




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA201800137.01
Address	15 Simmons Street, Enmore
Proposal	Review request under Section 8.2 of the Environmental Planning and Assessment Act to review Determination No. 201800137 dated 16 August 2018 to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house
Date of Lodgement	24 October 2018
Applicant	Seemann Rush Architects
Owner	Mr PM Gonzalez & Mr MG Martignago
Number of Submissions	Application was not required to be notified
Value of works	\$263,000.00
Reason for determination at Planning Panel	Section 82A review of a refused determination
Main Issues	Heritage, streetscape and design, built form and character
Recommendation	Refusal
Attachment A	Assessment Report for DA201800137
Attachment B	Conditions in the circumstance the application is approved
Attachment C	Plans submitted with the review application
Attachment D	Statement addressing reasons for refusal



LOCALITY MAP

Subject Site		Notified Area	N/A
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1. Executive Summary

This report concerns a review request under Section 8.2 of the Environmental Planning and Assessment Act to review the refusal of Development Application No. 201800137 dated 16 August 2018 to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house. The original development application was notified in accordance with Council's Notification Policy and no submissions were received. The subject application, being a review request, contained no changes from the original application and as such was not required to be notified in accordance with Council's Notification Policy.

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

- The existing building is a contributory building within the Enmore House Estate Heritage Conservation Area (HCA 12) and the proposal results in the loss of the primary roof form, ceilings, internal timber stairwell and rear wing.
- The proposed bulk and scale of the third floor addition is not consistent with surrounding dwellings and results in poor heritage and streetscape outcomes.

The development is considered contrary to the aims, controls and design parameters of the Marrickville Local Environmental Plan (MLEP) 2011 and the Marrickville Development Control Plan (MDCP) 2011.

The proposed addition compromises the primary original roof form and building fabric of the original dwelling and will result in alterations that are unsympathetic to the contributory building within HCA 12, contrary to the provisions of Clause 5.10 of MLEP 2011 and Part 8 of MDCP 2011.

The proposed addition does not complement or enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for the site resulting in poor urban design, built form and character, contrary to the objectives and controls contained in Part 4.1 of MDCP 2011.

The proposed addition is inconsistent with the desired future character of the Camdenville Planning Precinct, contrary to the strategic context contained in Part 9 of MDCP 2011.

2. Proposal

Approval is sought by a review request under Section 8.2 of the Environmental Planning and Assessment Act to review Determination No. 201800137 dated 16 August 2018 to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house.

3. Site Description

The site is known as 15 Simmons Street, and is located on the western side of Simmons Street, between Enmore Road and Pemell Street, Enmore. The site is legally described as Lot 1 in Deposited Plan 103315 and is approximately 141 square metres in area.

The site contains a two storey dwelling house. The surrounding streetscape consists mainly of single and two storey dwelling houses. The site is adjoining by 13 Simmons Street which contains a two storey dwelling house with a single storey component at the rear and 17A Simmons Street which contains a two storey dwelling house.

The property is located within the Enmore House Estate Heritage Conservation Area (HCA 12).

The following trees are located on the site and within the vicinity.

- | | |
|---|-------------------|
| - <i>Corymbia citriodora</i> (lemon-scented gum) | Site tree |
| - <i>Metrosideros excelsor</i> (NZ Christas bush) | 13 Simmons Street |
| - <i>Melaleuca bracteata</i> (black tea tree) | Street tree |



Image 1: The Site

4. Background

4(a) Site history

Pre-Development Application No. 201700094 sought advice to demolish the rear addition and to carry out internal alterations to the main building, construction of a contemporary 2 storey rear addition and a third level on top of the main building and landscape works. The Pre-Development Advice letter, dated 31 August 2018, identified a number of departures from Council's planning controls relating to heritage, bulk, building setback, solar access and overshadowing.

A subsequent Pre-Development Application No. 201700171 sought advice to demolish the rear addition and to carry out internal alterations to the main building, construction of a contemporary 2-storey rear addition and a third level on top of the main building and landscape works. The Pre-Development Advice Letter, dated 16 November 2018, identified a number of departures from Council's planning controls relating to heritage, bulk and solar access and overshadowing.

Development Application No. 201800137 sought consent to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house.

It was considered that the proposal did not comply with the aims, objectives and design parameters contained in MLEP 2011 and MDCP 2011 with regard to heritage, streetscape and character.

The application was refused under delegated authority as part of Determination No. 201800137, dated 16 August 2018, for the following reasons:

1. *The proposal fails to adequately identify and conserve the environmental and cultural heritage of Marrickville which is inconsistent with Clause 1.2(g) of Marrickville Local Environmental Plan 2011 [Aims of Plan].*
2. *The Heritage Impact Statement does not adequately address the matters of conservation significance. In this regard the proposal fails to demonstrate consistency with Objective (b) of Part 5.10 of Marrickville Local Environmental Plan 2011 'to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views'.*
3. *The development does not complement or enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for the site resulting in poor urban design, built form and character. In this regard the proposal fails to comply with the objectives and controls contained in Part 4.1 of Marrickville Development Control Plan 2011.*
4. *The proposed development fails to comply with the objectives and controls contained within Part 8.3.2, 8.5.1.2 and 8.2.14.6 of Marrickville Development Control Plan 2011 in that the third level would overwhelm the existing built form and would be inconsistent with the overall massing and form of the traditional parapeted Victorian terrace and wider streetscape. Furthermore, the demolition of the original roof form and rear wing is contrary to conservation controls and alterations to the building fabric are contrary to preservation and restoration principles.*
5. *The proposal is inconsistent with the desired future character of the Camdenville Planning Precinct. In this regard the proposal fails to comply with the strategic context contained within Part 9 of Marrickville Development Control Plan 2011.*
6. *The proposal would not be in the public interest.*

4(b) Application history

Application submitted to Council on 24 October 2018.

5. Assessment

The application has requested that Council review the determination under Section 8.2 of the Environmental Planning and Assessment Act 1979. No modifications to the refused plans or

supporting documentation has been submitted with the review request. The applicant has provided the following reasons for the review of the application:

- Its principal form and character as seen from the street is conserved;
- The proposal is a careful response to character and scale to enhance the liveability and function of the house; and
- The proposed work is subservient and suitable upgrade to a modest house, improving space and amenity whilst being respectful of its heritage.

5(a) Grounds of Refusal

Below is an assessment of the information provided by the applicant as part of the Section 8.2 review request having regard to the ground of refusal of the original development application:

1. **The proposal fails to adequately identify and conserve the environmental and cultural heritage of Marrickville which is inconsistent with Clause 1.2(g) of Marrickville Local Environmental Plan 2011 [Aims of Plan].**
2. **The Heritage Impact Statement does not adequately address the matters of conservation significance. In this regard the proposal fails to demonstrate consistency with Objective (b) of Part 5.10 of Marrickville Local Environmental Plan 2011 ‘to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views’.**
4. **The proposed development fails to comply with the objectives and controls contained within Part 8.3.2, 8.5.1.2 and 8.2.14.6 of Marrickville Development Control Plan 2011 in that the third level would overwhelm the existing built form and would be inconsistent with the overall massing and form of the traditional parapeted Victorian terrace and wider streetscape. Furthermore, the demolition of the original roof form and rear wing is contrary to conservation controls and alterations to the building fabric are contrary to preservation and restoration principles.**

Comment:

During the original application it was determined that the proposal was not acceptable on heritage grounds for the following reasons:

1. *The proposed DA has not adequately addressed the recommendations at Pre-DAs and in meetings to reduce the degree of demolition and removal of original building fabric, to remove the third level from the application and to maintain the primary roof form and internal ceiling at Level 1 intact.*
2. *The Heritage Impact Statement (HIS) does not adequately address the significance of and conservation controls applicable to the HCA 12 in MDCP 2011 Part 8.2.14 and does not adequately address the applicable objectives and controls in MDCP 2011 Parts 8.3 and 8.5.1. Overall, the HIS does not provide a well-reasoned justification in support for the third level nor the extent of demolition of original built form, roof form and building fabric at both the primary building and the rear wing.*
3. *As stated in MDCP 2011 Part 8.2.14.6, the core period of heritage significance of HCA 12 is 1850-1915. Any buildings, archaeological evidence or significant*

elements of the fabric from this or any earlier period must be retained and maintained. The original primary roof form (skillion metal roof concealed behind a parapet wall) is a significant element of the fabric of the contributory building and a key element of the building typology. The demolition of the original roof and ceilings at Level 1 and construction of a third level are contrary to the conservation controls in Part 8.2.14.6 and cannot be supported.

- 4. The built form, roof form and building setbacks of the rear wing and internal timber stairwell are original fabric, which are significantly intact. The demolition of the rear wing for the construction of a new contemporary rear wing and removal of the original timber stairwell will detrimentally impact the significance of HCA 12 and is contrary to the conservation controls in MDCP 2011 Part 8.2.14.6. The demolition of the rear wing could only be considered if sufficient conservation and restoration works are provided to the primary building, including the preservation of the original timber stairwell, in order to mitigate the negative impacts caused by the demolition of the original rear wing.*
- 5. HCA 12 demonstrates the principal characteristic of the development of the Marrickville Council area from an early estate to urban cultural landscape with substantial two storey Victorian terraces intended for the affluent middle classes and modest single and two-storey terraces. The preservation of the single and two-storey built form is paramount for the significance of HCA 12. The third level projecting above the original roof form would detrimentally impact the historical and aesthetic significance of HCA 12.*
- 6. One of the core heritage values of HCA 12 is 'residential character is demonstrated through diversity of architectural styles within the single and two storey 19th century and Federation period terrace housing typologies'. The proposed third level would detrimentally impact one of the core heritage values of HCA 12 and would set an undesirable precedent for three-storey additions to terraces/villas in the area.*
- 7. Some of the elements that contribute to the consistency of the streetscape is [1] 'residential character demonstrated through diversity of architectural style within the single and two storey 19th century and Federation period terrace housing typologies'; and [2] 'roof forms appropriate to typology and period of construction, including roof forms of groups or runs of buildings that demonstrate consistent pitch and rhythm and a lack of major alterations to roof form and volumes'. The roof form of the properties at 11, 13 and 15 Simmons Street (skillion roof behind a parapet wall) demonstrates a high degree of consistency in terms of roof form, volume, pitch, rhythm and intact building fabric. The proposed third level will be visible from the street (oblique views from the sides along Simmons Street, views from Enmore Lane and views from adjoining backyards and buildings). It will detrimentally impact the architectural integrity of the contributory building and is inconsistent with key elements that contribute to the consistency of the streetscape and the HCA 12.*
- 8. The proposed third level is contrary to MDCP 2011 Part 8.3 controls C19, 'New development (including extensions to the rear) that will be visible from the street must be no higher than the existing roof form or height of the building and must not overwhelm the existing built form'; C21 'Extensions and alterations visible from the street must be consistent with the overall massing and form of the property (refer to the specific style sheets) and must not dominate the existing building form'; C22 'Existing original roof forms (and, where possible, materials) must be retained to the front elevation and for the length of the main roof to the side elevations'; and C36 'the original scale, proportion, materials and detailing of street facades must be retained. The third level would be visible from the*

street. The third level is higher than the existing roof form. It overwhelms the existing built form. It is inconsistent with the overall massing and form of the traditional parapeted Victorian terrace. It involves demolition of and alterations to the primary original roof form (skillion roof behind a parapet wall). And it would detrimentally impact the original scale and proportion of the street façade.

