Approvals**Cost of Works:** \$829,880**Zoning:** The site is located within the R1 General Residential zone under Sydney Local Environmental Plan (SLEP) 2012. The proposal to construct a residential dwelling is permissible with consent.

Proposal Summary: The applicant seeks consent for the demolition of the existing dwelling and site fences, and to construct a 3 storey, 4 bedroom semi-attached terrace dwelling; and construct a single car garage with studio above.

It is anticipated that once constructed, the proposed dwelling will form a symmetrical terrace pair with the neighbouring dwelling at 48 Victoria Street, Beaconsfield (D/2023/5 - also on this LPP agenda).

The subject application has been amended during assessment, resulting in a substantial change in the presentation and materiality of the dwelling. The height of the proposed development has also been increased during assessment, from two storeys to three storeys.

In accordance with Clause 6.14 of SLEP 2012, the contribution towards the provision of community infrastructure within the Green Square locality allows for an additional maximum FSR provision of 0.25:1 and a total FSR of 1.25:1 (173sqm of GFA).

The amended proposal has an FSR of 1.1:1 (151.6sqm of GFA) and complies with the relevant SLEP 2012 development standards.

The application is accompanied by a public benefit offer for the provision of community infrastructure within the Green Square locality, in accordance with provisions of Clause 6.14 of SLEP 2012.

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

It is recommended authority be delegated to the Chief Executive Officer (CEO) to determine the application after completion of the VPA public exhibition process and considering any public submissions received in response.

Consideration should be then given to granting deferred commencement consent, subject to the recommended conditions requiring the VPA to be executed prior to the consent becoming operative, and subject to the recommended conditions contained in Attachment A to the subject report.

In accordance with Council's Community Participation Plan, the development application was originally notified for 14 days between 1 February 2023 and 16 February 2023. A total of 24 properties were notified and no submissions were received.

Amended drawings were re-notified for a period of 14 days between 27 July 2023 and 11 August 2023. No submissions were received.

The amended application satisfies the relevant development standards of the Sydney Local Environmental Plan 2012 and Sydney DCP 2012.

Conditions of consent are recommended to address visual privacy impacts between dwellings and to require the installation of a canopy tree within the site at the conclusion of works.

As a result of the modifications made to the proposed development and subject to conditions, the amended proposal presents an improved outcome and comprises a satisfactory response to the conditions of the site and locality. It is generally acceptable with regard to the applicable planning controls, results in a form and scale that achieves the desired future character of the area and exhibits design excellence.

Summary Recommendation: Authority be delegated to the Chief Executive Officer to determine the application following the completion of the public exhibition of the VPA and considering any public submissions received in response.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 (as amended) and Regulation 2021;
 - (ii) State Environmental Planning Policy (BASIX) 2004;
 - (iii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended);
 - (iv) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended);
 - (v) City of Sydney Development Contributions Plan 2015; and
 - (vi) Green Square Affordable Housing Program.

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

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2023/50, after the completion of the public exhibition period of the draft Voluntary Planning Agreement and consideration of any public submissions received; and
- (B) if the Chief Executive Officer determines to approve Development Application No. D/2023/50, then consideration be given to granting deferred consent, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) 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. A deferred commencement is recommended to execute the associated Voluntary Planning Agreement.
- (B) The amended application satisfies the relevant development standards of the Sydney LEP 2012 and Sydney DCP 2012.
- (C) The amended application is acceptable with regard to the applicable planning controls, results in a form and scale that achieves the desired future character of the area and exhibits design excellence.
- (D) Subject to recommended conditions of consent, the amended application will not have any significant impacts for neighbouring dwellings in relation to residential amenity.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 196523 commonly known as 46 Victoria Street, Beaconsfield. The site is rectangular in shape with an area of approximately 138.3sqm. The site has a primary street frontage of 4.6m to Victoria Street and a secondary street frontage of 4.6m to Victoria Lane. Levels on the site fall by approximately 1.3m from Victoria Lane towards Victoria Street.
2. The site presently contains a single storey weatherboard dwelling that is attached to a single storey masonry dwelling at 48 Victoria Street, Beaconsfield (Figure 2).
3. 48 Victoria Street is also subject to a development application (Reference D/2023/5 - also on the LPP agenda), which also seeks consent for a 3 storey dwelling and rear garage with studio above. It is anticipated that once constructed, the proposed dwellings will form a generally symmetrical pair.
4. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial in nature. A number of 'remnant' warehouses are located on the opposite (eastern) side of Victoria Street as well as to the north of the site on the western side of Victoria Street. Multistorey residential dwellings are located to west of the site, on the opposite side of Victoria Lane.
5. The site is not identified as a heritage item and is not located within a heritage conservation area. The site is located within the Beaconsfield locality and is not identified as being subject to flooding.
6. A site visit was carried out on 17 March 2023. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site (red outline) and surrounds. 48 Victoria Street (neighbouring development site) shaded blue.

