

DEVELOPMENT ASSESSMENT REPORT			
Application No.	DA201800569		
Address	32 London Street, Enmore		
Proposal	To carry out alterations and additions to an existing dwelling		
-	including a first floor rear addition		
Date of Lodgement	20 December 2018		
Applicant	Mr M Rossi		
Owner	Mr M Rossi and Ms JL Hoad		
Number of Submissions	12		
Value of works	\$330,000.00		
Reason for determination at	Number of submissions received exceed officer delegations		
Planning Panel	Ŭ		
Main Issues	Setbacks, privacy, solar access and period dwelling controls		
Recommendation	Approval		
Attachment A	Recommended conditions of consent		
Attachment B	Plans of proposed development		
34 19 31 29 47 Cambridge Sueed 37 35 13A	38 38 36 51 52 20 18 39 37 27 25 23 21 21 22 23 31 31 32 30 28 26 31 31 32 30 28 26		
LOCALITY MAP			
Subject Site	Objectors N		
Notified Area	Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling including a first floor rear addition at 32 London Street, Enmore. The application was notified to surrounding properties and 12 individual submissions were received which comprised of 10 objections and 2 in support.

The main issues that have arisen during the assessment of the application include:

- The proposed addition exceeded the ridgeline of the two storey addition at 38 London Street which forms part of the group of period dwellings;
- The proposed addition exceeded past the first floor rear setback of the two storey addition at 38 London Street which forms part of the group of period dwellings;
- The proposed first floor windows resulted in an unacceptable loss of visual privacy to the adjoining properties;
- The proposed addition resulted in an unacceptable loss of direct solar access to the adjoining properties; and
- The proposal resulted in the demolition of a number of significant features of the existing period dwellings.

Amended plans were received during the assessment process which adequately addressed the above concerns. The proposal generally complies with the aims and objectives of the Marrickville Local Environmental Plan (MLEP) 2011 and Marrickville Development Control Plan (MDCP) 2011.

## 2. Proposal

Approval is sought to demolish part of the premises and carry out ground and first floor additions to the dwelling including the following works:

- Partial demolition of the rear of the property;
- Construction of a ground and first floor addition at the rear of the dwelling;
- Internal reconfiguration; and
- Landscaping works.

# 3. Site Description

The subject site is located on the western side of London Street, between Liberty Street and Cambridge Lane. The site has a total area of 139.1sqm and is legally described as Lot 4 DP 437526.

The site supports a single storey residential dwelling. The adjoining properties support single storey dwellings. The subject site is not listed as a heritage item or within a conservation area. There are no significant trees located on the site



Image 1: Site Image

# 4. Background

# 4(a) Site history

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

## **Subject Site**

None relevant

## **Surrounding properties**

Application	Proposal	Decision & Date
DA291700160	To demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house at 39 Cambridge Street, Enmore	Approved – 29/06/2017
DA201700437	To demolish part of the premises and carry out ground and first floor alterations and additions to a dwelling house at 38 London Street, Enmore	Approved – 12/12/2017
DA201800115	To demolish part of the premises and carry out ground floor alterations and additions to a dwelling house at 38 London Street, Enmore	Approved – 30/04/2018

## 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
20 December 2018	Application lodged with Council
28 February 2019	Site Inspection undertaken
1 March 2019	Additional information request sent to application (detailed below)
19 March 2019	Amended plans submitted to Council included response to submissions

A request for additional information was sent to the applicant on 1 March 2019 which required the following amendments:

- The proposed first floor addition be reduced in height to be only 1.2 metres above the ridgeline of the original dwelling to match the height of 38 London Street;
- The proposed first floor addition be reduced in length to have a minimum rear setback of 7.17 metres to match the rear setback of 38 London Street;
- The proposed first floor addition be amended to maintain the existing side setbacks;
- The proposed first floor windows be amended to be of obscure glazing or highlevel windows;
- The proposed development be amended to maintain a minimum of two (2) hours of direct solar access between 9.00am and 3.00pm during the winter solstice to both the subject site and adjoining properties;
- The proposed area of private open space be amended to provide at least 50% landscaped area;
- The ground floor southern wall of the existing rear wing be retained;
- The existing fireplaces in the living room and bedroom 2 be retained; and
- The proposed additional window to the existing bedroom 2 be deleted.