9. *As stated in MDCP 2011 Part 8.5.1, the Victorian Italianate and Victorian Filigree styles were applied to detached and semi-detached houses (single and two storey) and terraces. The integrity of the roof form is paramount for this building type. Parapeted Victorian terraces were predominantly two storeys with a skillion roof concealed behind the parapet wall. The proposed demolition of the original roof and construction of a third level projecting above the parapet wall, therefore, is contrary to MDCP 2011 Part 8.5.1.2 objectives O1 'To retain and if possible enhance the contribution of the property to the streetscape', O2 'To ensure any change in the HCA is sympathetic to the Victorian Italianate or Victorian Filigree style values of the property and its ability to contribute to the identified heritage values of the area', and O4 'To keep original roof forms and materials and the scale of the building as presenting to the street'.*
10. *The proposed gable roof projecting beyond the parapet wall is poorly considered and does not achieve an appropriate roof form for the typology and period of construction of the parapeted Victorian terrace.*
11. *Some of the elements that detract from the heritage significance of the area are alterations to roof forms and volumes and over-scaled and poorly proportioned additions. The proposed gable roof for the third level is over-scaled and out of proportion in relation to the traditional form of the parapet wall and is considered a detracting element that would negatively impact the contribution that the existing building make to the significance of HCA 12.*
12. *The preservation and restoration of original internal building fabric to the first room at Ground Level (lounge) and Level 1 (Bedroom 1) is supportable in principle. However, the proposal has not provided sufficient information about preservation and restoration of internal building fabric.*
13. *The removal of the original stairwell is contrary to the conservation control in MDCP 2011 Part 8.2.14.6 and is not supported. The stairwell is in good condition and should be preserved.*
14. *The lowering of the ceiling at Level 1 to accommodate a third level is contrary to the conservation control in MDCP 2011 Part 8.2.14.6 and is not supported.*
15. *The applicant needs to clarify whether they intend to paint the original contributory building. If so, a detailed colour scheme should be provided. Black/white/grey schemes are not supported.*

On review, it is assessed that the proposal, which is unchanged from the original development and provides no additional evidence in support of the application, still results in non-compliances with the objectives and controls contained within MLEP 2011 and MDCP 2011 relating to heritage.

Upon review and having regard to the role the building plays as a contributory item within the conservation area, the application is considered unsupportable in terms of its heritage impact and refusal of the review application is recommended.

- 3. The development does not complement or enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for**

the site resulting in poor urban design, built form and character. In this regard the proposal fails to comply with the objectives and controls contained in Part 4.1 of Marrickville Development Control Plan 2011.

Comment:

During the original application it was assessed that the proposal was not acceptable having regard to the objectives and controls contained in Part 4.1 of MDCP 2011 relating to streetscape and design for the following reasons:

- 1. The proposed addition cannot be considered to constitute Good Urban Design Practice because it would not enhance the streetscape character of the locality, nor does it ensure the scale of the development is appropriate for the site.*
- 2. The proposed addition would detract from rather than enhance the existing built character as it would not respect the consistent massing, bulk and arrangement of the federation period terraces houses in the streetscape and would result in an undesirable precedent for infill development in the street.*
- 3. The proposed addition is an intrusive element when viewed from the streetscape, rear of the site and adjoining properties.*

On review, it is assessed that the proposal, which is unchanged from the original development and provides no additional evidence in support of the application, still results in non-compliances with the objectives and controls contained within Part 4.1 of MDCP relating to streetscape and design. The proposed design will sit at odds with its neighbours and will result in adverse streetscape impacts, setting undesirable cues for future development in the locality.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

- 5. The proposal is inconsistent with the desired future character of the Camdenville Planning Precinct. In this regard the proposal fails to comply with the strategic context contained within Part 9 of Marrickville Development Control Plan 2011.***

Comment:

During the original application it was assessed that the proposal was not acceptable having regard to the objectives and controls contained in Part 9 of MDCP 2011 relating to the Camdenville Planning Precinct given the proposal as it fails to protect the identified values of the Enmore House Estate Heritage Conservation Area (HCA 12).

On review, it is assessed that the proposal, which is unchanged from the original development and provides no additional evidence in support of the application, still results in non-compliances with the objectives and controls contained within Part 9 of MDCP 2011 relating to the Camdenville Planning Precinct.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

5(b) The Likely Impacts

The assessment of the Review demonstrates that the proposal will result in adverse heritage and bulk and scale impacts that are not in accordance with the relevant planning controls. As such, it is considered the proposal will have an adverse impact on the built environment with regard to heritage.

5(c) The suitability of the site for the development

The site is zoned R2 Low Density Residential under MLEP 2011. It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(d) Any submissions

The original application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Notification Policy. No submissions were received. This review application was not required to be notified in accordance with Council's Notification Policy given there was no change to the proposed development from the original proposal.

5(e) 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 proposal's adverse heritage and streetscape impacts are contrary to the objectives and controls of MLEP 2011 and MDCP 2011. Given the lack of compliance with the relevant planning controls, the development is considered contrary to the public interest.

6 Referrals

The application was referred to Council's Team Leader Heritage and Urban Design who confirmed the advice provided throughout the Pre-Development Application and Development Application stages of the proposed development and hence, recommended refusal of the review request.

7. Conclusion

The application seeks a review of Determination No. 201800137 dated 16 August 2018 under Section 8.2 of the Environmental Planning and Assessment Act to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house.

The development is considered contrary to the aims, control and design parameters of the Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 for the reasons discussed in this report.

The review application has not adequately addressed the grounds for refusal of Determination No. 201800137, dated 16 August 2018.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

8. Recommendation

THAT the Inner West Local Planning Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, REFUSE Development Application No. 201800137.01 to review Determination No. 201800137 dated 16 August 2018, under Section 8.2 of the Environmental Planning and Assessment Act, to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house for the following reasons:

1. The proposal fails to adequately identify and conserve the environmental and cultural heritage of Marrickville. In this regard fails does not comply with Sub-clause 1.2 (g) of Marrickville Local Environmental Plan 2011 [Aims of Plan].
2. The Heritage Impact Statement does not adequately address the matters of conservation significance. In this regard the proposal fails to demonstrate consistency with Objective (b) of Part 5.10 of Marrickville Local Environmental Plan 2011 'to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views'.
3. The development does not complement or enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for the site resulting in poor urban design, built form and character. In this regard the proposal fails to comply with the objectives and controls contained in Part 4.1 of Marrickville Development Control Plan 2011.
4. The proposed development fails to comply with the objectives and controls contained within Part 8.3.2, 8.5.1.2 and 8.2.14.6 of Marrickville Development Control Plan 2011 in that the third level would overwhelm the existing built form and would be inconsistent with the overall massing and form of the traditional parapeted Victorian terrace and wider streetscape. Furthermore, the demolition of the original roof form and rear wing is contrary to conservation controls and alterations to the building fabric are contrary to preservation and restoration principles.
5. The proposal is inconsistent with the desired future character of the Camdenville Planning Precinct. In this regard the proposal fails to comply with the strategic context contained within Part 9 of Marrickville Development Control Plan 2011.
6. The proposal would not be in the public interest.

Attachment A – Assessment Report for DA201800137



Delegated Authority Report 15 SIMMONS STREET, ENMORE

File Ref: DA201800137

Synopsis

This report concerns an application to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house. The application was notified in accordance with Council's Notification Policy and no submissions were received.

The proposal fails to comply with Council's planning controls, primarily in relation to Heritage.

In view of the assessment history and the applicant's unwillingness to comply with Council's Advice, the application is unsupportable and is recommended for refusal.

PART A - PARTICULARS

Location: Western side of Simmons Street, Enmore, between Enmore Road and Pemell Street.

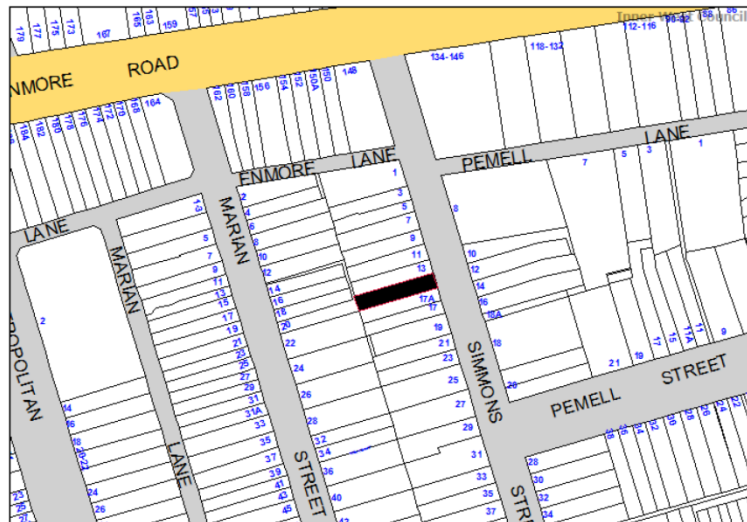


Image 1: Location Map

D/A No:	201800137
Application Date:	27 March 2018
Proposal:	To demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house.
Estimated Cost:	\$263,000
Applicant:	Seeman Rush Architects
Zoning:	R2 - Low Density Residential

PART B - THE SITE AND ITS ENVIRONMENT

Improvements: Two storey dwelling house



Image 2: The Site

Current Use: Residential

Prior Determinations: None relevant

Environment: Residential

PART C - REQUIREMENTS

1	Zoning <i>Is use permissible in zoning?</i>	Yes
2	Development Standards (Statutory Requirements):	
	Type	Required
	Height (max)	9.5m
	Floor Space Ratio (max)	1.1:1
3	Departures from Development Control Plan:	
	Type	Required/Proposed
	Parking	See Report for comment
	Good Urban Design Practice	See Report for comment
	Streetscape and Design	See Report for comment
	Built form and character	See Report for comment
	Heritage	See Report for comment



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15 SIMMONS STREET, ENMORE**

Strategic Context

See Report for comment

4 Community Consultation:

Required: Yes (newspaper advertisement, on-site notice and letter notification)
Submissions: None

5 Other Requirements:

ANEF 2033 Affection: 20-25ANEF
Marrickville Section 94/94A Contributions Plan 2014: \$2630.00

PART D - ASSESSMENT

1. Background

Council's PDA201700094 Letter sent 31 August 2017 advised that the subject site falls within the Enmore-Newtown Heritage Conservation Area (HCA 12), abuts the Enmore House Estate Heritage Conservation Area (HCA 13) and is in the vicinity of two items of local significance – Victorian Italianate Style Villas known as Butleigh at 8 Simmons Street (Item I168) and Yarrowa at 18 Simmons Street (Item I169). Amongst other matters, Council's Heritage and Urban Design Advisor recommended that the additional bulk at level 2 to accommodate an office space at level 2 be removed because it would be visible from the street and of unacceptable heritage impact.