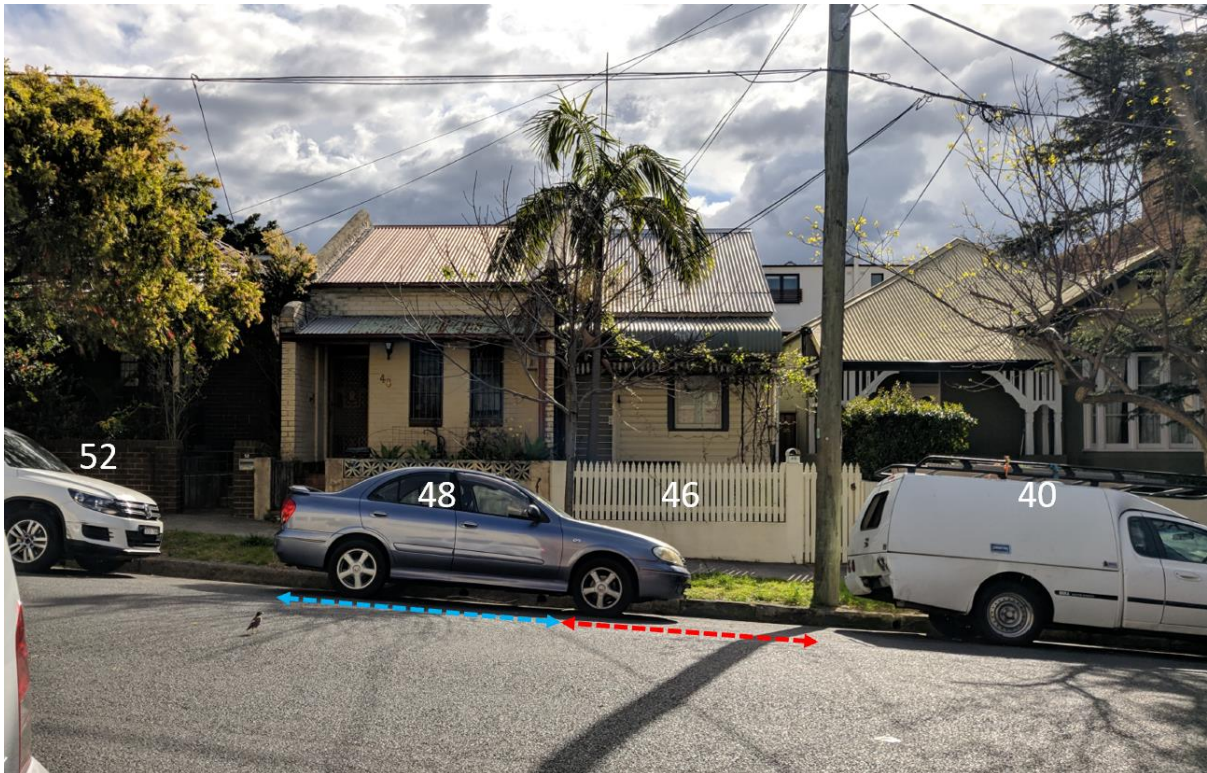


Figure 2: Site at 46 Victoria Street (red dashed arrow), looking west. 48 Victoria Street, the neighbouring development site is highlighted by a blue dashed arrow.

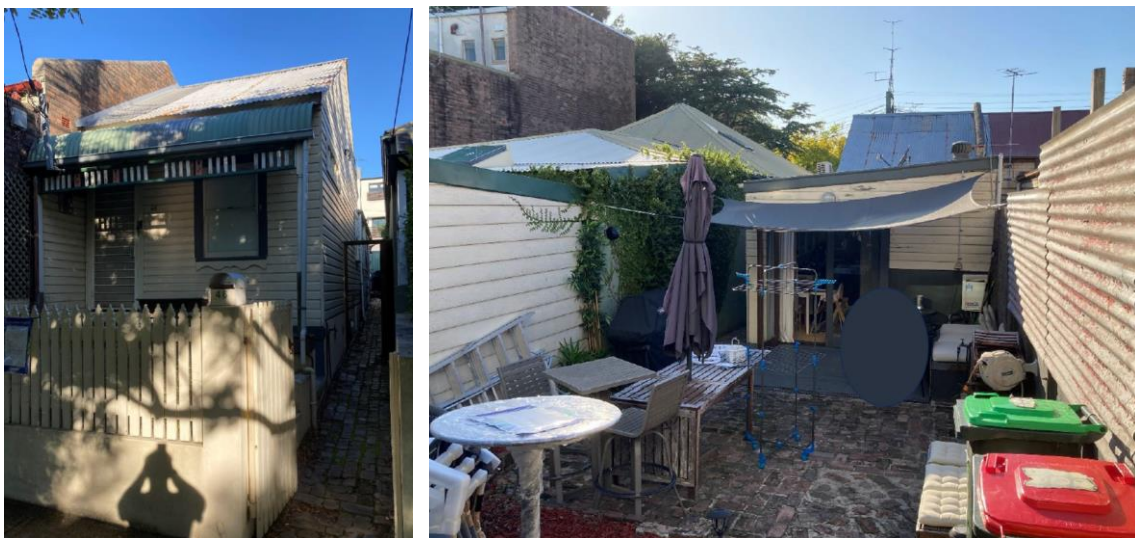


Figure 3: Site viewed from Victoria Street and from within the rear yard



Figure 4: Site viewed from Victoria Lane. 46 Victoria Street (red dashed arrow) and 48 Victoria Street, neighbouring development site (blue dashed arrow).



Figure 5: 56, 56A and 56B Victoria Street located to the south of the site, consisting of 3 x attached terrace dwellings within an adaptively reused former warehouse building (2019 photograph taken by Council officer)



Figure 6: Commercial and residential development located to the north of the site



Figure 7: Commercial development located opposite the site on the eastern side of Victoria Street



Figure 8: Multistorey residential dwellings located to west of the site, on the opposite side of Victoria Lane



Figure 9: Dwellings located to the south of the site, viewed from Victoria Lane

History Relevant to the Development Application

Development Applications

7. There are no development applications relevant to the current proposal.

Compliance Action

8. The site is not subject to any compliance actions.

Amendments

9. On 18 April 2023, an on-site meeting was held with the owners and applicants of both 46 Victoria Street and 48 Victoria Street where discussion was focussed on achieving the most appropriate built form for each dwelling. It was considered unnecessary to make the front of each dwelling appear only single storey, in light of the predominate 2 and 3 storey scale of dwellings in the street as well as the 9m statutory height limit.
10. On 21 April 2023, following the on-site meeting, a letter requesting amendments was sent to the applicants of both development sites.
11. Draft sketch drawings were provided by the applicants for both development sites, demonstrating that both applicants had decided to engage the same draftsman to design their respective dwellings.
12. On 18 June 2023, following a review of the draft sketch drawings, a further letter requesting amendments was sent to both applicants.
13. The applicants provided a complete set of amended drawings on 5 September 2023. The amended drawings address the following issues raised by Council's assessing officers.