Amended plans were submitted to Council on 1 March 2019 which adequately addressed the above requirements, with the exception of the living room fireplace which has been relocated. A condition of consent has been imposed which requires the fireplace be deleted, rather than relocated.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

## 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Marrickville Local Environment Plan 2011 (MLEP 2011)

The following provides further discussion of the relevant issues:

## 5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is, or can be made, suitable for the proposed use prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

# 5(a)(ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

## 5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

# 5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection/removal of vegetation identified under the SEPP and gives statutory weight to the tree protection provisions contained in MDCP 2011. There are no trees located on the site protected under MDCP 2011 that will be impacted by the proposed development.

#### 5(a)(v) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the Marrickville Local Environmental Plan 2011:

- Clause 2.3 Land Use Table and Zone Objectives
- Clause 2.7 Demolition;
- Clause 4.3 Height of buildings;
- Clause 4.4 Floor space ratio;
- Clause 5.10 Heritage conservation; and
- Clause 6.5 Development in areas subject to aircraft noise.

The following table provides an assessment of the application against the development standards:

Standard (maximum)	Proposal	Compliances
Floor Space Ratio	0.8:1	Yes
Required: 1.1:1	112sqm	
Height of Building	6.7 metres	Yes
9.5 metres		

The following provides further discussion of the relevant issues:

## (i) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned R2 – Low Density Residential under the provisions of MLEP 2011. Dwelling houses are permissible with Council's consent under the zoning provisions applying to the land.

The development is considered acceptable having regard to the objectives of the R1 – General Residential zone.

### (ii) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

#### (iii) Height (Clause 4.3)

The site is located in an area where the maximum height of buildings is 9.5 metres as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a height of approximately 6.7 metres, which complies with the height development standard.

### (iv) Floor Space Ratio (Clause 4.4)

Clause 4.4(2A) of MLEP 2011 specifies a maximum floor space ratio for a dwelling house on land labelled "F" on the Floor Space Ratio Map that is based on site area as follows:

Site area	Maximum space ratio	floor
≤150 square metres	1.1:1	

The property has a site area of 112sqm. The development has an FSR of 0.8:1 which complies with the FSR development standard.

## (v) Heritage Conservation (Clause 5.10)

The property is not listed as a heritage item under MLEP 2011, is not located within the vicinity of a heritage item and is not located within a Heritage Conservation Area under MLEP 2011.

#### (vi) Acid Sulfate Soils (Clause 6.1)

The property is not located in an area identified as being subject to acid sulfate soil risk under MLEP 2011.

## (vii) Development in areas subject to Aircraft Noise (Clause 6.5)

The property is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour.

The development is likely to be affected by aircraft noise. The carrying out of development would result in an increase in the number of people affected by aircraft noise. The development would need to be noise attenuated in accordance with AS2021:2015. An Acoustic Report did not accompany the application. The development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2015. If approved, conditions are included in the recommendation to ensure that the development is appropriately noise attenuated.

## 5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

Draft Environment State Environmental Planning Policy (SEPP)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

## 5(c) Development Control Plans

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

Part	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Acceptable
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Acceptable
Part 2.16 – Energy Efficiency	Yes
Part 2.18 – Landscaping and Open Spaces	Acceptable
Part 2.21 – Site Facilities and Waste Management	Yes

Part 4 – Low Density Residential Development	Yes
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

#### (i) <u>Urban Design (Part 2.1)</u>

Given the height of the existing dwellings, the setback of the proposed addition from the front and narrow lot widths, the works proposed as part of the application do not involve substantial external changes that are visible from or effect public space or have significant land use implications. It is considered that all works visible from the street are consistent with the form, scale and character of other first floor additions within the locality.

