

1. Executive Summary

This report is an assessment of the application submitted to Council for modifications to Development Consent No. 2015/638 which approved alterations and additions to dwellinghouse at 30 Church Street, Balmain. The application was notified to surrounding properties and no submissions were received.

The main issue that has arisen from the assessment of the application involves:

Floor Space Ratio

Notwithstanding the above non-compliance, the proposal is acceptable given the existing pattern of surrounding development and its acceptable amenity impacts, and therefore, the application is recommended for approval.

2. Proposal

This application seeks consent to modify Development Consent No. 2015/638 pursuant to the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 in the following way:

- Relocate the ground floor kitchen and dining area to the front and the living area to the rear
- Lower the ceiling height of Bedroom 2, hallway and bathroom to 2.5m in order to lower the finished floor level of the Attic from RL31.81 to RL 31.43
- Remove two skylights, extend attic to the rear and provide a new rear dormer window
- Remove external toilet in outbuilding at rear to provide enclosed bike storage

The proposal results in a 6.14sqm increase to the approved gross floor area of the building, which equates to a FSR of 1.1:1 or a variation of 10.06%. No other changes to the approved internal and external configuration or openings of the building are proposed.

The original Development Application determined on 12 February 2016 gave approval for Alterations and additions to the existing dwelling including extensions at ground and first floor level.

Extracts of the approved and proposed plans are shown in the figures below.

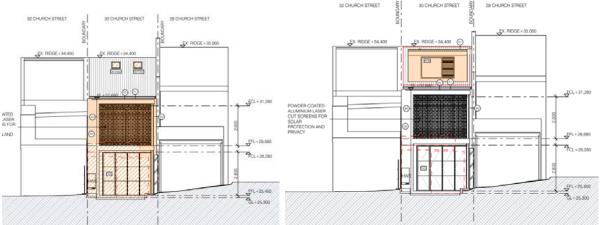


Figure 1: Approved Rear Elevation (left) and Proposed Rear Elevation (right) at 30 Church Street.

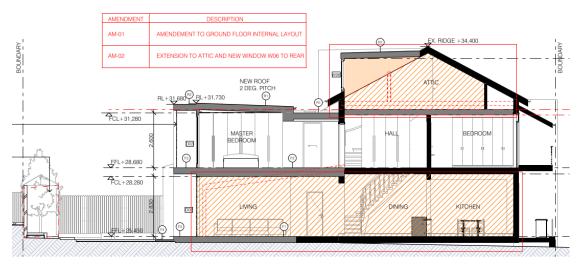


Figure 2: Proposed Section showing removal of first floor ceiling at 30 Church Street.

3. Site Description

The subject site is located on the western side of Church Street, between Darling Street and Curtis Road. The site consists of one allotment and is generally regular in shape with a total area of 118.7sqm and is legally described as Lot E in DP 928977.

The site has a frontage of 4.39m to Church Street.

The site presently accommodates one and two storey brick terrace dwellings. The adjoining properties consist of one and two storey brick terrace dwellings.

The site is located within the distinctive neighbourhood of Mort Bay Distinctive Neighbourhood, Upper Slopes Sub Area.

The subject site is not a heritage item but is located in a conservation area.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
BC/95/2011	Internal renovation of the dwelling where floors had been removed to the ground floor and first floor in accordance with structural detailing and internal walls were removed and replaced by steel beams.	Issued 5 December 2011.
D/2009/277	Alterations and additions to existing dwelling including rear ground floor addition and restore front facade. Approved FSR 0.91:1. Lapsed consent.	Approved 11 September 2009.

D/2015/638	•	Approved 12 February 2016.
	dwelling including extensions at ground	
	and first floor level.	

Surrounding properties

32 Church Street

Application	Proposal	Decision & Date
D/2012/101	Alterations and additions to existing dwelling including ground, first and second floor works and rear courtyard.	Approved 12 June 2012.
M/2012/130	Modifications to D/2012/101	Approved 6 November 2012.

4(b) Application history

Not applicable

5. Assessment

Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

The proposed modification is of minimal environmental impact.

The proposal seeks minor internal alterations and an extension to the existing attic with a
rear dormer. While the proposal as modified increases overall floor space, the proposed
modifications will not result in any adverse amenity or streetscape impacts and as such,
this test is satisfied.

The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

 The proposal as modified involves a minor internal alterations and a rear extension of the existing attic and as such, is considered to be substantially the same as the originally approved development.

The application has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if council's development control plan requires the notification or advertising of applications for modification of a development consent.

 The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties. No submissions were received.

Consideration of any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.

Not applicable.

Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

Consideration of any of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the consent that is sought to be modified.

• Refer to Section 4.15(1) discussion below. The proposed modifications do not alter the original reasons given for the grant of consent.

5(a) Environmental Planning Instruments

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

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

5(a)(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is not within the Foreshores and Waterways Area.

5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 Aims of the Plan
- Clause 2.3 Zone objectives and Land Use Table
- Clause 4.4 Floor Space Ratio
- Clause 4.5 Calculation of floor space ratio and site area
- Clause 5.10 Heritage conservation
- Clause 6.4 Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliance
Floor Space Ratio	1.1:1	10.06%	No
Required: [0.9:1]	130.65sqm		
[GFA of 106.83sqm]			

Note: The existing building has a non-compliant FSR of 1.049:1 (GFA of 124.51sqm) and the additional 6.14sqm of GFA is contained within the rear attic dormer.

The proposal is not technically subject to the provisions of Clause 4.6 and does not require a formal request to vary the FSR development standard. Nevertheless, it is considered that the proposed 10.06% variation to the FSR development standard is acceptable in this instance because the proposal does not result in any adverse amenity or streetscape impacts and it is compatible with the existing character of the area in terms of building bulk, form and scale.