In addition to Heritage, other matters referred to in PDA201700094 included FSR, Building Height, Tree Management, Development in areas subject to Aircraft Noise, Acoustic and Visual Privacy, Solar Access and Overshadowing, Landscaping and Open Spaces and Building Setbacks.

Council's PDA201700171 Letter sent 20 November 2017 acknowledged efforts to formulate a design which has minimal visibility from the street. The applicant was advised that a second floor addition above bedrooms 1 and 2 of any form is unsupportable, and reference was made to Part 8.2.14.6 *Applicable conservation controls* of MDCP2011:

The core period of heritage significance is 1850-1915. Any buildings, archaeological Evidence or significant elements of the fabric from this or any earlier period must be Retained and maintained.

Contrary to Council's advice, the application has made an application for a second storey which is the subject of this assessment report.

2. The Site and Surrounds

The site is known as 15 Simmons Street, and is located on the Western side of Simmons Street, Enmore, between Enmore Road and Pemell Street. The site comprises Lot 1 in Deposited Plan 103315 and is approximately 141 square metres in area.

The site contains a two storey dwelling house. The surrounding streetscape consists mainly of single and two storey dwelling houses. The site is adjoined by 13 Simmons Street which contains a two storey dwelling house with a single storey component at the rear and 17A Simmons Street which contains a two storey dwelling house.

3. The Proposal

Approval is sought to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house. A copy of the site plan and elevations of the development submitted with the application are reproduced below:

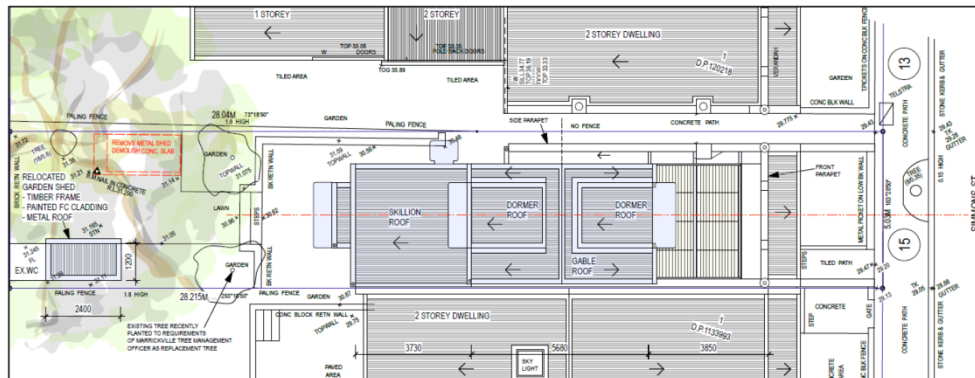


Image 3: Site Plan

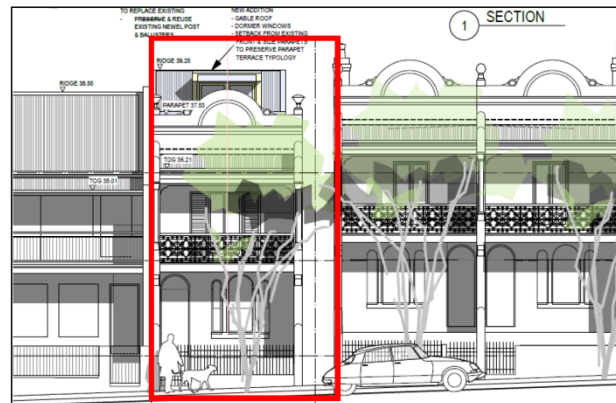


Image 4: Front Elevation

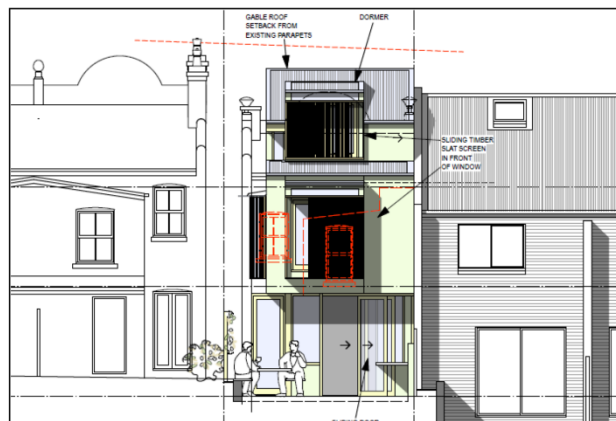


Image 5: Rear Elevation

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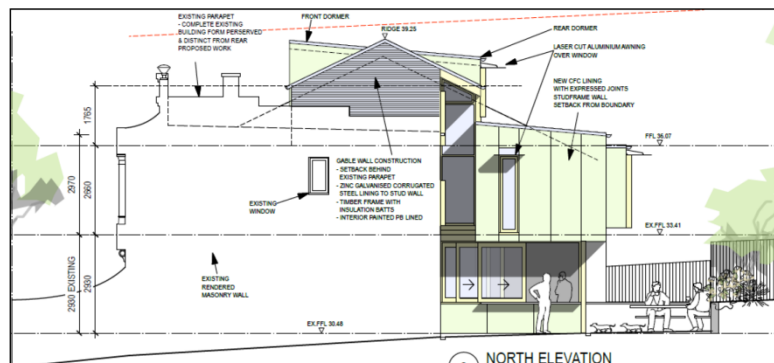


Image 6: North Elevation

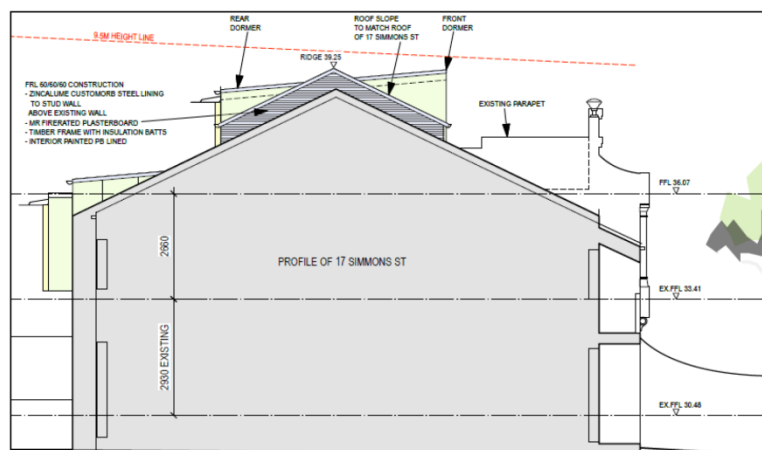


Image 7: South Elevation

4. 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.

5. 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 Marrickville Development Control Plan 2011 (MDCP 2011). There are a number of trees protected by MDCP 2011 which are discussed later in this report under the provisions of Part 2.20 of MDCP 2011.

6. Marrickville Local Environmental Plan 2011

(i) Aims of the Plan (Clause 1.2)

The development fails to comply with Sub-clause 1.2 (g) of MLEP 2011 [Aims of Plan] to identify and conserve the environmental and cultural heritage of Marrickville. The development is therefore



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15 SIMMONS STREET, ENMORE**

unacceptable having regard to the objectives for development under Marrickville Local Environmental Plan 2011 and cannot be supported.

(ii) Land Use Table and Zone Objectives (Clause 2.3)

The property is zoned R2 - Low Density Residential under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development is permissible with Council's consent under the zoning provisions applying to the land.

(iii) 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.

(iv) 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 9.1 metres, which complies with the height development standard. The issue of height is discussed in more detail later in the report under "Part 4 – Residential Development (Part 4.1.6.1)".

(v) 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 floor space ratio
≤150sqm	1.1:1
>150sqm but ≤200sqm	1.0:1

The property has a site area of 141sqm. The development has a FSR of 0.77:1 which complies with the FSR development standard. The issue of Floor Space Ratio is discussed in more detail later in the report under "Part 4 – Residential Development (Part 4.1.6.1)".

(vi) Heritage Conservation (Clause 5.10)

As identified in Part 1 of this report [Background], the property is Heritage affected. Council's Heritage and Urban Design Advisor has assessed the Heritage Impact Statement (HIS) submitted with the application as being inadequate as it does not adequately address the significance of conservation controls – This is discussed in Part 8 of this report [HERITAGE]. The proposal fails to demonstrate that it meets Objective (b) of Part 5.10 of MLEP 2011 *'to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views'* and cannot be supported.

(vii) Earthworks (Clause 6.2)

The earthworks proposed are for a smaller scale residential development and as such are reasonable having regard to Clause 6.2 of MLEP 2011.

(viii) 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 could result in an increase in the number of people affected by aircraft noise.



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The development would need to be noise attenuated in accordance with AS2021:2015. An Acoustic Report was submitted with the application which details that 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. The report contains recommendations to be incorporated into the development in order to mitigate acoustic impacts.

7. Draft Marrickville Local Environmental Plan 2011 (Amendment 4)

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are irrelevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

8. Marrickville Development Control Plan 2011

An assessment of the development having regard to the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011) is provided below.

PART 2 – GENERIC PROVISIONS

(i) 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.

(ii) 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. Timber Slat Privacy Screening is proposed to Window W4 and a Sliding Timber Slat Sun & Privacy Screen are proposed along the length of the first floor window seat. Given the room use and configuration and the location of the windows, the proposed arrangements are considered reasonable.

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.

(iii) Solar Access and Overshadowing (Part 2.7)

Overshadowing

The applicant submitted June shadow diagrams with the application, which indicate:

- Shadows are cast onto rooftops and a small portion of the subject site at 9am;
- Shadows are cast onto rooftops and a small portion of the subject site and 17 and 17A at 10am and 11am;
- Shadows are cast onto rooftops and a small portion of the subject site at 12noon and 1pm;
- Shadows are cast onto rooftops at 2pm and 3pm; and



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- Glazed areas in the back of adjoining properties are unaffected.

It is also evident from the shadow diagrams that a reasonable amount of sunlight is retained to the open space of adjoining properties.

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 minimum two hours of direct sunlight over 50% of its finished surface between 9:00am and 3:00pm on 21 June.

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.

(iv) 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.

(v) 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 proposed. The proposal therefore does not comply with this requirement. This is an existing situation, which given the heritage affectation is considered appropriate.

(vi) Landscaping and Open Spaces (Part 2.18)

The landscaped area and private open space is appropriate given:

- The entire front setback is to consist of pervious landscaping with the exception of the pathway;
- The plans indicate approximately 45sqm of open space [45sqm is required], with no dimension being less than 3 metres; and
- In excess of 50% of the private open space is to be maintained as pervious landscaping.

(vii) Tree Management (Part 2.20)

The application was referred to Council's Tree Management Officer who provided the following comments:

The proposed works to the dwelling should not have any impact upon trees if appropriate protection is provided to exclude development related activities from the designated Tree Protection Zone (TPZ).

The proposed removal of the shed, demolition of the concrete slab supporting the shed and the erection of a garden shed are within the designated TPZ of the high retention value lemon-scented gum in the back yard. The existing shed and slab are within the Structural Root Zone (SRZ) and the location in which the shed is proposed to be erected is on the perimeter of the SRZ.