## (ii) Site and Context Analysis (Part 2.3)

The applicant submitted a site and context analysis as part of the application that satisfies the controls contained in Part 2.3 of MDCP 2011.

#### (iii) Acoustic and Visual Privacy (Part 2.6)

The layout and design of the development ensures that the visual and acoustic privacy currently enjoyed by residents of adjoining residential properties are protected. Concern was raised regarding the overlooking impact of the proposed first floor windows. Amended plans were received which modified the windows to be either of obscured fixed glazing or high-level windows.

The development maintains adequate levels of acoustic and visual privacy for the surrounding residential properties and ensures an adequate level of acoustic and visual privacy for future occupants of the development.

Given the above the development is reasonable having regard to the objectives and controls relating to visual and acoustic privacy as contained in MDCP 2011.

#### (iv) Solar Access and Overshadowing (Part 2.7)

## Overshadowing

The applicant submitted shadow diagrams with the application.

30 London Street currently experiences overshadowing as a result of the narrow lot width, generally east-west orientation and semi-detached nature of the dwellings within the street.

The development will result in some additional overshadowing over the private open space of the dwelling at 30 London Street between 9.00am and 3.00pm in mid-winter as a result of the rear addition. Part 2.7.3 of MDCP 2011 outlines criteria to be considered if the application results in a further decrease in sunlight available on 21 June. The development is reasonable in regard to overshadowing given the following:

- The proposed addition is modest in scale with minimal floor to ceiling heights;
- The orientation of 30 London Street and the semi-detached nature of the dwellings severely compromises the ability of that dwelling to receive compliant solar access; and
- The sunlight available to 30 London Street in March/September is not substantially affected.

#### **Solar Access**

The alterations and additions to the dwelling house have been designed in an energy efficient manner for the following reasons:

- At least one habitable room has a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and will allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June; and
- The private open space provided for the dwelling house receives a level of solar access that is consistent with the solar access received by the adjoining properties.

Given the above the development is reasonable having regard to the objectives and controls relating to solar access and overshadowing as contained in MDCP 2011.

## (v) Community Safety (Part 2.9)

The development is reasonable having regard to community safety for the following reasons:

- The principal entrance to the dwelling house is visible from the street;
- The dwelling house has been designed to overlook the street;
- The dwelling house has a Council approved house number that is clearly displayed; and
- The entrance to the dwelling house is well lit.

Given the above the development is reasonable having regard to the objectives and controls relating to community safety as contained in MDCP 2011.

#### (vi) Parking (Part 2.10)

Part 2.10 of MDCP 2011 requires one car parking space be provided for a dwelling house. No car parking spaces are currently provided on the site. It would be considered onerous to require a parking space be provided and would require the demolition of existing significant features of the period dwelling.

#### (vii) Landscaping and Open Spaces (Part 2.18)

The site has an area of 139.1sqm and as such Control C12 of Part 2.1.8 of MDCP 2011 specifies that a minimum of 45sqm private open space is to be provided on the site. The plans submitted with the application identify that an area measuring 26.1sqm, being 18.7% of the total site area, is to be retained as private open space with 53.6% of the private open space being pervious landscaping.

The private open space provided on the site does not comply with the numerical requirements as per Control C12 above. Notwithstanding, the private open space is considered to be consistent with the objectives contained in Part 2.18 as the private open space:

- is located off the principal living area of the dwelling and acts as an extension of the living area of the dwelling;
- · is provided with adequate solar access; and

• is consistent with the private open space provided on neighbouring sites and the locality generally.

## (ix) Site Facilities and Waste Management (Part 2.21)

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application.

## PART 4 - RESIDENTIAL DEVELOPMENT

#### Part 4 – Low Density Residential Development

## (i) Good Urban Design Practice (Part 4.1.4)

The height, bulk and scale of the development complement existing developments in the street and the architectural style of the proposal is in keeping with the character of the area.

