

28 August 2019

At 5.00 pm



Local Planning Panel

Sydney 2030 Green Global Connected

city of villages

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Section 8.2 Review of Determination: 21 O'Connor Street, Chippendale - RD/2018/1360/A**
4. **Development Application: 5040 Church Street, Newtown - D/2019/225**

Guidelines for Speakers at Local Planning Panels



As part of our democratic process, the City invites members of the community to speak directly to Members of the Local Planning Panel (LPP) about items on a meeting agenda.

To enable the LPP to hear a wide range of views and concerns within the limited time available, we encourage people interested in speaking at meetings to:

1. Register to speak by calling Council's Secretariat on 9265 9190 before 12.00 noon on the day of the meeting.
2. Check the recommendation in the agenda report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.
6. Before speaking, turn on the microphone by pressing the button next to it and speak clearly so that everyone in the Council Chamber can hear.
7. Be prepared to quickly return to the microphone and respond briefly to any questions from LPP members, after all speakers on an item have made their presentations.

At the start of each LPP meeting, the Chair may re-order agenda items so that those items with speakers can be dealt with first.

LPP reports are on line at www.cityofsydney.nsw.gov.au, with printed copies available at Sydney Town Hall immediately prior to the meeting. Council staff are also available prior to the meeting to assist.

Item 1.

Disclosures of Interest

Pursuant to the provisions of Clause 15 of Schedule 4B of the Environmental Planning and Assessment Act 1979, members of the Local Planning Panel are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Panel members are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

In both cases, the nature of the interest must be disclosed.

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all Panel members are required to sign a declaration of interest in relation to each matter on the agenda.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Local Planning Panel, which have been endorsed by the Chair, are submitted for noting:

Meeting of 7 August 2019

Item 3.**Section 8.2 Review of Determination - 21 O'Connor Street, Chippendale - RD/2018/1360/A**

File No.: RD/2018/1360/A

Summary**Date of Review Application Lodgement:** 12 June 2019**Date of Original Determination:** 3 April 2019**Date by which Review Panel must determine the application:** 3 October 2019**Applicant:** Kreis Grennan Architecture**Architect:** Kreis Grennan Architecture**Owner:** Anthony Rodgers and Bernadette Mullin**Cost of Works:** \$611,128**Zoning:** The site is located within the B4 Mixed Use zone. The use is defined as commercial and residential and is permissible within consent in the zone.**Proposal Summary:** A request for a review of the determination of development application D/2018/1360 under the provisions of Section 8.2 (1) (a) of the Environmental Planning and Assessment Act has been lodged.

The original application sought consent for alterations and additions to the existing mixed-use warehouse building to include a new commercial studio, courtyard and garage on the ground floor; internal reconfiguration of the first floor; extension of the second floor onto the existing outdoor terrace; and addition of a roof terrace above.

The application was subsequently refused for the following reasons:

**Proposal Summary
(continued):**

- (a) The variation to the Height and Floor Space Ratio development standards was considered to be inconsistent with the provisions of Clause 4.6 and not in the public interest.
- (b) The proposed alterations and additions were considered to be unsympathetic to the contributory building within the Chippendale heritage conservation area.
- (c) The proposal was considered to have excessive bulk and scale which did not demonstrate design excellence.
- (d) The proposal was considered to have detrimental impacts on the amenity of neighbouring properties by way of privacy and acoustic impacts.
- (e) The proposal was not considered to be in keeping with the desired future character of the area and not in the public interest.

The applicant is requesting that the Panel review the decision in light of the amended plans submitted with the review application. The amendments include the following:

- (f) Internal alterations at ground floor level including a reduction in the size of the garage and use of the store room as a recreation room.
- (g) Addition of a balcony adjacent to the external stairs at first floor level.
- (h) Deletion of the roof terrace and associated access stairs.
- (i) Provision of additional solar panels on the roof (13 in total).
- (j) Amendments to the roof addition including alterations to glazing, the addition of louvres and amendments to the materials.