Dwelling design

14. Changes have been made to the presentation and materiality of the proposed dwellings at 46 and 48 Victoria Street:
 - (a) Two semi attached terrace style dwellings are now proposed, with similar form, datum lines, detailing and materiality. The dwellings have been designed without party walls so that they may be constructed independently.
 - (b) The materiality of the dwellings includes masonry elements at the base levels, with timber and metal panel infill detailing at the upper levels. The studio is proposed to be clad using standing seam metal cladding where it faces side boundaries. Both dwellings are provided with full height atriums for natural light, and have roof terraces facing Victoria Street.
 - (c) The dwellings align with the front building line of an existing development to the south of the site (56-56B Victoria Street - D/2015/1360 - Figure 5 above).
 - (d) Front verandahs and blade walls are consistent across both dwellings and rear building lines should align. Rear yards should have a consistent depth of a minimum of 5.5 metres and garage studio additions have been coordinated in character and materiality.

- (e) Amended drawings detail how visual privacy is to be addressed between dwellings and studios. The studios above the garage have a form consistent with SDCP 2012 controls.
- (f) Ground level sliding doors facing Victoria Street have been provided with top hamper awning style windows to provide ventilation whilst sliding doors are in a closed position.

Public Benefit Offer - Green Square infrastructure

- 15. The amended drawings for the development are accompanied by a formal Public Benefit Offer, providing for increased FSR in association with an offer to contribute towards infrastructure within the Green Square locality.

Proposed Development

- 16. The applicant seeks consent for the demolition of the existing dwelling and site fences, and construct a 3 storey, 4 bedroom semi-attached terrace dwelling; and construct a single car garage with studio above.
- 17. The dwelling consists of the following ground level elements:
 - (a) front balcony and landscaped garden;
 - (b) open plan living area around atrium, including dining area, kitchen and living room;
 - (c) rear garden containing water tank; and
 - (d) single car garage with stairs to access studio above.
- 18. The dwelling consists of the following Level 1 elements:
 - (a) front balcony;
 - (b) 3 x bedrooms around atrium and bathroom; and
 - (c) studio with bathroom above garage.
- 19. The dwelling consists of the following Level 2 elements:
 - (a) front roof terrace (2.5 x 4m); and
 - (b) master bedroom and ensuite around atrium.
- 20. Plans and elevations of the proposed development are provided below.