If there was excavation for a slab for the shed, the encroachment by the shed would extend past its footprint, due to the likely severance of roots, and result in approximately 10% encroachment. It is considered prudent to mitigate the impact that would result from this degree of encroachment and require that if the shed is to be supported upon a concrete slab, the concrete slab must be suspended on piers, not a continual footing or other method that resulted in continuous excavation.

The recommended conditions will permit these works within the TPZ and require appropriate work methods and tree protection measures.

The TPZ shall be designated as the area within 8.0 metres from the rear boundary. A TPZ fence will extend across the back yard adjacent to the retaining wall excluding access to the designated TPZ. Approved works within the designated TPZ shall comply with the relevant work methods and tree protection measures.

Council's Tree Management Officer has recommended conditions which should be imposed on any consent granted.

(viii) Site Facilities and Waste Management (Part 2.21)

The application details adequate site facilities with regard to the provision of clothes drying areas, waste storage areas and collection points and letter box facilities. This element of the application is satisfactory. A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application.

(ix) Contaminated Land (Part 2.24)

A review of Council's records coupled with information provided in the Statement of Environmental Effects (SEE) demonstrates that the site has not been used for a purpose that may have resulted in contamination.

(x) Stormwater Management (Part 2.25)

The application includes a Concept Drainage Plan which indicates stormwater discharge to kerb. The proposal is considered to comply with Part 2.25 of MDCP 2011.

PART 4 – RESIDENTIAL DEVELOPMENT**Part 4 – Low Density Residential Development**

(i) Good Urban Design Practice (Part 4.1.4)

The application has includes a site and context analysis which amongst other points, states that the second storey addition is located well behind the existing front parapet of the house and that the height and scale of the addition has been designed to harmonise with the neighbouring dwellings at the rear. The document contends that due to narrow side setbacks and the existing parapet, the additions will not be visible and therefore will not impact on the streetscape of the HCA. However, assessment by Council officers reveals that the additions will be visible in the street.

In addition to streetscape visibility, the development cannot be considered to constitute Good Urban Design Practice because it would not enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for the site as required by points 2 and 3 of Part 4.1.4 of MDCP 2011.

(ii) Streetscape and Design (Part 4.1.5)

Objective 09 of Part 4.1.5 of MDCP 2011 is for infill development that complements or embellishes the character of an area. The proposal fails to meet this objective because it fails to meet several of the Objectives and Controls of Part 8 [Heritage]. The proposed development would detract from rather than enhance the existing built character as it would not respect the consistent massing, bulk and arrangement of the federation period terraces houses in the streetscape and would result in an undesirable precedent for infill development in the street.

(iii) Floor Space Ratio and Height (Part 4.1.6.1)

The objectives of Part 4.1.6.1 of MDCP 2011 includes requirements to enhance the character and quality of streetscapes and to ensure alterations and additions to residential period dwellings do not detract from the individual character and appearance of the dwelling being added to and the wider streetscape character. These objectives help inform the appropriateness of *built form and character* [Part 4.1.6 of MDCP 2011]. The proposal fails to meet these objectives as it would result in an intrusive element when viewed from the streetscape, rear of the site and adjoining properties.

(iv) Building Setbacks (Part 4.1.6.2)

The development generally satisfies the side and rear setback controls outlined in MDCP 2011. However, the proposal is unsupportable in terms of its street context.

(v) Site Coverage (Part 4.1.6.3)

The table below demonstrates that the proposal is subject to a merit assessment.

Site Area	Site Coverage Permitted (max.)	Site Coverage Proposed	Compliance
0-300sqm	On-merit		
>300-350sqm	60%	43%	Yes

The proposal:

- 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, waste management, clothes drying and stormwater management.

The development is reasonable having regard to the objectives and controls relating to site coverage contained in MDCP 2011.

PART 8 – HERITAGE

As identified in Part 1 of this report [Background] and Part 6 (vi), the property is located in the Enmore-Newtown Heritage Conservation Area (HCA 12), abuts the Enmore House Estate Heritage Conservation Area (HCA 13) and is in the vicinity of two items of local significance – Victorian Italianate Style Villas known as Butleigh at 8 Simmons Street (Item I168) and Yarrows at 18 Simmons Street (Item I169). The application was referred to Council's Heritage and Urban Design Advisor who provided the following Discussion and Recommendations:

Discussion

1. *The proposed DA has not adequately addressed the recommendations at Pre-DAs and in meetings to reduce the degree of demolition and removal of original building fabric, to remove the third level from the application and to maintain the primary roof form and internal ceiling at Level 1 intact.*
2. *The Heritage Impact Statement (HIS) does not adequately address the significance of and conservation controls applicable to the HCA 12 in MDCP 2011 Part 8.2.14 and does not adequately address the applicable objectives and controls in MDCP 2011 Parts 8.3 and 8.5.1. Overall, the HIS does not provide a well-rezoned justification in support for the third level nor the extent of demolition of original built form, roof form and building fabric at both the primary building and the rear wing.*
3. *As stated in MDCP 2011 Part 8.2.14.6, the core period of heritage significance of HCA 12 is 1850-1915. Any buildings, archaeological evidence or significant elements of the fabric from this or any earlier period must be retained and maintained. The original primary roof form (skillion metal roof concealed behind a parapet wall) is a significant element of the fabric of the contributory building and a key element of the building typology. The demolition of the original roof and ceilings at Level 1 and construction of a third level are contrary to the conservation controls in Part 8.2.14.6 and cannot be supported.*
4. *The built form, roof form and building setbacks of the rear wing and internal timber stairwell are original fabric, which are significantly intact. The demolition of the rear wing for the construction of a new contemporary rear wing and removal of the original timber stairwell will detrimentally impact the significance of HCA 12 and is contrary to the conservation controls in MDCP 2011 Part 8.2.14.6. The demolition of the rear wing could only be considered if sufficient conservation and restoration works are provided to the primary building, including the preservation of the original timber stairwell, in order to mitigate the negative impacts caused by the demolition of the original rear wing.*
5. *HCA 12 demonstrates the principal characteristic of the development of the Marrickville Council area from an early estate to urban cultural landscape with substantial two storey Victorian terraces intended for the affluent middle classes and modest single and two-storey terraces. The preservation of the single and two-storey built form is paramount for the significance of HCA 12. The third level projecting above the original roof form would detrimentally impact the historical and aesthetic significance of HCA 12.*
6. *One of the core heritage values of HCA 12 is 'residential character is demonstrated through diversity of architectural styles within the single and two storey 19th century and Federation period terrace housing typologies'. The proposed third level would*

detrimentally impact one of the core heritage values of HCA 12 and would set an undesirable precedent for three-storey additions to terraces/villas in the area.

7. *Some of the elements that contribute to the consistency of the streetscape is [1] 'residential character demonstrated through diversity of architectural style within the single and two storey 19th century and Federation period terrace housing typologies'; and [2] 'roof forms appropriate to typology and period of construction, including roof forms of groups or runs of buildings that demonstrate consistent pitch and rhythm and a lack of major alterations to roof form and volumes'. The roof form of the properties at 11, 13 and 15 Simmons Street (skillion roof behind a parapet wall) demonstrates a high degree of consistency in terms of roof form, volume, pitch, rhythm and intact building fabric. The proposed third level will be visible from the street (oblique views from the sides along Simmons Street, views from Enmore Lane and views from adjoining backyards and buildings). It will detrimentally impact the architectural integrity of the contributory building and is inconsistent with key elements that contribute to the consistency of the streetscape and the HCA 12.*
8. *The proposed third level is contrary to MDCP 2011 Part 8.3 controls C19, 'New development (including extensions to the rear) that will be visible from the street must be no higher than the existing roof form or height of the building and must not overwhelm the existing built form'; C21 'Extensions and alterations visible from the street must be consistent with the overall massing and form of the property (refer to the specific style sheets) and must not dominate the existing building form'; C22 'Existing original roof forms (and, where possible, materials) must be retained to the front elevation and for the length of the main roof to the side elevations'; and C36 'the original scale, proportion, materials and detailing of street facades must be retained. The third level would be visible from the street. The third level is higher than the existing roof form. It overwhelms the existing built form. It is inconsistent with the overall massing and form of the traditional parapeted Victorian terrace. It involves demolition of and alterations to the primary original roof form (skillion roof behind a parapet wall). And it would detrimentally impact the original scale and proportion of the street façade.*
9. *As stated in MDCP 2011 Part 8.5.1, the Victorian Italianate and Victorian Filigree styles were applied to detached and semi-detached houses (single and two storey) and terraces. The integrity of the roof form is paramount for this building type. Parapeted Victorian terraces were predominantly two storeys with a skillion roof concealed behind the parapet wall. The proposed demolition of the original roof and construction of a third level projecting above the parapet wall, therefore, is contrary to MDCP 2011 Part 8.5.1.2 objectives O1 'To retain and if possible enhance the contribution of the property to the streetscape', O2 'To ensure any change in the HCA is sympathetic to the Victorian Italianate or Victorian Filigree style values of the property and its ability to contribute to the identified heritage values of the area', and O4 'To keep original roof forms and materials and the scale of the building as presenting to the street'.*
10. *The proposed gable roof projecting beyond the parapet wall is poorly considered and does not achieve an appropriate roof form for the typology and period of construction of the parapeted Victorian terrace.*
11. *Some of the elements that detract from the heritage significance of the area are alterations to roof forms and volumes and over-scaled and poorly proportioned additions. The proposed gable roof for the third level is over-scaled and out of proportion in relation to the traditional form of the parapet wall and is considered a detracting element that would negatively impact the contribution that the existing building make to the significance of HCA 12.*



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12. *The preservation and restoration of original internal building fabric to the first room at Ground Level (lounge) and Level 1 (Bedroom 1) is supportable in principle. However, the proposal has not provided sufficient information about preservation and restoration of internal building fabric.*
13. *The removal of the original stairwell is contrary to the conservation control in MDCP 2011 Part 8.2.14.6 and is not supported. The stairwell is in good condition and should be preserved.*
14. *The lowering of the ceiling at Level 1 to accommodate a third level is contrary to the conservation control in MDCP 2011 Part 8.2.14.6 and is not supported.*
15. *The applicant needs to clarify whether they intend to paint the original contributory building. If so, a detailed colour scheme should be provided. Black/white/grey schemes are not supported.*

Recommendations

Given the above, the proposal is recommended for refusal or the applicant should be invited to withdraw the application.

Given that the applicant has submitted plans which have not adequately responded to the two separate PDA discussions regarding the second floor, it is clear that the applicant does not wish to comply with heritage controls contained within Part 8 of MDCP 2011. The proposal is therefore unsupportable.

PART 9 – STRATEGIC CONTEXT

The property is located in the Camdenville Planning Precinct (Precinct 14) under Marrickville Development Control Plan 2011. Item 7 of Part 9.14.2 specifies the desired future character of the area as:

7. *To protect the identified values of the Enmore-Newtown Heritage Conservation Area, Enmore House Estate Heritage Conservation Area and the Holmwood Estate Heritage Conservation Area.*

The proposal is deemed inconsistent with the desired future character of the Camdenville Planning Precinct because it fails to protect the identified values of the HCA as discussed earlier in this report.