Given the above the development is reasonable having regard to the objectives and controls relating to good urban design contained in MDCP 2011.

## (ii) Streetscape and Design (Part 4.1.5)

The development satisfies the streetscape and design controls outlined in MDCP 2011 in that:

- The development complements the uniformity and visual cohesiveness of the existing streetscape;
- The proposal is a contemporary design that complements and/or embellishes the character of the area:
- The dwelling house addresses the principal street frontage and is orientated to complement the existing pattern of development found in the street;
- The architectural treatment of the façade interprets and translates positive characteristics in the locality; and
- The front façade of the dwelling house has been divided into bays of an appropriate size that complements the scale of the building and surrounding dwelling houses.

#### (iii) Building Setbacks (Part 4.1.6.2)

#### Front Setback

No change to the existing front setback of 1.2m is proposed.

## Side Setback

MDCP 2011 requires the minimum side setback for lots with a width less than 8 metres to be determined on merit. The development satisfies the side setback control outlined in MDCP 2011 in that:

- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation;
- The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks;
- The proposal does not create an unreasonable impact upon adjoining properties in relation to overshadowing and visual bulk; and
- The proposal is satisfactory in relation to the street context.

#### Rear setback

The rear boundary setback is reasonable for the following reasons:

- A predominant first floor rear building line exists and is consistent and visible from the public domain and the proposal maintains that upper rear building line;
- The proposal will not create adverse impacts on the amenity of adjoining properties in relation to overshadowing and visual bulk;
- The proposal maintains adequate open space;
- The prominent form of development is terrace housing with access to a rear lane, and the proposal maintains the capacity for off-street parking;
- The proposal ensures adequate separation between buildings for visual and acoustic privacy, solar access and air circulation; and

The proposal integrates new development with the established setback character of the street and maintains established gardens, trees and vegetation networks.

#### (iv) Site Coverage (Part 4.1.6.3)

The proposal is consistent with the site coverage requirements contained within MDCP 2011 in that it:

- Results in a site coverage that is consistent with the existing character of neighbouring dwellings; and
- Allows adequate provision for uses such as outdoor recreation, footpaths, deep soil tree planting, other landscaping, off-street parking (where appropriate), waste management, clothes drying and stormwater management.

#### (i) Additional Controls for Period Dwellings (Part 4.1.11)

The proposal satisfies the period dwelling controls as outlined in MDCP 2011 in that:

- The proposal retains and/or reinstates the front garden (and side garden where part of the front garden) of period buildings, including elements such as fences, gates, paths, carriageway, walls and plant beds;
- The proposal retains and/or reinstates the facade and main external body of the period building visible from the street, including proportions, materials, details and elements (such as front verandahs or barge boards), roof forms, materials, setbacks and number of storeys, chimneys and scale;
- The proposal retains exceptional rear building, garden and internal features relating to the period building;
- The proposal accommodates contemporary additions and alterations while retaining the significant components of the period building and garden;
- The alterations and additions at the rear and the side and above the roof line, are subordinate to the main body of the period dwelling when viewed from the street;
- Finishes other than those typical to the period building have not been used and unfinished surfaces such as face brick and stone have been retained;
- Existing significant period features at the front have been retained;

- The alterations and additions at the front have a minimal impact on the period dwelling;
- The additions to one of a pair of semi-detached dwellings do not inhibit the potential for additions to the adjoining property and the pair have been treated as a unified composition; and
- The alterations and additions to one of a pair of semi-detached dwellings do not compromise the symmetry, massing and/or proportions of the pair.

## (ii) Details, materials and colour schemes for period buildings (Section 4.1.12)

The architectural plans and the schedule of materials and finishes submitted satisfy the details, materials and colour schemes for period building controls as outlined in Marrickville DCP 2011.