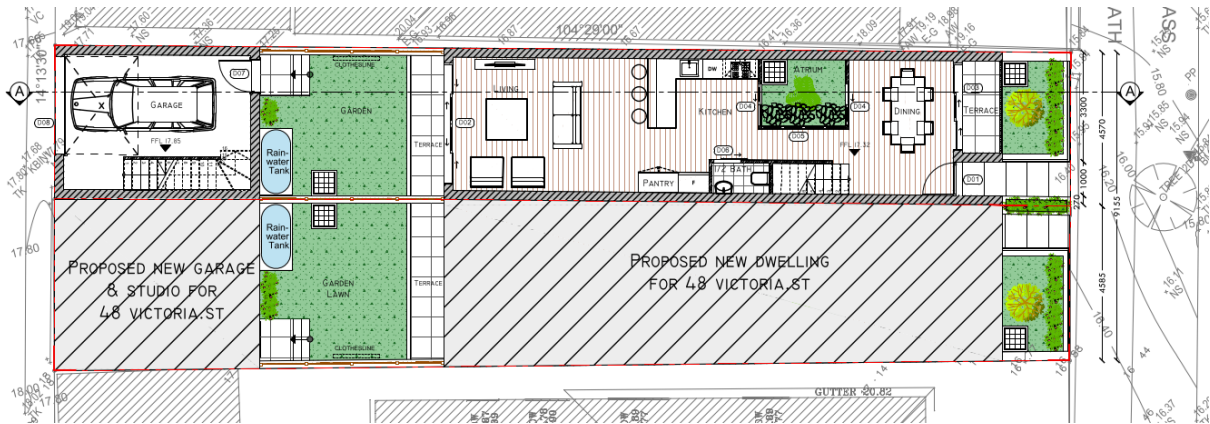


Figure 10: Extracts from ground floor drawing

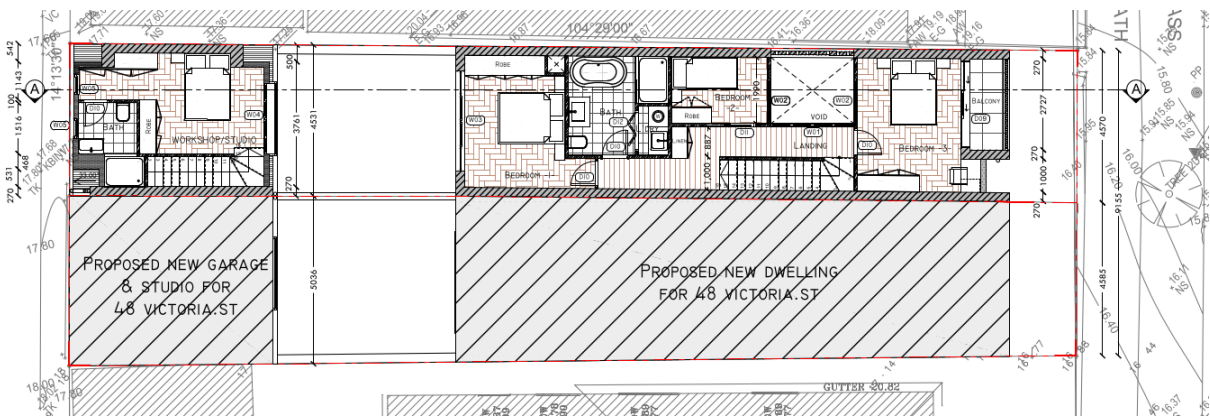


Figure 11: Extracts from Level 1 drawing

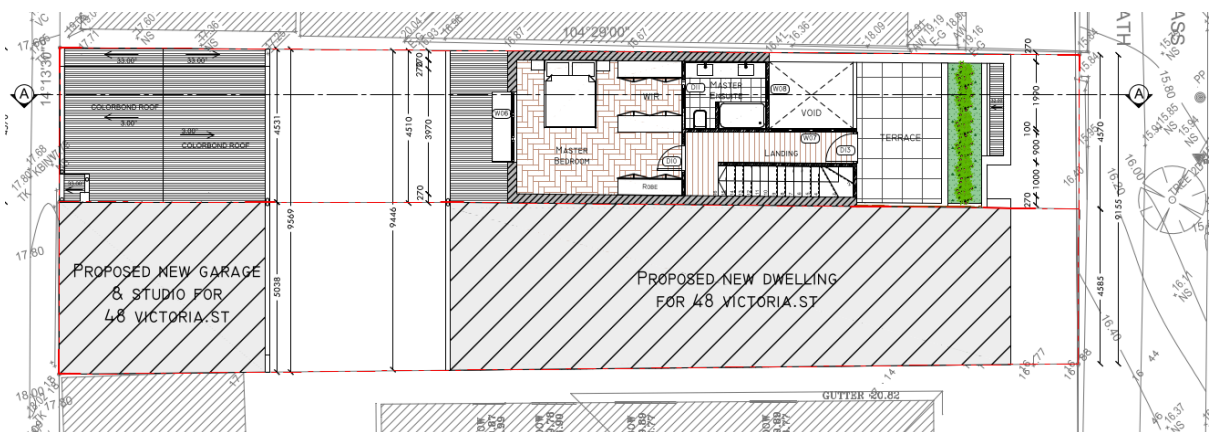


Figure 12: Extracts from Level 2 drawing

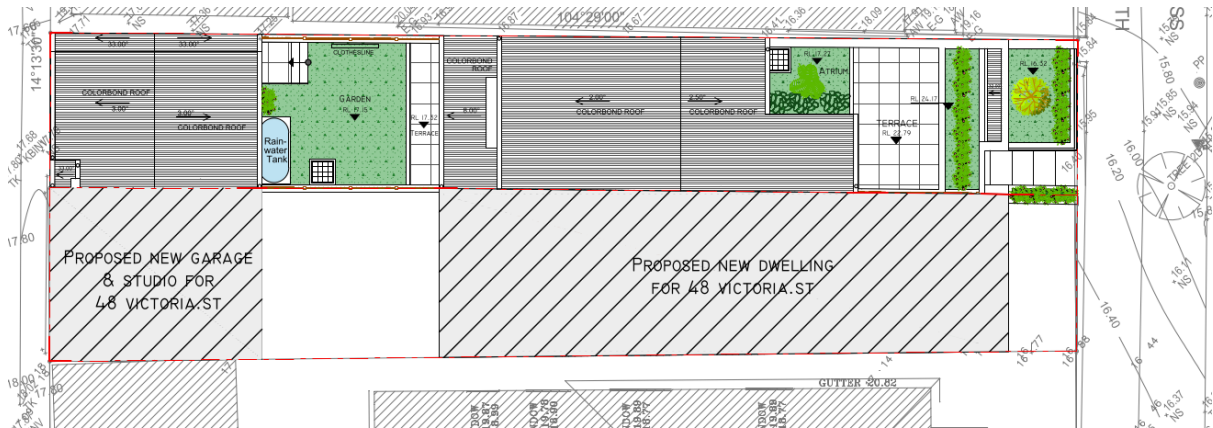


Figure 13: Extract from roof plan

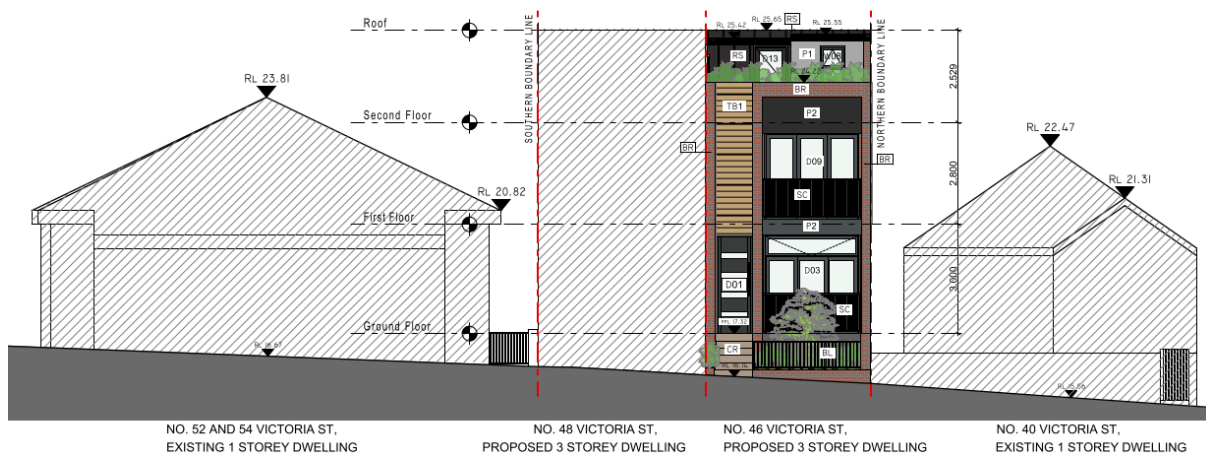


Figure 14: East elevation plan (Victoria Street)

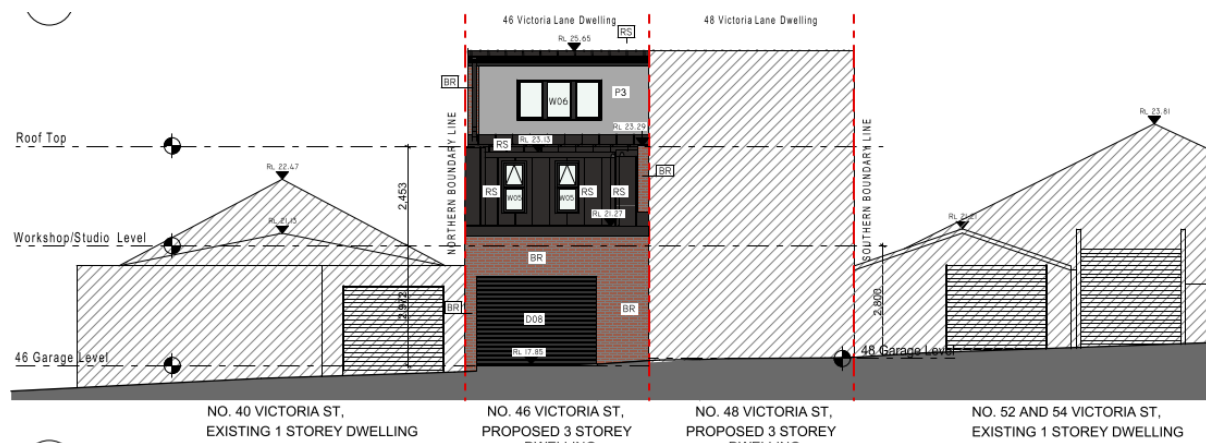


Figure 15: West elevation plan (Victoria Lane)