One submission was received, objecting to the Section 8.2 (1) (a) review request. The objection raised the issue of the impact of the proposal on parking.

Summary Recommendation: That the Panel consider the amendments made to the proposal and approve the request to change the development consent.

Development Controls:

- (i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)
- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iii) Sydney Local Environmental Plan 2012 (Gazetted 12 December 2012, as amended)
- (iv) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)
- (v) City of Sydney Development Contributions Plans 2015

Attachments:

- Attachment A.** Recommended Conditions of Consent
- Attachment B.** Review Application Form, Amended Plans and Supporting Documents
- Attachment C.** Refused Plans
- Attachment D.** Original Notice of Determination
- Attachment E.** Original Planner's Report

Recommendation

It is resolved that:

- (A) the variation sought to the height of building development standard under Clause 4.3, in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) the variation sought to the floor space ratio development standard under Clause 4.4, in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (C) consent be granted to Development Application No. RD/2018/1360/A subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The requested variation to the development standards prescribed under Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio of the Sydney Local Environmental Plan 2012 is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the Height of Buildings and Floor Space Ratio development standards and the B4 Mixed Use zone.
- (B) The amended proposal results in sympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9) in accordance with the requirements of Clause 5.10 of the Sydney Local Environmental Plan 2012 and Section 3.9 of the Sydney Development Control Plan 2012.
- (C) The amended proposal demonstrates design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The proposal will not have detrimental impacts on the amenity of neighbouring properties and as such is consistent with the provisions of Section 4.2.3 of the Sydney Development Control Plan 2012.
- (E) The proposal is in keeping with the desired future character of the area and is considered to be in the public interest.
- (F) The development, as modified, is considered to be substantially the same development as the development refused under D/2018/1360 in accordance with Clause 8.3 (3) of the Environmental Planning and Assessment Act 1979.

Background

The Site and Surrounding Development

2. A site visit was carried out by staff on 10 July 2019.
3. The site is irregular in shape with an area of approximately 96.2sqm. It is located on the south-eastern corner of O'Connor Street and Smithers Street with its primary frontage to Smithers Street. A two storey building, with a mansard attic addition, is contained within the site
4. The existing two storey building was constructed as a commercial warehouse in the post-war period. A mansard attic addition was approved in 2013. The building includes a commercial premises on the ground floor level and a residential dwelling occupying the first floor level and attic level. The building includes an outdoor roof terrace on the first floor at the northern end of the building.
5. Surrounding land uses are residential and commercial. A row of two-storey terrace houses adjoins the site to the north, south and east. A two storey commercial building adjoins the site to the west. Larger scale commercial buildings and residential flat buildings are located on Abercrombie Street and Buckland Street.
6. The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from O'Connor Street looking south-east



Figure 3: Site viewed from Smithers Street looking north-east



Figure 4: Site viewed from Smithers Street looking north-east



Figure 5: View from existing roof terrace



Figure 6: View of existing addition to be demolished

Background of Development Application RD/2018/1360/A

7. The original development application was lodged on 8 November 2018 and sought development consent for the following alterations and additions to the existing mixed-use building
- (a) Ground Floor:**
- (i) demolition of internal walls and stair;
 - (ii) addition of new 13sqm internal courtyard with tree, landscaping and stair to upper levels; and
 - (iii) addition of new commercial studio, garage, store room and two WCs.
- (b) First Floor:**
- (i) demolition of internal walls, stair and slab on the northern section of the building;
 - (ii) removal of the glass from the two northern windows and replacement with steel mesh; and
 - (iii) addition of "study" with kitchen and laundry facilities, two bedrooms and bathroom.

(c) Second Floor:

- (i) demolition of mansard attic addition including walls and roof and demolition of slab on the northern section of the building;
- (ii) new addition with pitched walls containing living room with kitchen, bedroom and bathroom; and
- (iii) addition of a 15.8sqm roof terrace.

(d) Roof:

- (i) addition of 29sqm roof terrace with solar panels above the new addition.