9. Marrickville Section 94/94A Contributions Plan 2014

A Section 7.12 levy of \$2630.00 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014.

10. Community Consultation

The application was advertised, an on-site notice was erected and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's Policy. No submissions were received.

11. Conclusion

The heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application. The proposal generally complies with Council's controls and will not



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result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is unsupportable and in view of the circumstances, refusal of the application is recommended.

PART E - RECOMMENDATION

A1. THAT the development application to demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house be **REFUSED** for the following reasons:

1. The proposal fails to adequately identify and conserve the environmental and cultural heritage of Marrickville. In this regard fails does not comply with Sub-clause 1.2 (g) of Marrickville Local Environmental Plan 2011 [Aims of Plan].
2. The Heritage Impact Statement does not adequately address the matters of conservation significance. In this regard the proposal fails to demonstrate consistency with Objective (b) of Part 5.10 of Marrickville Local Environmental Plan 2011 '*to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views*'.
3. The development does not complement or enhance the streetscape character of the locality, nor does it ensure the scale of development is appropriate for the site resulting in poor urban design, built form and character. In this regard the proposal fails to comply with the objectives and controls contained in Part 4.1 of Marrickville Development Control Plan 2011.
4. The proposed development fails to comply with the objectives and controls contained within Part 8.3.2, 8.5.1.2 and 8.2.14.6 of Marrickville Development Control Plan 2011 in that the third level would overwhelm the existing built form and would be inconsistent with the overall massing and form of the traditional parapeted Victorian terrace and wider streetscape. Furthermore, the demolition of the original roof form and rear wing is contrary to conservation controls and alterations to the building fabric are contrary to preservation and restoration principles.
5. The proposal is inconsistent with the desired future character of the Camdensville Planning Precinct. In this regard the proposal fails to comply with the strategic context contained within Part 9 of Marrickville Development Control Plan 2011.
6. The proposal would not be in the public interest.

I declare to the best of my knowledge, there is no matter in relation to my role in processing this application that would give rise to the need to disclose any Conflict of Interest under Council's Code of Conduct.

A handwritten signature in dark ink, appearing to read "Kevin Smith".

Development Assessment Officer: Kevin Smith

Date: 8 August 2018



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DELEGATED DETERMINATION

I, Kaitlin Zieme, Senior Planner, Development Assessment by virtue of the delegation given to me by the General Manager of which I have no notice of revocation, and pursuant to the Environmental Planning and Assessment Act 1979, determine the application in the manner set out in the recommendation section of this report.

I declare to the best of my knowledge, there is no matter in relation to my role in processing this application that would give rise to the need to disclose any Conflict of Interest under Council's Code of Conduct.

Kaitlin Zieme

Delegate: Kaitlin Zieme

Date: 15 August 2018

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ADMIN INSTRUCTIONS

- ☐ Refusal - D2
☐ DA only application

DADelAuth.doc

<u>Premises:</u>	15 Simmons Street ENMORE
<u>Applicant:</u>	Seeman Rush Architects
<u>Proposal:</u>	To demolish part of the premises and carry out ground, first floor and attic alterations and additions to a dwelling house.
<u>Determination:</u>	Refusal
<u>DA No:</u>	201800137

I declare to the best of my knowledge, there is no matter in relation to my role in processing this application that would give rise to the need to disclose any Conflict of Interest under Council's Code of Conduct.

Adriana Ferreira

Admin Officer: ...Adriana Ferreira....

Date: ...16/8/18.....

Attachment B – Conditions in the circumstance the application is approved

Attachment B – Conditions in the circumstance the application is approved

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
A01 Rev 7	Site Plan	22/10/2018	Seemann Rush Architects	24/10/2018
A02 Rev 7	Ground Floor Plan	22/10/2018	Seemann Rush Architects	24/10/2018
A03 Rev 7	First Floor Plan	22/10/2018	Seemann Rush Architects	24/10/2018
A04 Rev 7	Second Floor Plan	22/10/2018	Seemann Rush Architects	24/10/2018
A05 Rev 7	Roof Plan	22/10/2018	Seemann Rush Architects	24/10/2018
A06 Rev 7	Elevations & Sections	22/10/2018	Seemann Rush Architects	24/10/2018
A07 Rev 7	Elevations & Sections	22/10/2018	Seemann Rush Architects	24/10/2018
A08 Rev 7	Materials & Finishes	22/10/2018	Seemann Rush Architects	24/10/2018
A311260	BASIX Certificate	26/03.2018	Peter Rush Architect	24/10/2018

and details submitted to Council on 24 October 2018 with the application for development consent and as amended by the following conditions.

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
- the plans and/or information approved under this consent; or
 - 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.
3. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
4. All prescribed trees shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent.
5. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with.

6. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

7. No work must commence until:
 - a) 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.
8. A Recycling and Waste Management Plan (RWMP) being prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.
9. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
10. 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 before work commences. Facilities must be located so that they will not cause a nuisance.
11. 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 17 Simmons 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.
12. 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.
13. A rigid and durable sign must be erected in a prominent position on the site, before 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'.
14. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
15. 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.

- 16. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
- 17. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- 18. The area between the side boundaries and within 8.0 metres of the rear boundary is designated as the Tree Protection Zone (TPZ) for the *Corymbia citriodora* (lemon-scented gum). The designated TPZ shall be enclosed by the existing dividing fences and a TPZ fence that extends the width of the subject property, parallel to and at least 8.0 metres from the rear (western) boundary. The tree recently planted to satisfy the condition for tree removal (ref. 1069023, 29/9/14) shall be encompassed within the designated TPZ. The TPZ fence shall be erected before work commences.
- 19. Trunk protection shall be installed on the street tree in front of the subject property, in accordance with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009.
- 20. The project arborist shall inspect the Tree Protection Zone (TPZ) measures and certify in writing to the Principal Certifying Authority that it complies with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 before work commences.
Note: Australian Standards can be purchased via the Standard Australia publisher SAI Global Limited at www.saiglobal.com.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 21. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction before the issue of 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

22. A levy of \$2,630.00 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 (Debit only) or credit card* before the issue of a Construction Certificate. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.12 levies **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

(LEVY PAYMENT REFERENCE NO. DC002437)

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.

23. 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).

24. 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.

25. 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 (FOOT)	\$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.

26. 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 before the issue of a Construction Certificate.
27. 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.
28. Lighting details of the entrance to the dwelling house must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

SITE WORKS

29. 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.
30. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
31. 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'.
32. 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.
33. 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;
 - j) 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 sub-contractors associated with the demolition are fully aware of these requirements.
34. 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.
35. 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.
36. 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.
37. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
38. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

39. The tree protection measures detailed in these conditions and the restricted activities listed in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 shall be implemented and complied with for the duration of works, except where these conditions permit otherwise. Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.
- Note: Australian Standards can be purchased via the Standard Australia publisher SAI Global Limited at www.saiglobal.com.
40. Trunk protection shall be installed on the *Corymbia citriodora* (lemon-scented gum) for the duration of any works within the designated Tree Protection Zone (TPZ). Ground protection shall be laid over areas within the designated TPZ where work will be carried out, as directed by the Project Arborist.
41. Works within the designated Tree Protection Zone (TPZ) shall be supervised by the project arborist. The project arborist shall directly supervise the removal of the existing shed, the demolition of the concrete slab and any excavation for piers. The concrete slab shall be removed manually. Woody roots shall not be severed or damaged in any way.
42. No excavation shall occur within 3.0 metres, the Structural Root Zone (SRZ), of the *Corymbia citriodora*. No continuous excavation shall occur within the designated Tree Protection Zone (TPZ). Excavation for piers for the shed is permitted outside the 3.0 metre SRZ but no woody roots shall be severed or damaged.

BEFORE OCCUPATION OF THE BUILDING

43. 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.
44. 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).
45. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
46. 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.
47. 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".

48. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree protection have been complied with and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.

USE OF THE BUILDING

49. 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.

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.
- 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.gov.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	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro 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 Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au