#### PART 9 - STRATEGIC CONTEXT

The property is located in the Enmore North and Newtown Central Planning Precinct (Precinct 8) under Marrickville Development Control Plan 2011.

The proposal is in keeping with the desired future character of the area in that:

- The proposal protects and preserves the period building through a sympathetic addition;
- The proposal protects significant streetscape and public domain elements;
- The proposal preserves the mixed density residential character of the precinct; and
- The proposal considers all potential impacts to biodiversity.

## 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

## 5(e) The suitability of the site for the development

The site is zoned R2 – Low Density Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

## 5(f) Any submissions

The application was notified in accordance with Council's notification Policy for a period of 21 days to surrounding properties. A total of 12 individual submissions were received which comprised of 10 objections and 2 in support.

The objections raised the following concerns which are discussed under the respective headings below:

Issue: Streetscape and design

<u>Comment</u>: Concern was raised in a number of submissions regarding the consistency of the first floor addition with the surrounding streetscape and context within the row of period

dwellings. It is considered that the first floor addition will not have substantial impacts on the streetscape given the height of the existing dwellings, narrow lot widths in the street and the setback of the proposed addition from the front. It is considered that the addition retains all existing significant features of the period dwelling and is subordinate to the original dwelling.

#### Issue: Bulk and scale

<u>Comment</u>: Concern was raised in a number of submissions regarding the visual bulk impact of the first floor addition when viewed from the rear private open space of the adjoining properties. Amended plans were received which reduced the overall height and length of the first flood addition. It is considered that the addition is consistent in scale and bulk with other first floor additions in the locality and is acceptable for the street and adjoining dwellings in terms of overshadowing, privacy, streetscape and building setbacks.

#### Issue: Solar Access

<u>Comment</u>: Concern was raised in a number of submissions regarding the loss of solar access as a result of the development. Amended plans were received which reduced the overshadowing impact. It is considered that the development will maintain an appropriate level of direct solar access for the adjoining properties given the orientation of the site, narrow lot width and minimal height of the addition.

#### Issue: Privacy

<u>Comment</u>: Concern was raised in a number of submissions regarding the privacy impact of the proposed first floor windows. Amended plans were received which mitigated any overlooking impact by modifying the windows to be either high-level or of obscure glazing to a height of 1.6 metres above the floor level.

## Issue: Parking

<u>Comment</u>: Concern was raised in a number of submissions regarding the increased demand for parking as a result of the development. It is considered that the proposed additions would not result in a significant demand for parking on the street and in order to provide parking on the site, the existing period dwelling would be required to be demolished.

#### Issue: Setbacks

<u>Comment</u>: Concern was raised in a submission regarding the proposed setbacks of the addition. Amended plans were received which maintain the existing side setbacks of the dwelling and are consistent with the first floor rear setback of the first floor of 38 London Street.

#### Issue: Party wall

<u>Comment</u>: Concern was raised in a submission regarding the reliance of the proposed development on the shared party wall with 34 London Street. Amended plans were received which demonstrate that the proposed works will not rely on the party wall. An appropriate condition of consent has been imposed which requires the written consent of the adjoining property owner be obtained in the event the works are required to rely on the party wall.

#### Issue: Overdevelopment

<u>Comment</u>: Concern was raised in a number of submissions regarding the overdevelopment of the locality given the approval of multiple first floor additions within the area in recent years. This application has been assessed on its merits and is considered suitable within the context of the locality.

## 5(g) The Public Interest

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

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

The proposal is not contrary to the public interest.

#### 6 Referrals

## 6(a) Internal

The application was referred to Council Heritage Advisor who requested a number of amendments to ensure the existing significant features of the period dwelling are retained. Amended plans which adequately addressed the above requirements, with the exception of the living room fireplace which has been relocated. A condition of consent has been imposed which requires the fireplace be deleted, rather than be demolished and relocated.

## 6(b) External

Not applicable.