In this regard, the adjoining property to the north at 32 Church Street has an FSR of 1.15:1 (or GFA of 136.6sqm) largely due to a rear third storey attic extension as shown in the figure below.

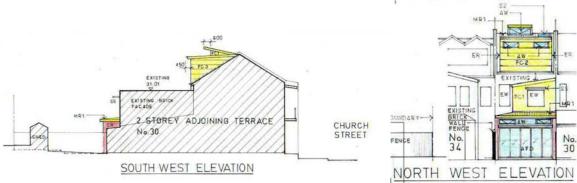


Figure 3: Approved side and rear elevations of attic extension to the north-east at 32 Church Street.

The subject proposal is set behind the third storey rear alignments of 32 and 34 Church Street and seeks to provide a third storey rear attic extension of a lesser height and width relative to the main roof form. No other changes to the approved siting and location of the building is proposed and as such, it is considered that the proposal maintains a suitable balance between landscaped areas and built forms and is located with the building location zone where it can be reasonably assumed development can occur. Further, the FSR is considered to be compatible with the FSR characteristic of adjoining residential development along this section of Church Street as shown in the photo below. Therefore, strict compliance is considered to be unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental grounds having regard to the existing context to justify the variation.



Figure 4: Aerial photo indicating existing pattern of development along this section of Church Street

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed

and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Area and Heritage Items	Yes
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.5 Mort Bay Distinctive Neighbourhood, The Upper Slope	Yes
Sub Area, Balmain	
Part C: Place – Section 3 –Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.7 Environmental Performance	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part D: Energy	Yes
Part E: Water	Yes

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Area and Heritage Items

The subject site contains a double-storey, late 19th century terrace house attached on both sides within a long and fairly intact row of terraces. The proposed rear attic extension is considered acceptable given it retains the major form, scale and materials of the existing original main dwelling facing the street and is subordinate to the existing building and does not change the relationship of the building to the street when viewed from the street.

Council's Heritage Advisor has raised no objections to the proposal subject to conditions requiring the new dormer to have a pitch of 5 degrees and match the existing colour and material of the primary roof form.

5(d) The Likely Impacts

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

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

The site is zoned B2 Local Centre. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties. No submissions were received.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineer
- Health
- Building

These Officers raised no objections to the proposal proceeding subject to conditions relating to flood risk management, acoustic mitigation, and accessibility and BCA compliance, which are recommended to be imposed on any consent granted.

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

This application has been assessed under Section 4.55 of the Environmental Planning and Assessment Act, 1979 and is considered to be satisfactory. Therefore the application is recommended for approval subject to the amendments listed below.

9. Recommendation

That Council as the consent authority pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979 modify Development Consent No. 2015/638 as outlined in Attachment A.

Attachment A – Recommended conditions of consent

A. MODIFY DESCRIPTION OF APPROVED DEVELOPMENT TO READ:

Alterations and additions to the existing dwelling including extensions at ground, first and second floor levels.

B. AMEND THE FOLLOWING CONDITIONS TO READ:

Condition 1

1. Development must be carried out in accordance with Development Application No. D/2015/638 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA02 Site Analysis – Rev. C	tw architects	26/3/2018
DA03 Existing Ground Floor Plan – Rev. C	tw architects	26/3/2018
DA04 Existing First Floor Plan – Rev. C	tw architects	26/3/2018
DA05 Existing Attic Floor Plan – Rev. C	tw architects	26/3/2018
DA06 Proposed Site & Roof Plan – Rev. C	tw architects	26/3/2018
DA07 Proposed Ground Floor – Rev. C	tw architects	26/3/2018
DA08 Proposed First Floor Plan – Rev. C	tw architects	26/3/2018
DA09 Proposed Attic Floor Plan – Rev. C	tw architects	26/3/2018
DA10 Elevations – Rev. C	tw architects	26/3/2018
DA11 Elevations – Rev. C	tw architects	26/3/2018
DA12 Sections – Rev. C	tw architects	26/3/2018
DA13 Sections – Rev. C	tw architects	26/3/2018
DA14 Concept Landscape/ Site Coverage Plan – Rev. C	tw architects	26/3/2018
DA15 Concept Stormwater Plan – Rev. C	tw architects	26/3/2018
Document Title	Prepared By	Dated
BASIX Certificate A 233675_02	tw architects	23/3/2018
Water Management Statement	tw architects	undated
Statement of environmental Effects	tw architects	undated
Letter of Structural Adequacy	E2 Civil and structural design	09/11/2015
Heritage Statement	tw architects	02/11/2015

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings. (Condition modified under M/2018/53 on INSERT DATE)

C. ADDTHE FOLLOWING CONDITIONS TO READ:

Conditions 3A and 3B

3A. Amended plans are to be submitted incorporating the following amendments:

The proposed Skillion type dormer may be located on the rear roof plane of the terrace if it is redesigned so that:

- a) its upper roof line is a minimum of 300mm below the main ridge line of the existing principle building form;
- b) the outside edge of its side walls are positioned a minimum of 500mm from the outside edges of the side walls of the principle building form:
- c) the bottom of the dormer opening is positioned a minimum of 200mm above the RL31.68;
- d) its roof is pitched at a minimum of 5 degrees; and
- e) its roof is constructed in a material, colour and profile which matches the existing roof of the principle building form.

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

(Condition added under M/2018/53 on INSERT DATE)

3B. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

(Condition added under M/2018/53 on INSERT DATE)

Attachment B – Plans of proposed development