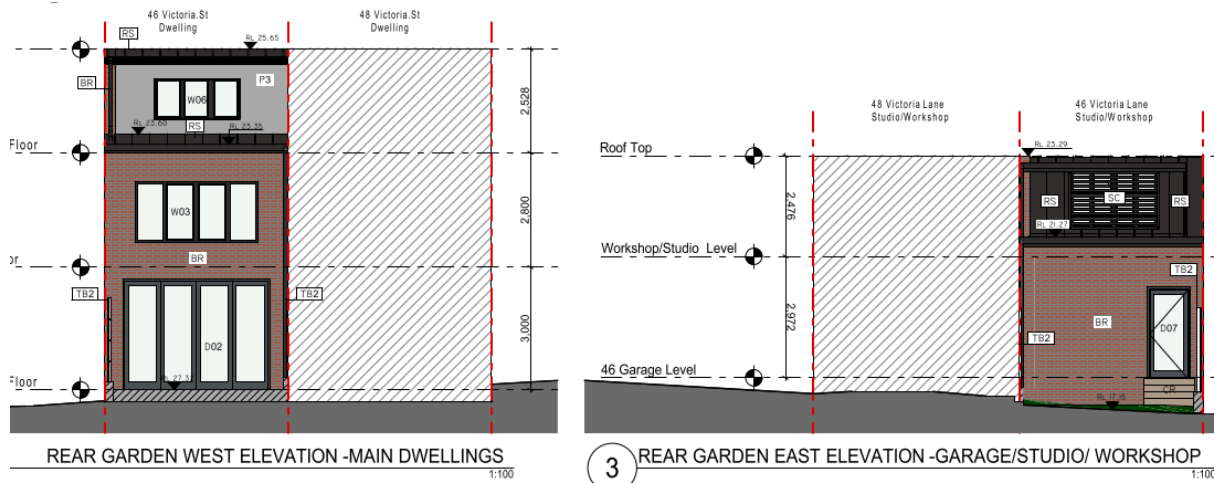


Figure 16: West elevation plan (dwelling) and east elevation (garage/studio) viewed from rear yard

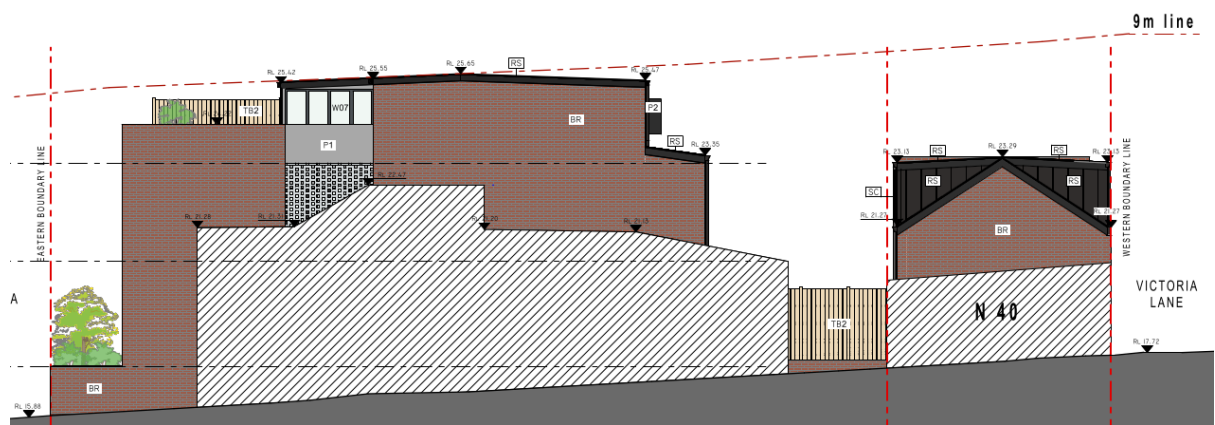


Figure 17: North elevation plan



Figure 18: Long section plan



Figure 19: Extracts from amended east elevation drawing, showing both proposed developments for 46 and 48 Victoria Street (D/2023/50 and D/2023/5 - both on the LPP agenda)



Figure 20: Extracts from amended west elevation drawing, showing both proposed developments for 46 and 48 Victoria Street (D/2023/50 and D/2023/5 - both on the LPP agenda), as viewed from Victoria Lane

Assessment

21. 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 (Building Sustainability Index: BASIX) 2004

22. A BASIX Certificate has been submitted with the development application.
23. 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 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 a dwelling and is permissible with consent in the zone. The proposal 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 9m is permitted. Proposed works have a maximum height above existing ground level of 9m.
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1:1 (138.3sqm) is permitted.</p> <p>Section 6.14 of SLEP 2012 provides an opportunity for a further 0.25:1 FSR with the provision for community infrastructure within the Green Square locality.</p> <p>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>Council's VPA specialist advises there are no identified infrastructure projects in the vicinity of the site. Consequently, the formal offer involves payment of a monetary contribution of , including the payment of a monetary contribution of \$6,222.50 towards community infrastructure within the Green Square locality.</p> <p>Considering all the relevant FSR provisions provided by SLEP 2012, the maximum permitted FSR for the development is 1.25:1 (172.9sqm).</p>

Provision	Compliance	Comment
		The amended scheme has a FSR of 1.1:1 (151.6sqm of GFA), which complies with the maximum permissible FSR for the site.