8. Following preliminary assessment of the application by City staff and a presentation to the City of Sydney Design Advisory Panel Residential Subcommittee, a request for amended plans was sent on 20 December 2018. The applicant was required to address a number of issues, including
 - (a) Request to delete the new roof terrace and stair and amend the form of the addition to maintain an attic-like addition.
 - (b) Request to retain the window frames to the north of the building
 - (c) Request for further information on overlooking and overshadowing impacts, materials and finishes, ventilation and tree.
9. Amended plans and additional information was received on 23 January 2019 which included amendments to the proposal, however the building height and provision of the roof top terrace remained unchanged.
10. On 29 March 2019, the applicant submitted additional information and amended plans to address the reasons for refusal in the recommendation to Local Planning Panel. The applicant requested that the amended plans were approved with appropriate conditions or that the Panel defer the application for Council staff to assess the amended plans.
11. The amended plans were received on 29 March 2019, 4 days before the Local Planning Panel meeting on 3 April 2019. The Local Planning Panel were advised that the amended plans should not be accepted as the assessment had already been completed and as there was insufficient time to carry out a complete assessment.
12. The application was heard at the Local Planning Panel meeting on 3 April 2019. It was resolved to refuse development consent for the reasons included in Attachment D, being the original notice of refusal.

Proposal

13. The applicant is seeking a review of the refusal and has submitted amended plans to address the reasons for refusal.
14. The amendments include the following:

- (a) Internal alterations at ground floor level including a reduction in the size of the garage and use of the store room as a recreation room.
 - (b) Addition of a balcony adjacent to the external stairs at first floor level.
 - (c) Deletion of the roof terrace and associated access stairs.
 - (d) Provision of additional solar panels on the roof (13 in total).
 - (e) Amendments to the roof addition including alterations to glazing, the addition of louvres and amendments to the materials.
15. As was the case with the original proposal, each of the three levels of the building are accessed via an external stair. As both residential levels include a living area, bedrooms, bathroom and kitchen, the proposal appears to present as two apartments. The applicant has advised that they intend to use the upper levels as one residential dwelling. This is discussed in the issues section of this report.
 16. A comparison between the refused and proposed plans and elevations is shown in Figures 7 to 22 below.