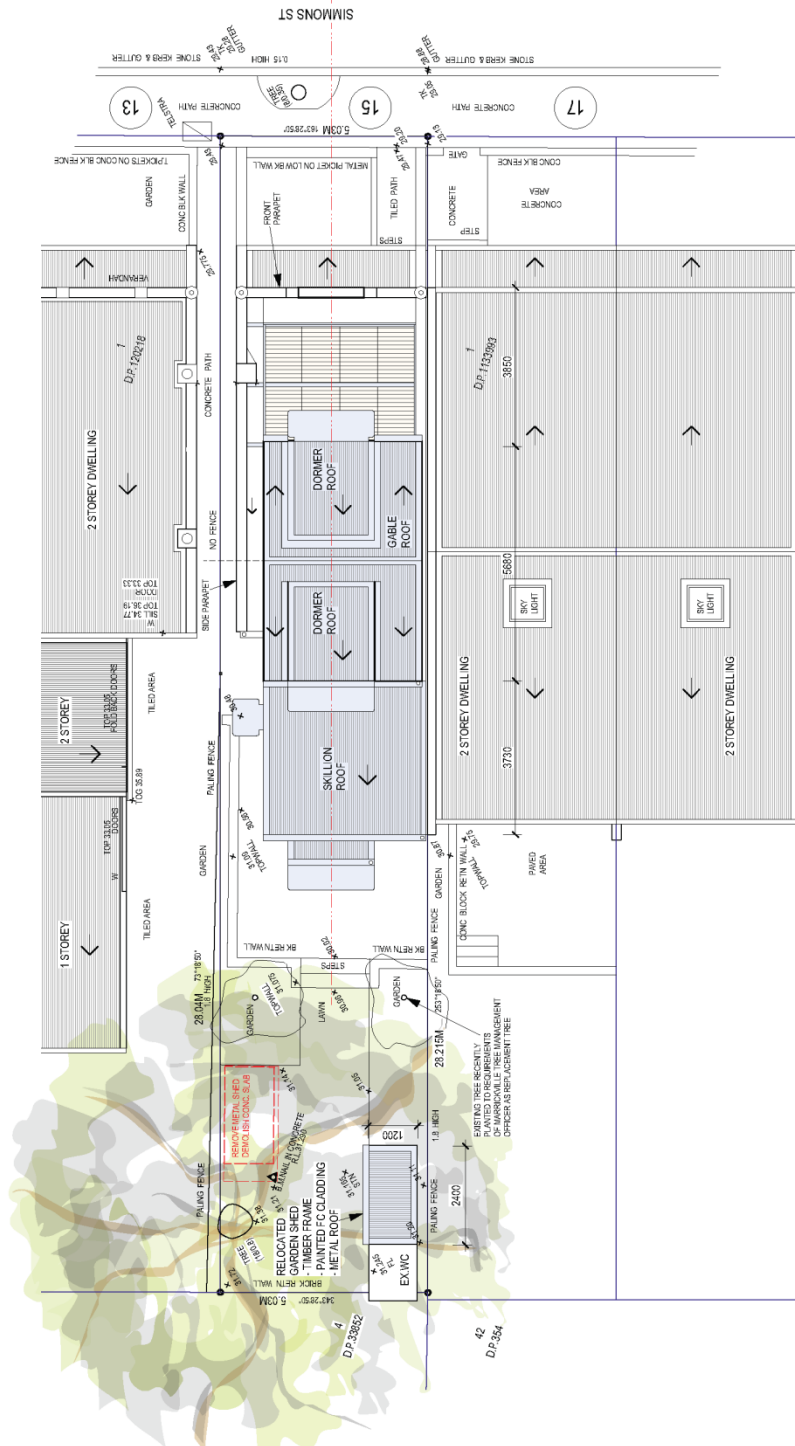
WorkCover Authority of NSW

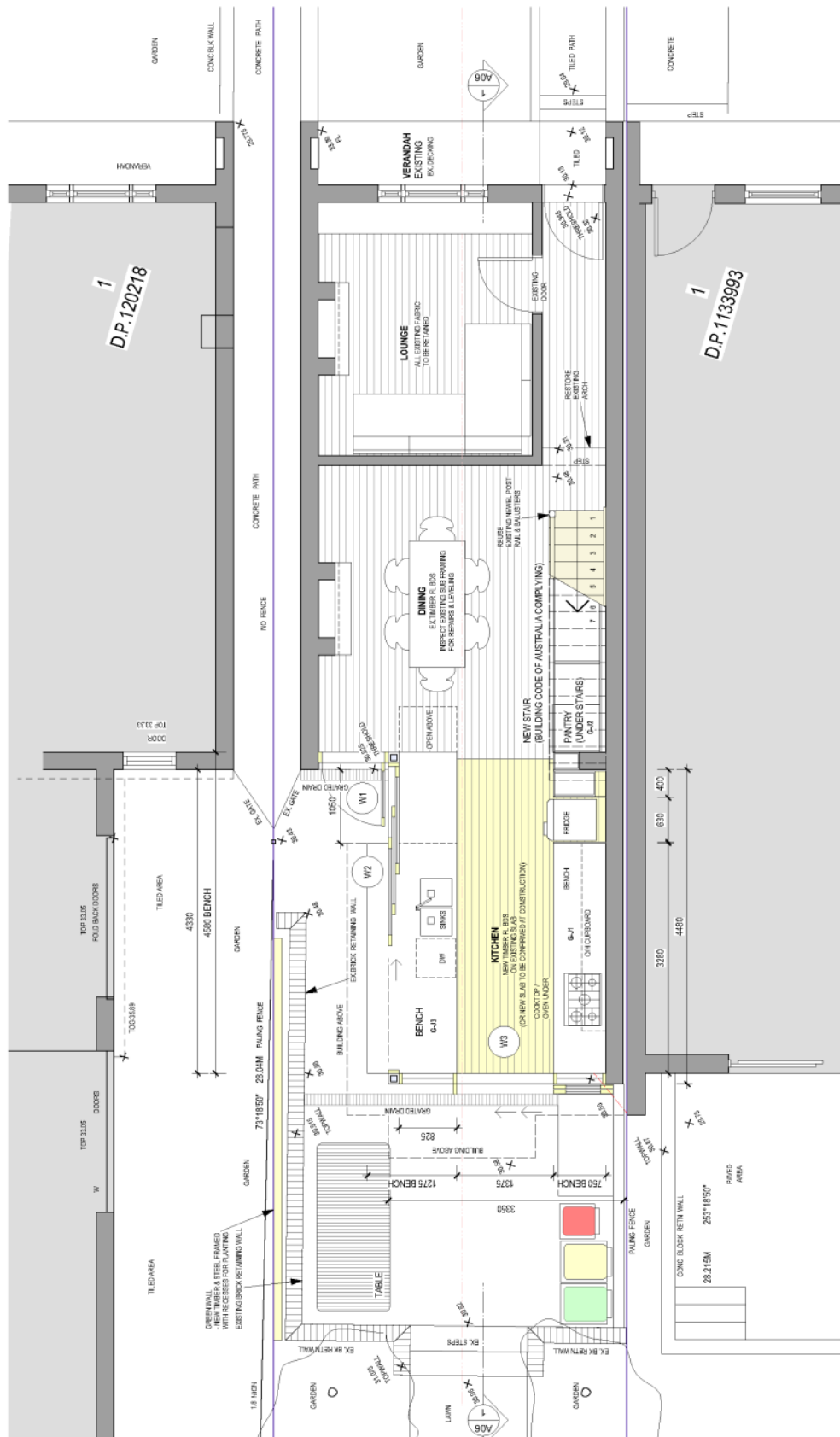
☎ 13 10 50

www.workcover.nsw.gov.au

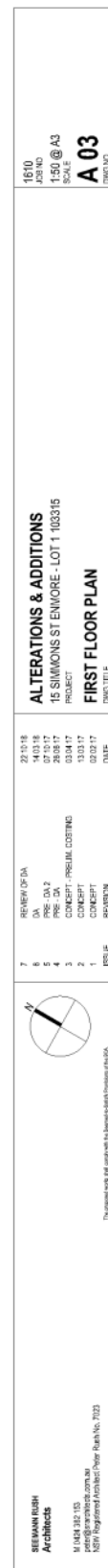
Enquiries relating to work safety and asbestos removal and disposal.

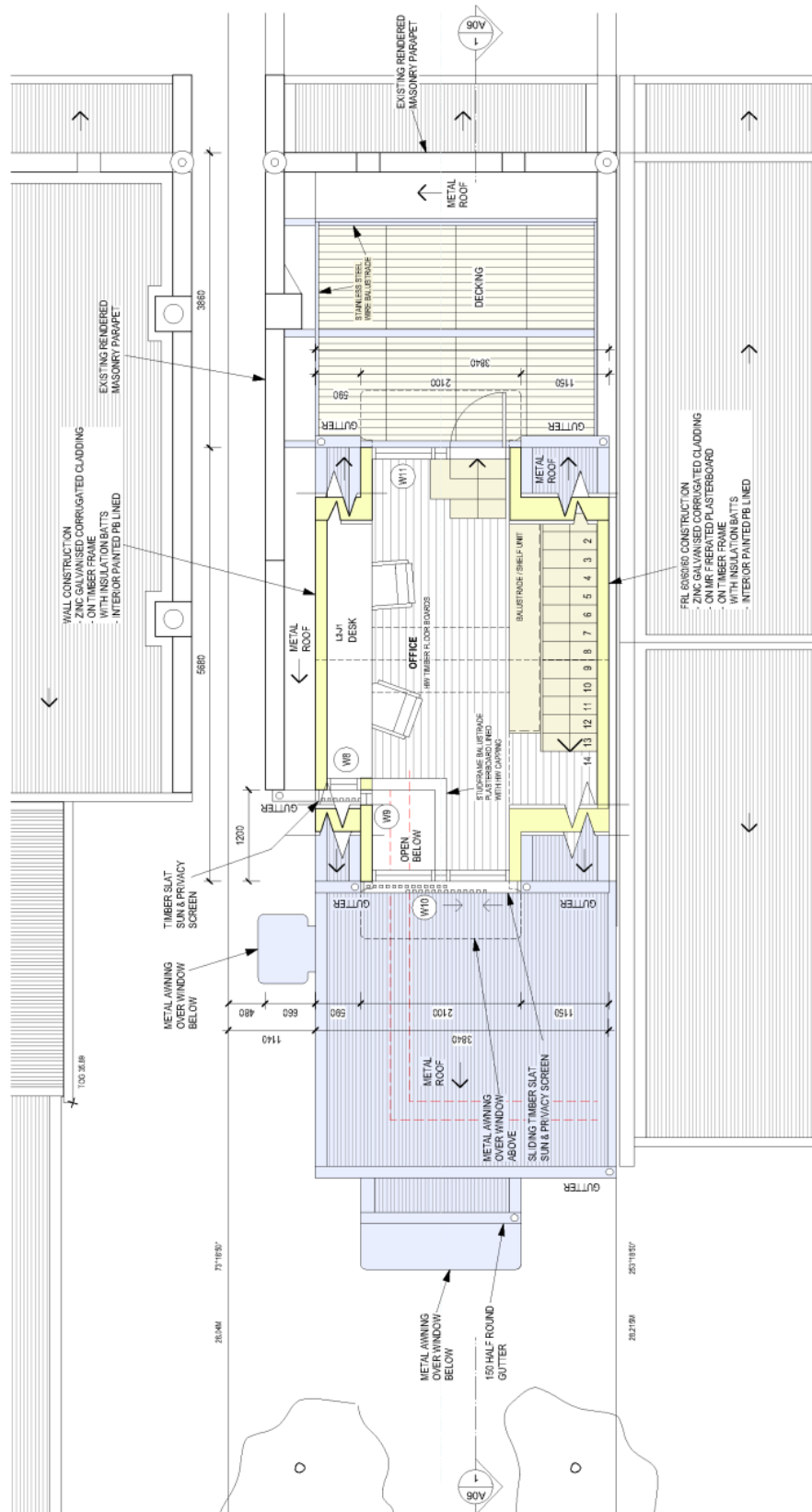
Attachment C - Plans submitted with review application