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	The proposed development is eligible for an additional maximum floor space ratio associated with the provision of infrastructure within the Green Square locality of 0.25:1. See discussion above, section 4.4 SLEP 2012.
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The amended proposed development is of a high standard and uses materials and detailing that are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>Subject to recommended conditions, the proposal will provide a bulk, massing and building modulation that are commensurate with the emerging character of Victoria Street (see discussion section below). The proposed development has a street frontage height that is similar to existing development to the south, at 56-56B Victoria Street (Figure 5 above).</p> <p>The application has been amended to address overshadowing and solar access, visual and acoustic privacy.</p> <p>The proposal provides for sustainable design and construction methodology, as detailed in the BASIX and Nathers reports.</p>

Provision	Compliance	Comment
		<p>The applicant has advised that heat pump will be located within the ground level atriums.</p> <p>There is sufficient space for the installation of future roof top solar panels and water tanks.</p> <p>The applicant has advised that air-conditioning units are proposed to be located within front first floor terraces where they will not be visible from the public domain. A suitable condition is recommended, requiring these to be shown on amended drawings, prior to the issue of a construction certificate.</p> <p>There is provision for the storage of bicycles within the rear garage and a draft landscape design has been provided, showing a canopy tree may be installed within the site. A condition is recommended to this effect.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore 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 2 car parking spaces are permitted.</p> <p>The proposed development includes a single car parking space within the rear garage and complies with the relevant development standards.</p>

Provision	Compliance	Comment
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	N/A	The proposal involves the demolition of existing floor area and the subsequent creation (for the same residential purpose), of less than 200 square metres of gross floor area (151.6sqm). As such, Clause 7.13 of SLEP 2012 (Contribution for purpose of affordable housing) does not apply to the development.
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.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposal involves the construction of a new dwelling house.

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 is provided in the following sections.

Section 2 – Locality Statements

26. The site is located within the Beaconsfield locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it contributes to the existing built form pattern for development within the visual catchment of the site; and in that it retains the current lot size and residential setting of the site.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The amended proposal will contribute to the activity, safety, amenity and quality of streets and the public domain and presents a development that is

Provision	Compliance	Comment
		<p>appropriate in terms of scale, finishes and architectural character.</p> <p>The development provides legible and accessible entries from the street and the public domain and relates to neighbouring buildings that define the street and public domain.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>There is capacity to provide at least 15 per cent canopy coverage of the site within 10 years from the completion of development and a condition recommending the installation of a small canopy tree is recommended for inclusion in the notice of determination.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and Nathers environmental requirements.
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.10.2 Significant Architectural Building Types - Weatherboard buildings older than 50 years	Acceptable	<p>The objectives and provisions of section 3.10.2 do not apply as the site is not a heritage item and is not located within a Heritage Conservation Area.</p> <p>Notwithstanding this, Council's assessing officers are of the view that the demolition of the subject weatherboard cottage should be supported.</p> <p>This is on the basis that the existing cottage on the site is not part of a symmetrical pair, and that it is reliant for structural support upon the adjoining masonry dwelling at 48 Victoria Street, which is also proposed to be demolished.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Partial compliance	The proposed development is three storeys in height and does not strictly comply with the 2 storey building height in storeys control. See further details in the 'Discussion' section below.
4.1.2 Building setbacks	Yes	The proposed development relates to the existing setback patterns along the street and respects the predominant rear building line. The scale, bulk and layout of the proposed dwelling is similar to development approved by Council further to the south of the site on Victoria Street.
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties. See further details in the 'Discussion' section below.</p>		
4.1.6 Secondary and laneway dwellings	Yes	The proposal includes the construction of a studio above a garage with a height of 5.4m as viewed from Victoria Lane. The structure exceeds 5.4m at its central location (5.7m), which is supported given it relates to existing ground levels that fall away from the laneway. The rear lane studio has a gabled roof with a pitch of 40 degrees and will allow for sufficient solar access and natural light to neighbouring properties (see discussion below).
4.1.7 Fences	Acceptable	The proposed front fence has a height of approximately 1.2m and maintains passive surveillance. Side fences range from 1.8m at the top of stairs for garage access to 2.4m at the central section of the rear yard. A condition is recommended that the side boundary fence must be reduced to a maximum height of 2m above finished ground levels, which will provide for privacy mitigation at the garage entry

Provision	Compliance	Comment
		and minimise overshadowing caused by the dividing fences.
4.1.8 Balconies, verandahs and decks	Yes	Proposed roof level balconies are suitably located where they will overlook Victoria Street rather than surrounding buildings.
4.1.9 Car parking	Yes	The car space is located at the rear of the dwelling and consistent with the controls.

Section 5 – Specific Areas - Green Square

Provision	Compliance	Comment
5.2.3 Community infrastructure	Yes	<p>The amended development contributes to the desired character of the Beaconsfield locality will not significantly impact upon the amenity of the locality.</p> <p>The control provides that where a contribution towards infrastructure works is proposed to the satisfaction of the consent authority, consent may be granted for development up to the maximum gross floor area achievable under Clause 6.14 of Sydney LEP 2012.</p>
5.2.9 Building design	Yes	<p>Subject to a recommended condition relating to the materiality of the proposed third level, the bulk and scale of the proposed dwelling is of a scale compatible with the Beaconsfield locality (see discussion below - height in storeys).</p> <p>The development provides a small area of private open spaces at the ground floor that addresses the street and designed to be accessible from the footpath.</p> <p>The proposal uses an appropriate variety of materials and textures, including face brick metal cladding and metal work for balconies.</p>
5.2.10 Setbacks	Yes	The street setback is proposed to be landscaped and treated in a manner that contributes to the streetscape and the desired future character of the area.

Discussion

Height in Storeys

27. The SDCP 2012 Building height in storeys map specifies a 2 storey height control for the site, whereas the proposed development is 3 storeys in height. The applicant's amended Statement of Environmental Effects (SEE) states that the proposed development comprises a contemporary two storey dwelling plus attic terrace roof form.
28. The proposed third storey has masonry walls extending to the full height of the side elevation. When viewed from neighbouring properties, the development presents as a 3 storey dwelling rather than a 2 storey dwelling with an attic roof form (Figure 21 below).