# 7. Developer Contributions

A Section 7.12 Levy of \$3,300.00 would be required for the development under Marrickville Section 94A Contributions Plan 2014. A condition requiring that levy to be paid is included in the recommendation.

#### 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

#### 9. Recommendation

A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No. 201800569 to carry out alterations and additions to an existing dwelling including a first floor rear addition at 32 London Street, Enmore subject to the conditions listed in Attachment A below.

## Attachment A - Recommended conditions of consent

## **GENERAL**

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision	Plan Name	Date	Prepared by	Date
and Issue No.		Issued		Submitted
DA0004 Rev B	Existing Floor Plan and Demolition Plan	18/03/2019	Dacca architecture	19/03/2019
DA0005 Rev B	Existing Elevations	18/03/2019	Dacca architecture	19/03/2019
DA1100 Rev B	Proposed Floor Plan	18/03/2019	Dacca architecture	19/03/2019
DA2100 Rev B	Proposed Elevations	18/03/2019	Dacca architecture	19/03/2019
DA3001 Rev B	Proposed Sections	18/03/2019	Dacca architecture	19/03/2019
DA6050 Rev A	Street View	18/03/2019	Dacca architecture	19/03/2019
A334411_02	BASIX Certificate	17/03/2019	Max Brightwell	19/03/2019

and details submitted to Council on 4 January 2019 and 19 March 2019 with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

- 2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
  - a) the plans and/or information approved under this consent; or
  - b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

3. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).

#### BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

- 4. No work must commence until:
  - A PCA has been appointed. Where Council is appointed ensure all payments and paper work are completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
  - b) A minimum of 2 days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

5. A Construction Certificate must be obtained <u>before commencing building work</u>. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

 Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet <u>before</u> work commences.

Facilities must be located so that they will not cause a nuisance.

<u>Reason</u>: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

7. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and is to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining property at 34 London Street, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.

8. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.

Reason: To secure the area of the site works maintaining public safety.

- 9. A rigid and durable sign must be erected in a prominent position on the site, <u>before</u> work commences. The sign is to be maintained at all times until all work has been completed. The sign must include:
  - a) The name, address and telephone number of the PCA;
  - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

10. Sediment control devices must be installed <u>before the commencement of any work</u> and must be maintained in proper working order to prevent sediment discharge from the construction site.

<u>Reason</u>: To prevent soil erosion and sedimentation of Council's stormwater drainage system.

- 11. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
  - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that all restoration works are in accordance with Council's Code.

#### BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

12. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction <u>before the issue of</u> a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy information/?levy information/levy calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

13. A levy of \$3,300.00 has been assessed as the contribution for the development under Section 7.12 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.12 Levy referred to above is based on the estimated cost of the proposed development at time of lodgement of the application indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.12 levy (as adjusted) must be paid to the Council in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Credit and/or Debit) before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2004 payment of Section 7.12 levies CANNOT be made by Personal Cheque or Company Cheque.

## (LEVY PAYMENT Reference No. DC002565)

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

14. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

NOTE: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate issued no earlier than 3 months before the date of lodgement of the application for the Construction Certificate. (Refer to Clause 6A of Schedule 1 to the Regulation).

Reason: To ensure that the BASIX commitments are incorporated into the development.

- 15. <u>Before the issue of a Construction Certificate</u> an amended plan must be submitted to the Certifying Authority's satisfaction indicating:
  - a) The deletion of the living room fireplace.
- 16. Before the issue of a Construction Certificate plans and adequate details must be submitted to the Certifying Authority's satisfaction demonstrating that the proposal will be wholly contained within the boundaries of 32 London Street such that the works will not rely on the party wall for vertical or lateral support. Should the works rely on the party wall a letter of consent from the owner/s of 34 London Street must be provided to the Certifying Authority stating that they have no objection to the works to be carried out to the party wall.

<u>Reason</u>: To ensure the written consent of the adjoining owners has been first obtained for any building work proposed on their property.

17. The existing building must be upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke detection systems in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure the building is suitable for the proposed use.