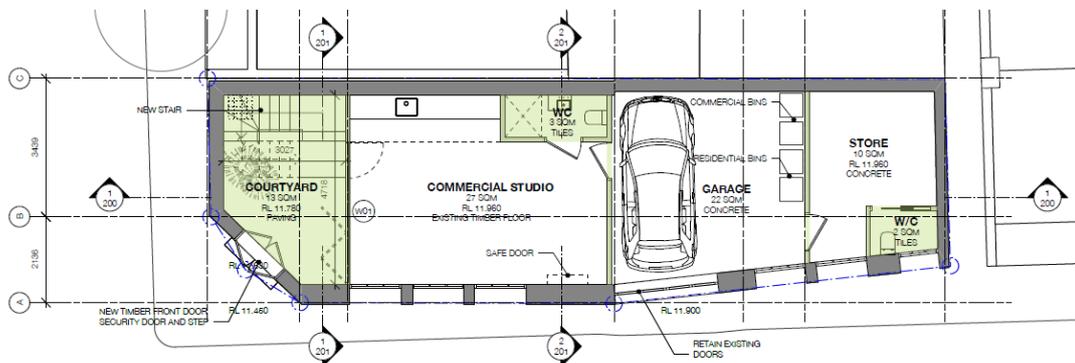


Figure 7: Refused ground floor plan

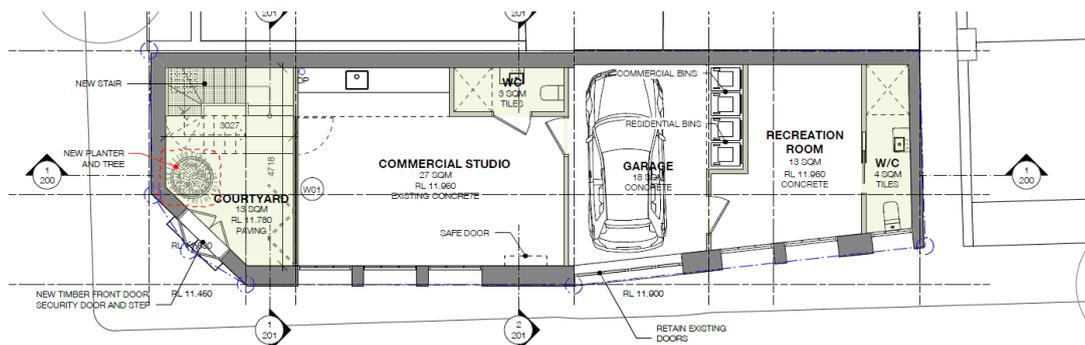


Figure 8: Proposed ground floor plan

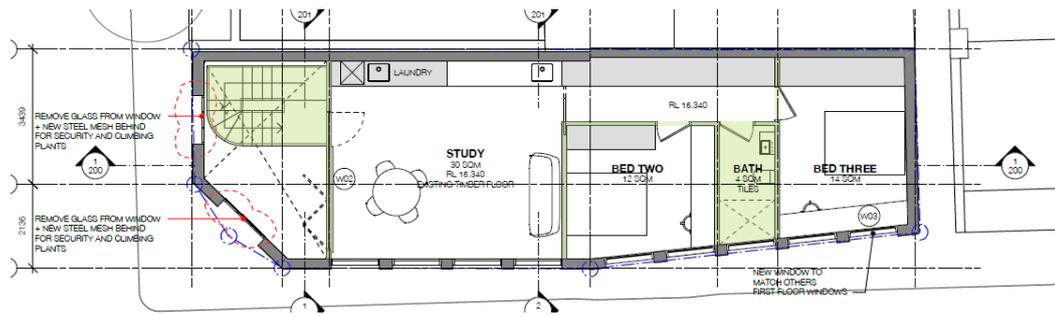


Figure 9: Refused first floor plan

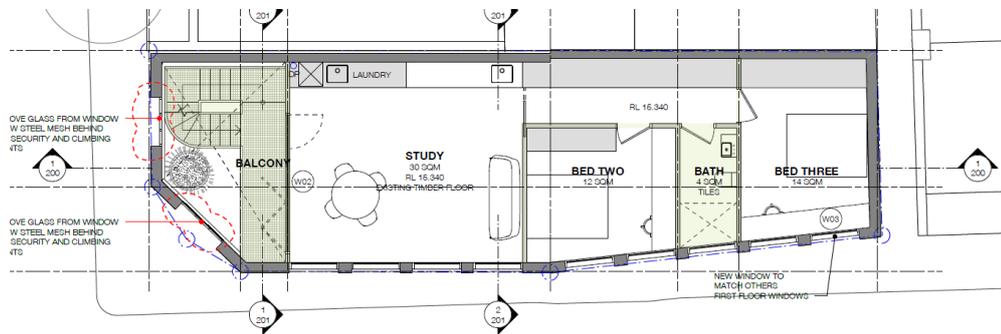