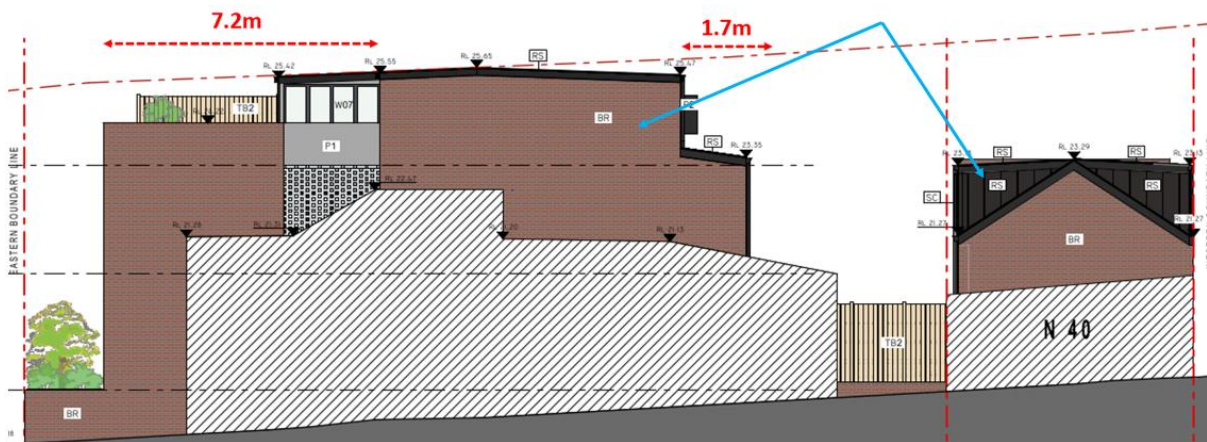


Figure 21: Extract from amended north elevation plan, showing masonry elevation. The third storey is setback from the eastern boundary (4.7-7.2m) and from the rear building line of the dwelling (1.7m).

29. The perceived bulk of the dwelling will be reduced if the southern and western walls of the third storey are constructed using a lighter-weight material such as profiled metal cladding, similar to that used on the side walls of the proposed studio above the garage (blue arrows, Figure 21 above).
30. This change will provide a dwelling with a substantially enclosed attic roof form as viewed from neighbouring properties and Victoria Lane; and a condition is recommended requiring this change to the design.
31. The scale of the building is limited by the setting back of the third storey by 7.2m from the front (eastern) wall of the development, particularly when from an oblique angle from street level (Figure 21 above and 22 below). The central part of the third storey is setback by 4.7 from the eastern building line of the development, providing an acceptable and not significant building bulk as viewed from the opposite side of Victoria Street.
32. At the rear of the dwelling, the third storey is setback 1.7m from the rear (western) building line, reducing its scale as viewed from the rear yards of neighbouring properties and from Victoria Lane (Figure 21 above and 22 below).

33. The proposed development (and that contained within 48 Victoria Street) is similar in scale to a number of nearby developments with three habitable levels. These include numbers 56-56B to the south of the site (Figure 5 above), 187-189 Victoria Street, 197 Victoria Street, 204-206 Victoria Street (under construction), 220 Victoria Street, 222 Victoria Street, 224 Victoria Street and 226 Victoria Street.
34. With consideration of the above recommended condition of consent, the proposed third storey will not significantly increase the visual bulk (as compared to a 2 storey form) when viewed from the street and will not have any significant impacts for neighbouring dwellings in relation to residential amenity. As such, the proposed three storey development is supported in this instance.

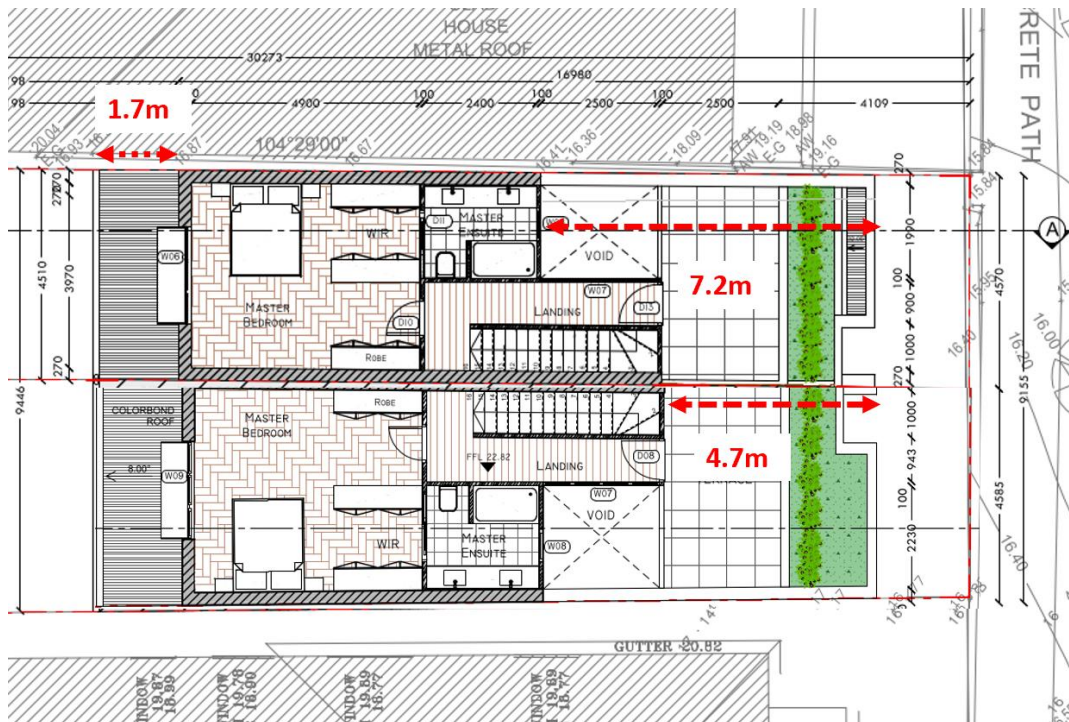


Figure 22: Extract from Level 2 drawing, showing setbacks for proposed third storey from eastern boundary (4.7-7.2m) and from the rear building line of the dwelling (1.7m)