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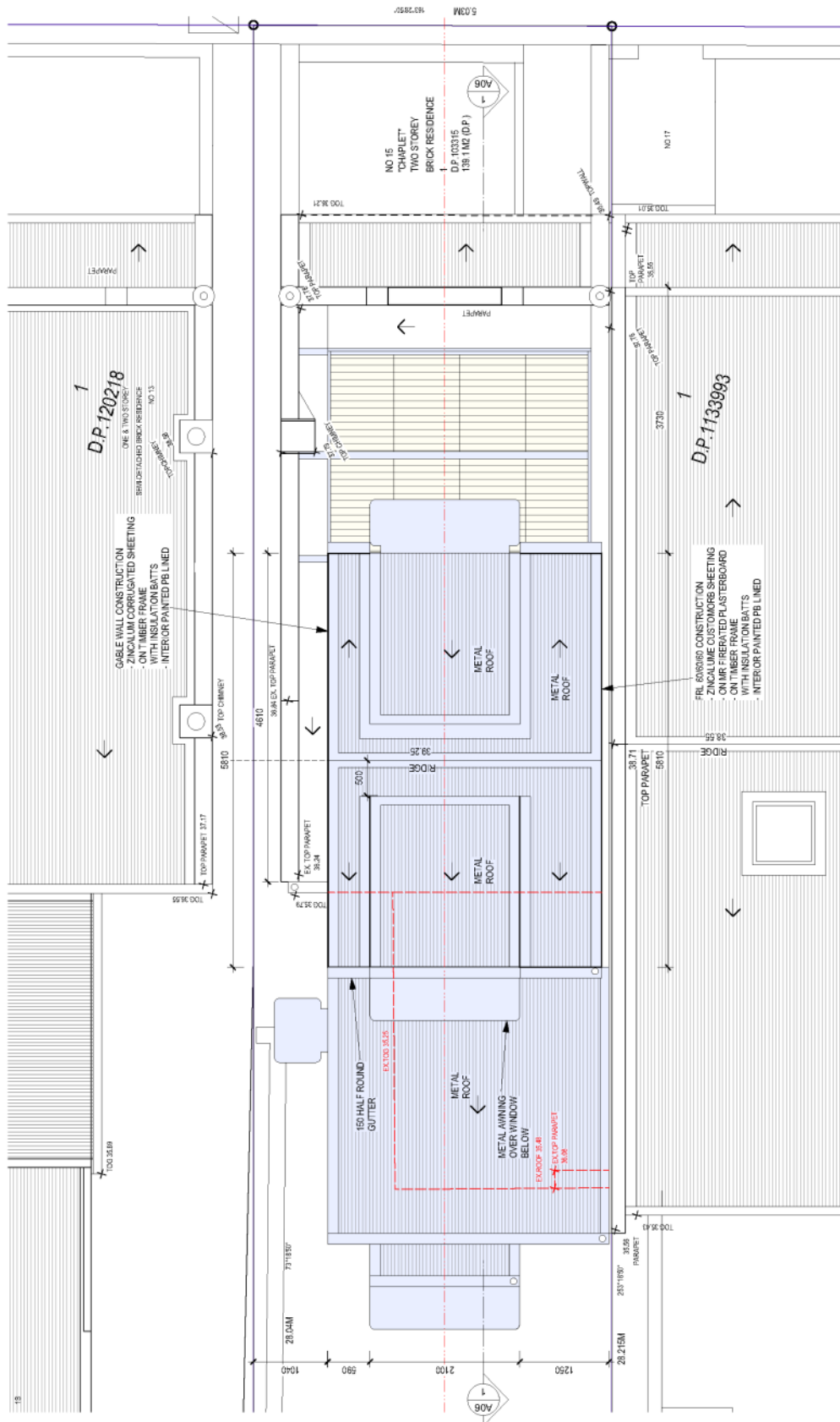


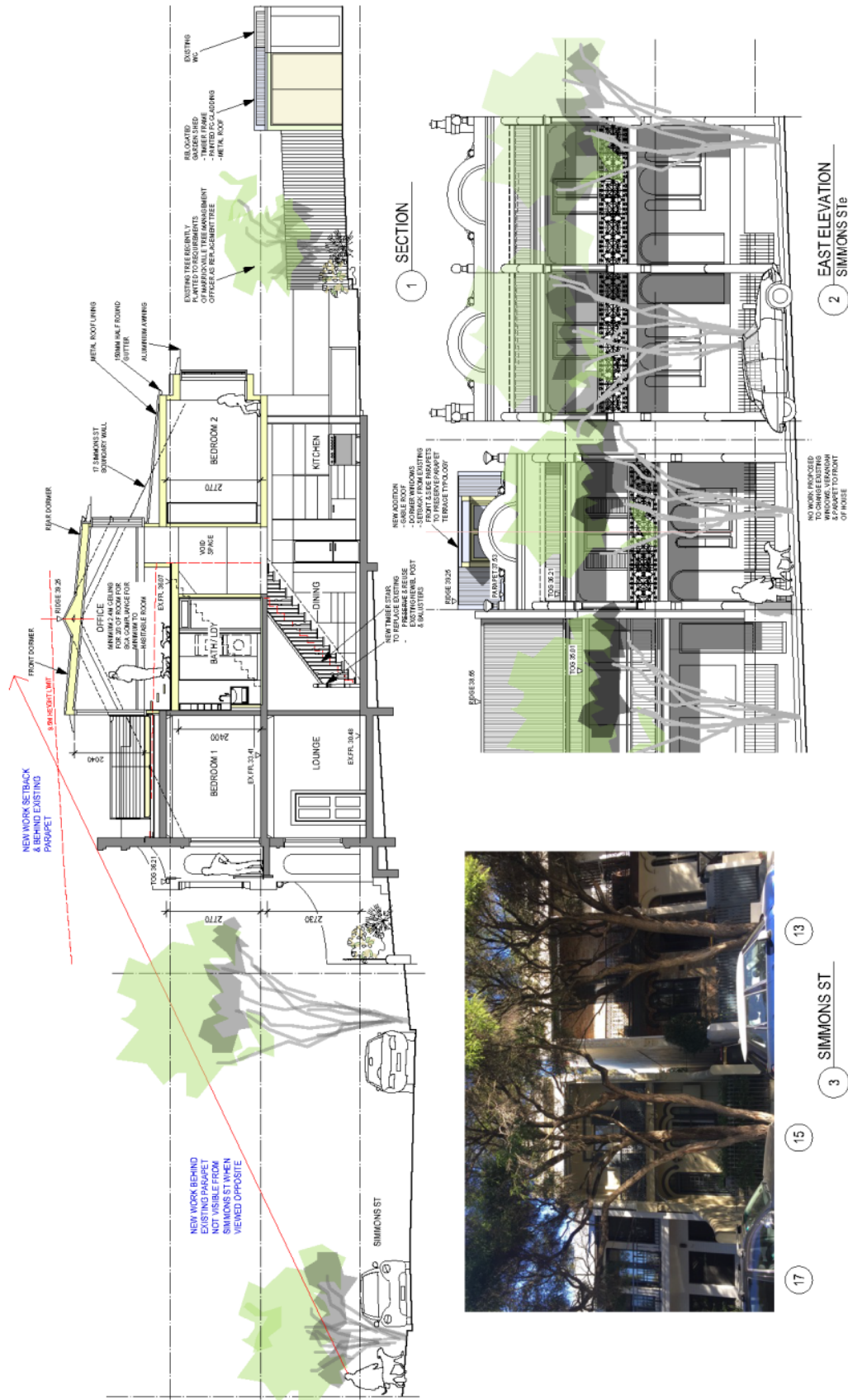
	7	REVIEW OF DA	23/10/18
	8	DA	14/03/18
	9	PRE - DA 2	07/10/17
	4	PRE - DA	28/05/17
	3	CONCEPT - PRELIM COSTING	03/04/17
	2	CONCEPT	13/03/17
	1	CONCEPT	02/02/17
	0	CONCEPT	02/02/17
page 01 of 01			
<p>Document created under the authority of the Architect's Certificate Number: 000 000 000</p>			
<p>BERNARD BUSH Architects M (08) 310 1153 info@bernardbush.com.au BSA Registered Architect - Shop Rm No. 70/23</p>			





<p>BERNARD RUOH Architects</p> <p>01 424 320 153 info@bernardruoh.com.au (NSW Registered Architect) (Her-Pass No. 7923)</p>		7	REVIEW OF DA	22/10/18	<p>ALTERATIONS & ADDITIONS 15 SIMMONS STEWORE - LOT 1/103/15 PROJECT</p> <p>SECOND FLOOR PLAN</p>	<p>4610 JOYNO</p> <p>1:50 @ A3 SCALE</p> <p>A 04</p>
		8	DA	14/03/18		
		9	PRE-DA-2	07/10/17		
		4	PRE-DA	28/05/17		
		3	CONCEPT - PRELIM. COORDING	10/04/17		
		2	CONCEPT	13/03/17		
		1	CONCEPT	30/12/17		



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FIRST FLOOR EXISTING FRONT BEDROOM - ALL ORIGINAL
CEILING PLASTERWORK, DOORS, HARDWARE, SKIRTINGS
& ARCHITRAVES TO REMAIN



EXISTING STAIR - TO BE REBUILT
AS COMPLYING STAIR TO THE BCA
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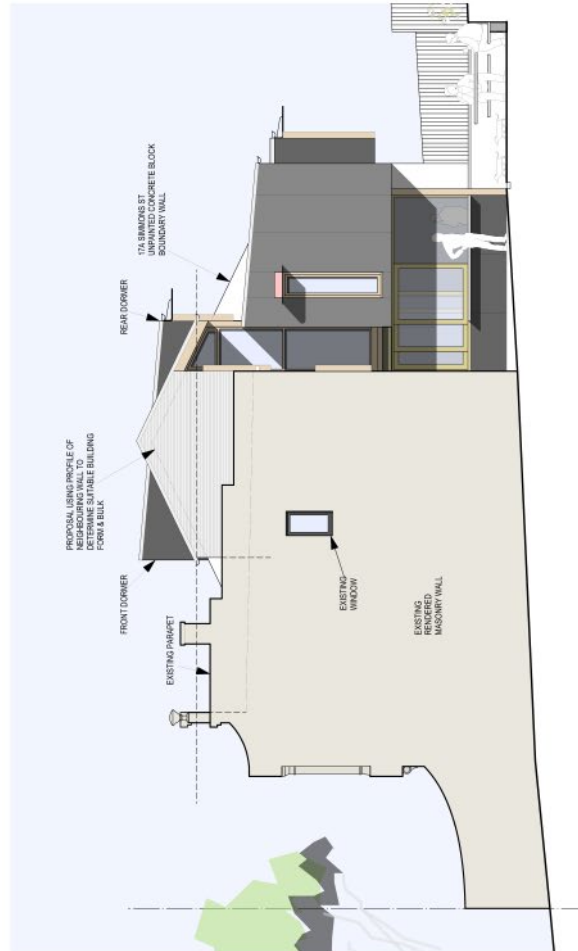