Figure 10: Proposed first floor plan

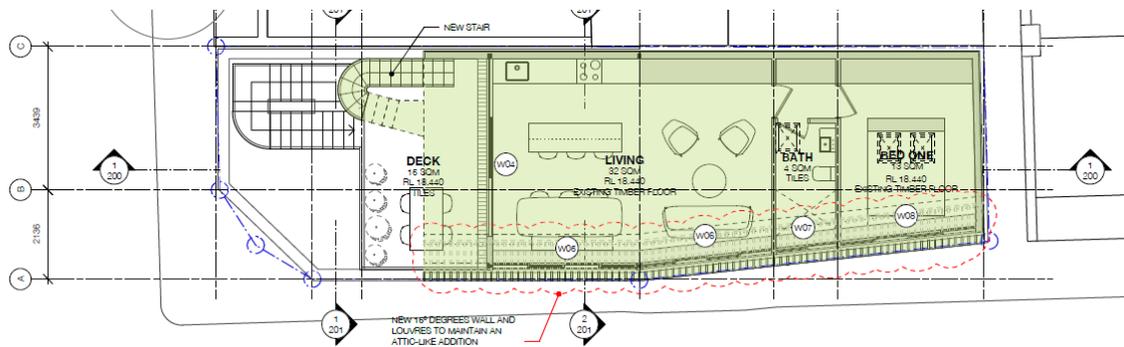


Figure 11: Refused second floor plan

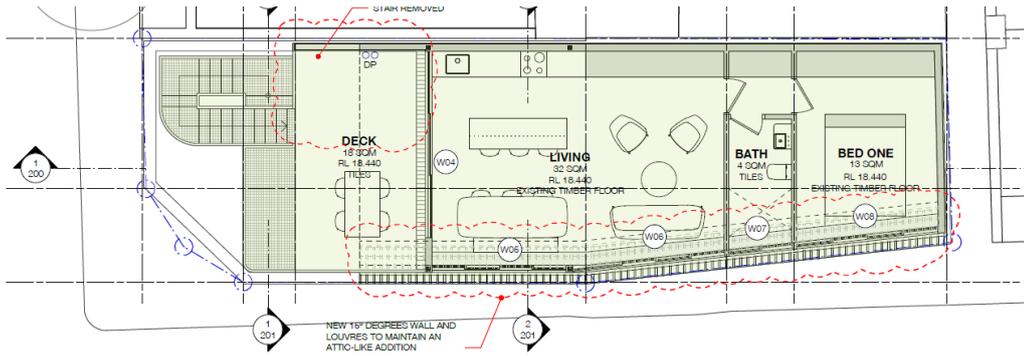


Figure 12: Proposed second floor plan

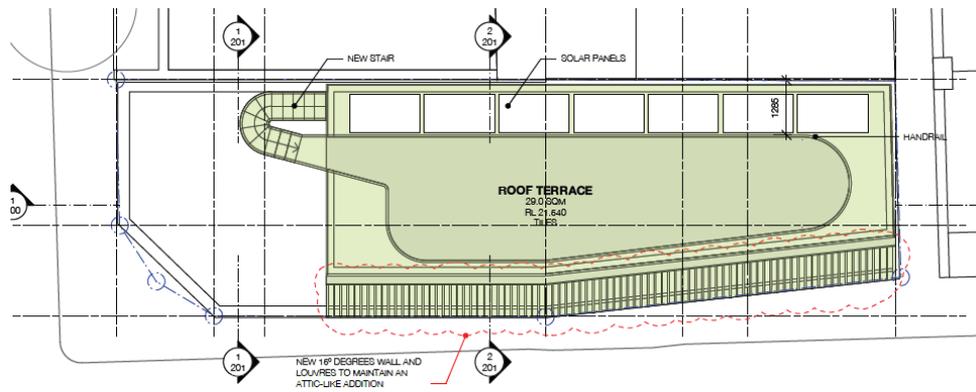


Figure 13: Refused roof plan