18. Prior to the commencement of demolition works or before the issue of a Construction Certificate (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2100.00
Inspection fee (FOOTI)	\$225.00

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Reason</u>: To ensure that all damages arising from the building works are repaired at no cost to Council.

19. Sediment control devices must be constructed and maintained in proper working order to prevent sediment discharge from the construction site. Sediment control plans and specifications must be submitted to the Principal Certifying Authority <u>before the issue of a Construction Certificate</u>.

Reason: To prevent soil erosion and sedimentation of Council's stormwater drainage system.

20. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015. Plans fully reflecting the selected commitments must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To reduce noise levels within the development from aircraft.

## **SITE WORKS**

21. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

22. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

23. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

- 24. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
  - a) after excavation for, and prior to the placement of, any footings;
  - b) prior to pouring any in-situ reinforced concrete building element;
  - c) prior to covering of the framework for any floor, wall, roof or other building element;
  - d) prior to covering waterproofing in any wet areas;
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

- 25. All demolition work must be carried out in accordance with the following:
  - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
  - b) all works involving the demolition, removal, transport and disposal of material containing asbestos must be carried out by suitably qualified persons in

- accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and subcontractors associated with the demolition are fully aware of these requirements.

<u>Reason</u>: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

- 26. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
  - a) protect and support the adjoining premises from possible damage from the excavation;
  - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and
  - c) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA <u>before works continue</u> on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA <u>before</u> work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

- 27. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.

  Reason: To provide for adequate site drainage.
- 28. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place.

  Reason: To provide protection to the public place.
- 29. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

  Reason: To ensure all works are contained within the boundaries of the allotment.
- 30. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

#### **BEFORE OCCUPATION OF THE BUILDING**

- 31. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
  - a) A copy of the determination;
  - b) Copies of any documents that were lodged with the Occupation Certificate application;
  - c) A copy of Occupation Certificate, if it was issued;
  - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
  - e) A copy of any missed inspections;
  - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

32. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

33. The Certifying Authority must be satisfied that each of the commitments listed in Aircraft Noise Assessment Report required by this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the commitments associated with Aircraft Noise Assessment Report have been fulfilled.

34. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled <u>before the issue of an Occupation Certificate</u> (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.

- 35. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
  - Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.
- 36. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed before the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure that the person acting on this consent completes all required work.

## **USE OF THE BUILDING**

37. The premises must be used exclusively as a single dwelling house and must not be adapted for use as a residential flat building or boarding house and must not be used for any industrial or commercial purpose.

Reason: To ensure that the premises are used exclusively as a single dwelling house.

#### **ADVISORY NOTES**

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- Any natural light or ventilation gained by windows within 900mm of the boundary
  will not be taken into consideration in the event that the adjoining property owner
  makes application to Council to carry out building works on their property. The
  window has been consented to on the basis that alternative sources of light and
  ventilation are available to the room.
- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information

1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.qov.au

Department of Fair Trading 13 32 20

www.fairtrading.nsw.gov.au

Enquiries relating to Owner Builder Permits and

Home Warranty Insurance.

Dial Before You Dig 2 1100

www.dialbeforeyoudig.com.au

To purchase copies of Volume One of "Soils

and Construction"

**131441** 

Long Service Payments

Corporation

www.lspc.nsw.gov.au

NSW Government <u>www.nsw.gov.au/fibro</u>

www.diysafe.nsw.gov.au

Information on asbestos and safe work

practices.

NSW Office of Environment and

Heritage

**131 555** 

www.environment.nsw.gov.au

Sydney Water 13 20 92

www.sydneywater.com.au

Waste Service - SITA **1300 651 116** 

**Environmental Solutions** 

www.wasteservice.nsw.gov.au

Water Efficiency Labelling and

Standards (WELS)

www.waterrating.gov.au

WorkCover Authority of NSW 28 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos

removal and disposal.

# Attachment B - Plans of proposed development





