THE EXISTING EXTERIOR OF THE HOUSE SHALL REMAIN
UNCHANGED TO PRESERVE THE PARAPET TERRACE &
ALL DETAILS



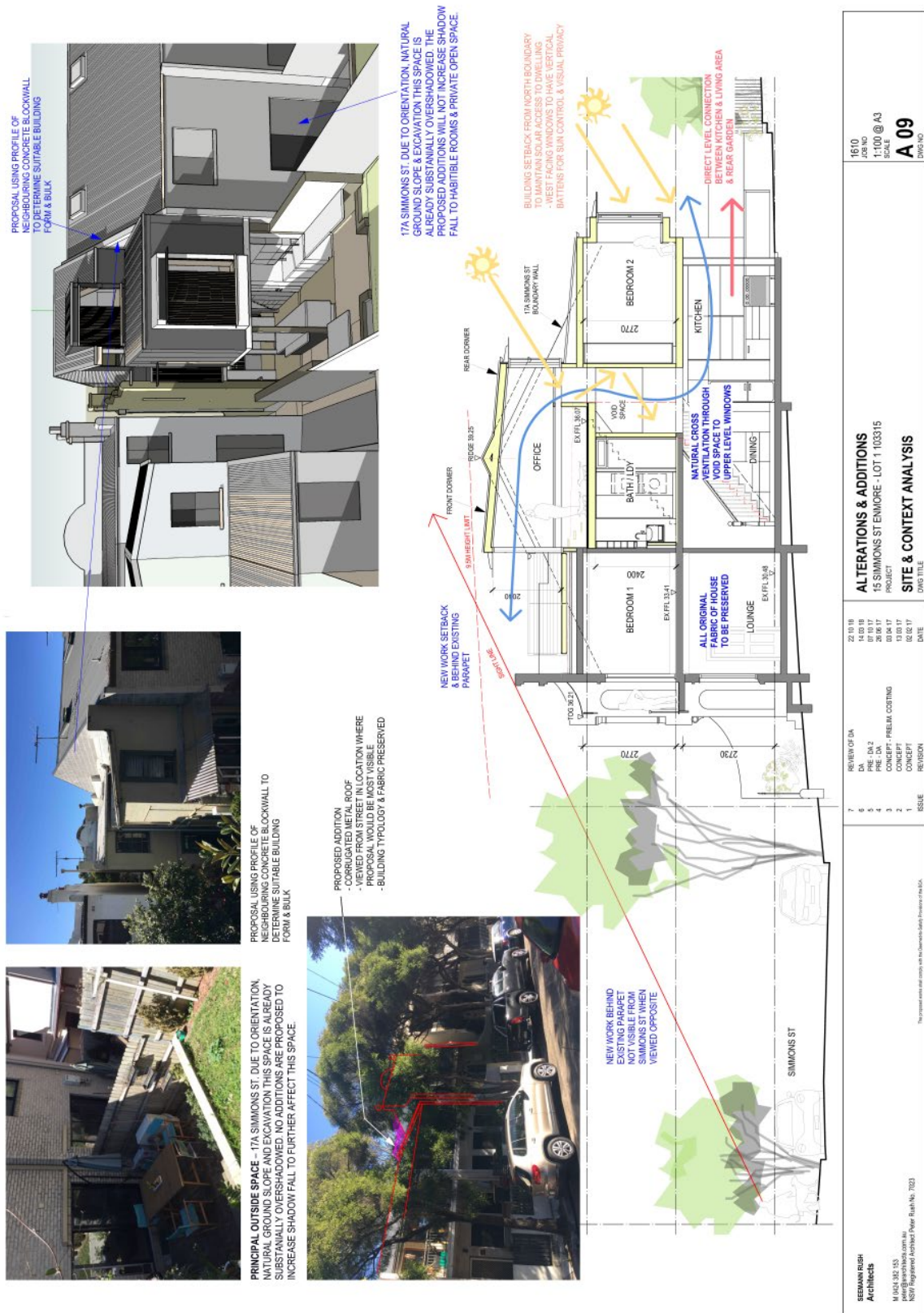
GROUND FLOOR EXISTING FRONT ROOM & ENTRY CORRIDOR - ALL ORIGINAL CEILING PLASTERWORK, ARCHWAY, DOORS, HARDWARE, SKIRTINGS & ARCHITRAVES TO REMAIN

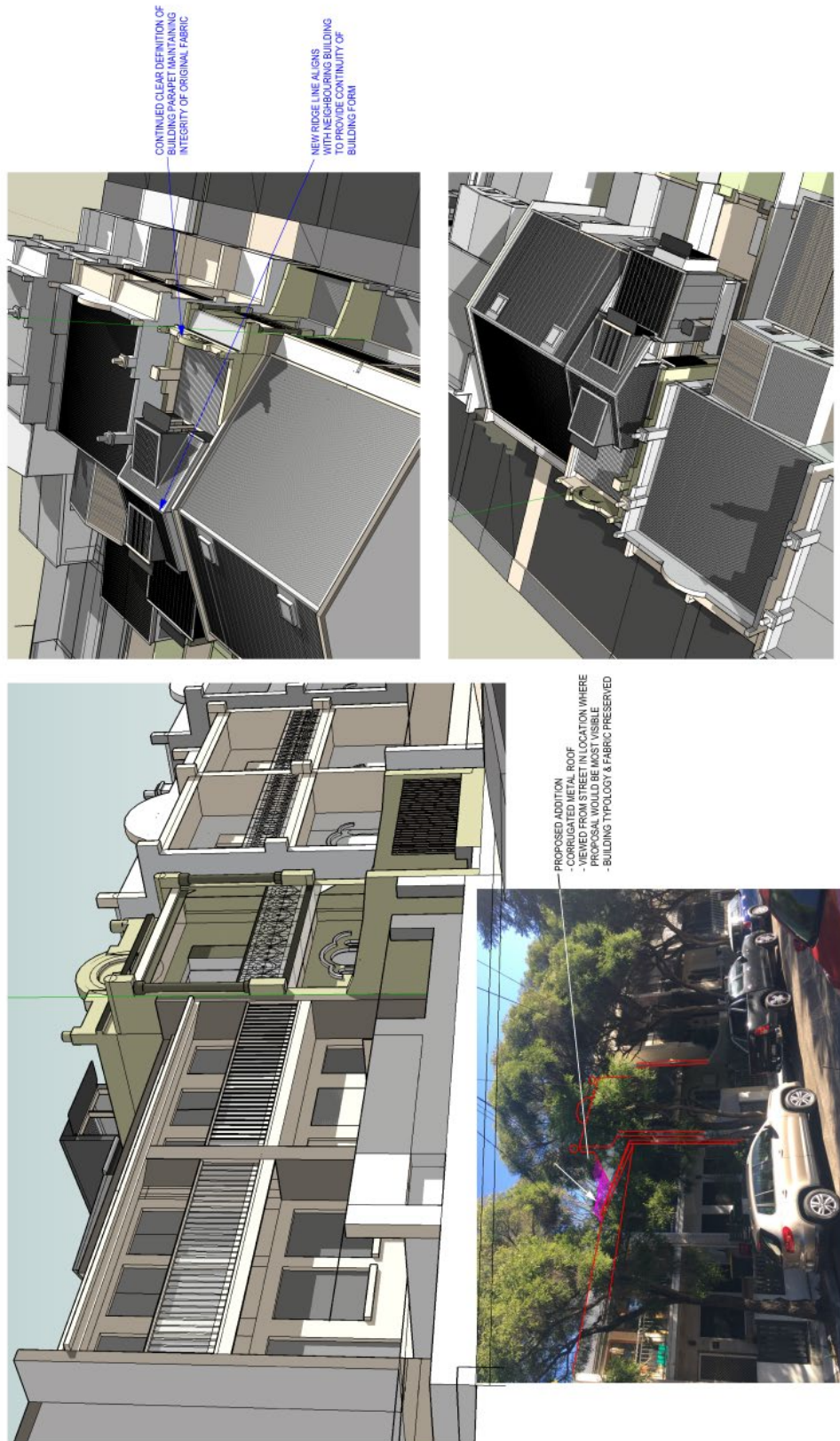
MATERIALS & FINISHES					
CODE	MATERIAL	FINISH	CODE	MATERIAL	FINISH
	EXISTING			CEMENT SHEET CLADDING	PAIN
	DEMOLITION				DULLUX MALAY GREY
	BRICKWORK	FACE		TIMBER DECKING	DULLUX SILKWOOT
	TIMBER DOOR/ WINDOW FRAMES	CLEAR OIL FINISH		MISCELLANEOUS TIMBER	CLEAR OIL FINISH
	GLAZING	CLEAR		CORRUGATED STEEL ROOFING / WALLCLADDING	ZINC GALVANISED
				MISCELLANEOUS STEEL	ZINC GALVANISED



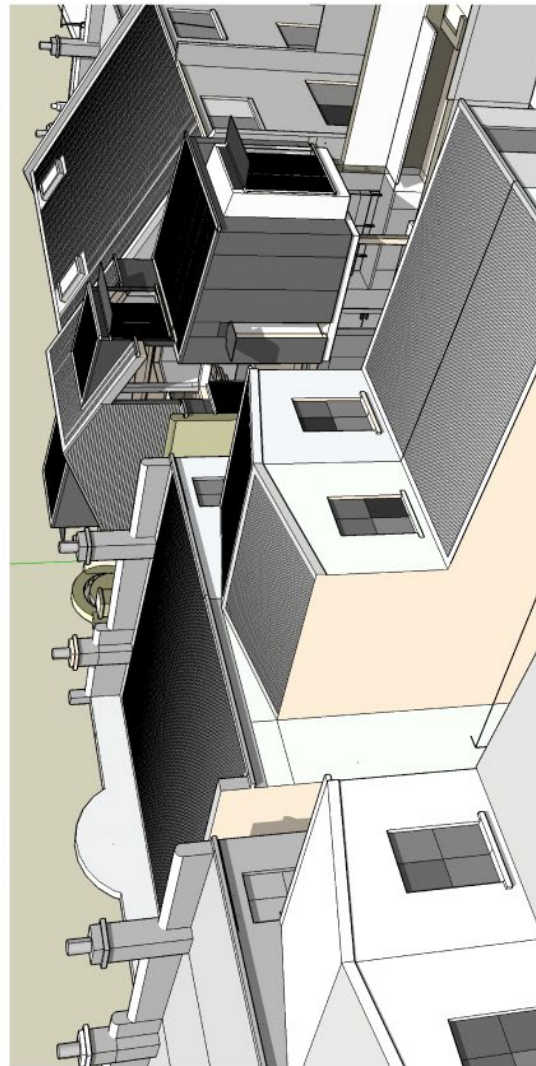
1 NORTH ELEVATION

SEEMANN RUSH Architects IN 646.362.153 info@seemannrush.com.au 1001 Regent Rd, #1400, Perth, South No. 7020	7. REVIEW OF DA DA PRE - DA 2 PRE - DA PRE - DA PRELIM. COORDING CONCEPT CONCEPT ISSUE REVISION	22.10.18 14.03.18 07.10.17 26.09.17 14.09.17 13.03.17 02.02.17 DATE	ALTERATIONS & ADDITIONS 15 SIMMONS STENMORE LOT 1 103315 PROJECT MATERIALS & FINISHES DWG TITLE	1810 J0100 1:100 @ A3 SCALE A 08 DWG NO





SEBASTIAN RUSH ARCHITECTS MARCH 2015 14/01/2015 NSW Registered Architect Permit No. 7023		7 6 5 4 3 2 1 ISSUE		REVIEW OF DA DA PRELIM DA PRELIM DA CONCEPT - PRELIM COSTING CONCEPT CONCEPT PRELIM COSTING		22.10.16 15.08.16 15.08.16 25.06.17 08.04.17 13.03.17 13.03.17 DATE		1610 JOB NO SCALE A 10 DRAWING		ALTERATIONS & ADDITIONS 15 SIMMONS ST ENMORE - LOT 1 103315 PROJECT SITE & CONTEXT ANALYSIS - PERSPECTIVE IMAGES DATE	
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BERNARD RUSH Architects M 0814 343 143 bern@bernardrush.com.au NSW Registered Architect Peter Rush No. 7023		The proposed work shall comply with the Development Control Provisions of the LGA.		7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 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Attachment D – Statement addressing reasons for refusal**Attachment D – Statement addressing reasons for refusal**

Review Details:	
Application Number to be reviewed:	DA201800137
Reason for Review:	<p>The development application was refused, however we request a review for the following reasons:</p> <ol style="list-style-type: none">1. Its principal form + character as seen from the street is conserved2. The proposal is a careful response to character and scale to enhance the liveability + function of the house3. The proposed work is subservient + suitable upgrade to a modest house, improving space + amenity whilst being respectful of its heritage
Does this application include amendments or additional information to the proposed development:	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please ensure a schedule listing all amendments or additional information to the proposal from that lodged with the application to be reviewed.</p>