Amenity - Solar Access

35. Amended shadow diagrams have been provided for assessment, outlining the cumulative impact of both development applications for adjoining sites (46 and 48 Victoria Street). Overshadowing has been modelled for both of the subject development sites and also for the dwelling to the south of 48 Victoria Street (52 Victoria Street).
36. The amended shadow diagrams demonstrate that compliance with Section 4.1.3.1 of SDCP 2012 will be achieved for the southern dwellings (48 Victoria Street and 52 Victoria Street), however, that the northern most dwelling (46 Victoria Street) will not achieve the minimum direct sunlight to the rear yard of the dwelling.
37. Notwithstanding this, solar access provided to all three dwellings is considered acceptable on the following basis:

46 Victoria Street (the northern dwelling)

- (a) The rear yard of 46 Victoria Street will be substantially overshadowed at the winter solstice by an existing single storey dwelling and dividing fence located on the northern property boundary (40 Victoria Street).
- (b) Whilst 46 Victoria Street will only receive 2-4sqm hours' sunlight to the rear yard between 11am and 1pm at the winter solstice, it will receive between 5-6sqm to the roof level terrace during this period.
- (c) Further, the front walls and balconies of 46 Victoria Street will receive good solar access prior to 10am at the winter solstice and a central atrium will provide high residential amenity to all levels of the dwelling.

48 Victoria Street (the southern dwelling)

- (d) 48 Victoria Street will receive a compliant amount of solar amenity at the winter solstice, receiving between 8-10sqm to the rear yard and an additional 4sqm to the roof terrace.

52 Victoria Street (dwelling to the south of the development sites)

- (e) Whilst the rear yard of 52 Victoria Street will be impacted by shadowing, it will receive a compliant amount of solar amenity at the winter solstice, receiving between 10-11sqm of solar access to the rear yard for 2 hours between 10am and 12pm, decreasing to 3m by 1pm.

Amenity - Visual Privacy

38. The amended development provides acceptable visual privacy outcomes.

- (a) The ground level for the rear yard is similar to the existing ground level. A dividing fence provides for visual privacy where residents access the rear studio structure, ranging from a height of 1.8-2.4m.

As mentioned above the proposed fence height is considered excessive. A condition is recommended that the side boundary fence be reduced to a maximum height of 2m above finished ground levels, which will provide for privacy mitigation at the garage entry and minimise overshadowing caused by the dividing fences.

- (b) A rear first floor rear window (W03) has the capacity to significantly impact neighbouring dwellings in relation to mutual overlooking given it has a minimal sill height of 600mm and that it extends close to the northern and southern boundaries.

A condition is recommended that window W03 must be constructed with a DCP compliant sill height of 1.4m, and that the window must be located 1.2m from the northern and southern edge of the dwelling.

- (c) A rear second floor rear window (W06) will not have any significant impacts for neighbouring dwellings given it is centrally located to the dwelling and is provided with a privacy/shadow hood.

- (d) A rear first floor window for the proposed studio (W04) is provided with privacy screening that will prevent direct overlooking of the subject dwelling and those to the north and south of the site.
- (e) A proposed roof terrace faces east and will overlook the streetscape and buildings opposite the site with sufficient separation distance to mitigate any perceived visual privacy impacts.

Consultation

Internal Referrals

- 39. The application was discussed with Council's heritage specialist, who raised concerns in relation to the proposal to demolish an existing weatherboard timber cottage. This issue is covered above in the planning report.
- 40. Council's urban designer has suggested numerous changes to the development scheme that improve the presentation, materiality and residential amenity of the site.
- 41. Council's Voluntary Planning Agreement specialists, assisted by Council's Legal unit have advised that the Public Benefit Offer and subsequent VPA are suitable for public exhibition.

Advertising and Notification

- 42. In accordance with the City of Sydney Community Participation Plan 2019, the originally proposed development was notified for a period of 14 days between 1 February 2023 until 16 February 2023. A total of 24 properties were notified and no submissions were received.
- 43. Amended drawings were re-notified for a period of 14 days between 27 July 2023 and 11 August 2023. No submissions were received.
- 44. The planning agreement (VPA/2023/7) has been placed on public exhibition for 28 days.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

- 45. The City of Sydney Development Contributions Plan 2015 applies to the site, however, in this instance, there is no s7.11 contribution payable.
- 46. This is because a credit of \$20,000 applies to the existing dwellings which is equal to the contribution payable. Given this, no condition of consent is required in relation to development contributions.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

47. The site is located within the Green Square affordable housing contribution area and the proposal involves the demolition of existing floor area and the subsequent creation (for the same residential purpose), of less than 200 square metres of gross floor area (151.6sqm). Pursuant to Clause 7.13(1)(4) of SLEP 2012 (Contribution for purpose of affordable housing) a contribution does not apply to the development.

Relevant Legislation

48. Environmental Planning and Assessment Act 1979.

Conclusion

49. The application seeks consent for the demolition of an existing dwelling and the construction of a three storey attached terrace dwelling with a rear garage containing a single car space with a studio above.
50. The applicant's Public Benefit Offer and subsequent Voluntary Planning Agreement are considered acceptable. The proposed development will contribute to the provision of community infrastructure within the Green Square locality, noting the planning agreement (VPA/2023/7) has been placed on public exhibition for 28 days.
51. The proposal has been amended during assessment and responds positively to concerns raised by Council's assessing officers in relation to the presentation and materiality of the proposed dwelling and to the residential amenity of the site and surrounds.
52. The amended proposal provides a suitable terrace style dwelling house that contributes to the character of the Green Square and Beaconsfield localities.
53. The proposal, as amended and subject to conditions, is appropriate in its setting and is generally compliant with the relevant planning controls in the SLEP 2012 and the SDCP 2012.
54. The proposed development is compliant with the applicable building height and floor space ratio controls. Subject to conditions, the proposed development will provide high residential amenity for future occupants of the site and neighbouring sites and will not have any significant environmental impacts for neighbouring dwellings.
55. The proposal will contribute to the character of the locality and will provide a suitable interface between the private and public domain. The development exhibits design excellence in accordance with Clause 6.21C of the SLEP 2012.
56. It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2023/50 following the completion of the public exhibition of the Voluntary Planning Agreement between Christopher Hernandez and Alfa Grace N Gayla and the City of Sydney and subject to consideration of any submissions received.

ANDREW THOMAS

Executive Manager Planning and Development

Adrian McKeown, Senior Planner.