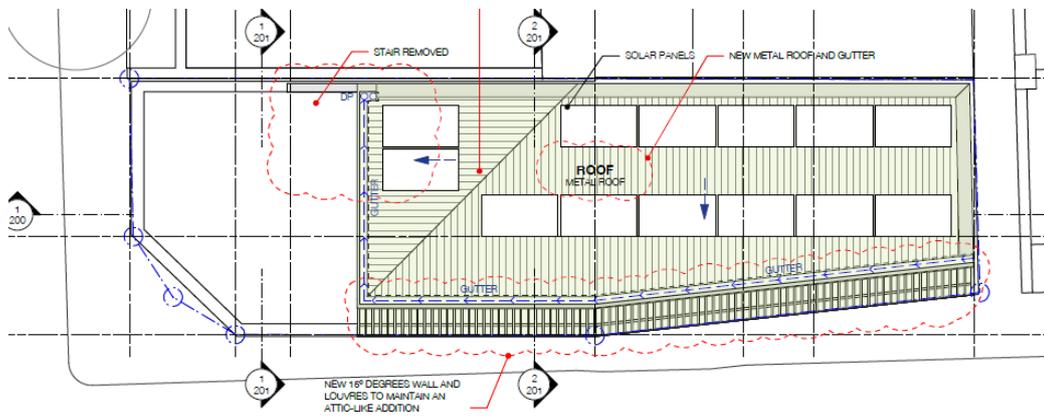


Figure 14: Proposed roof plan



Figure 15: Refused west elevation

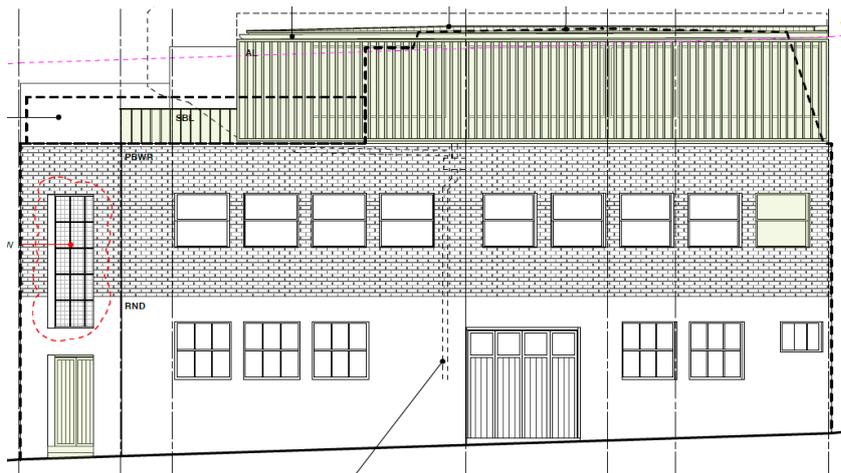


Figure 16: Proposed west elevation

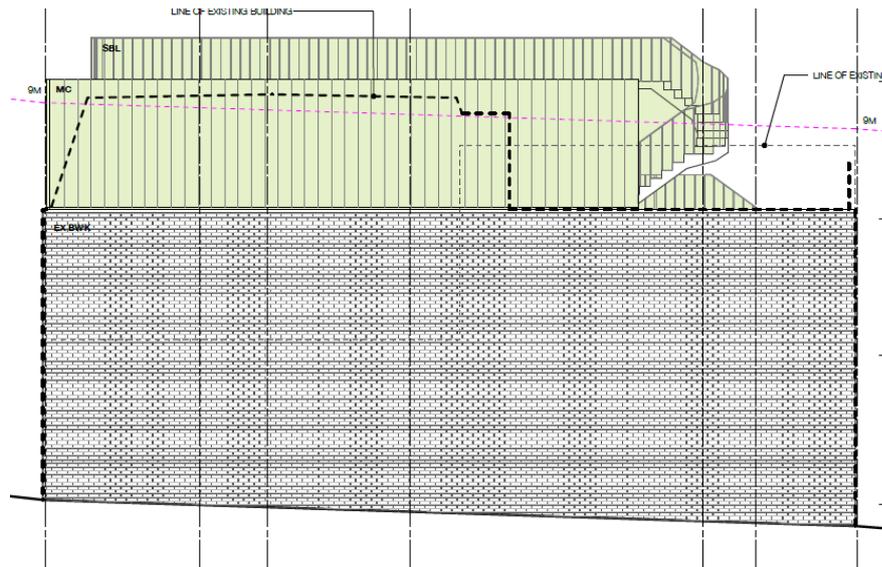


Figure 17: Refused east elevation



Figure 18: Proposed east elevation

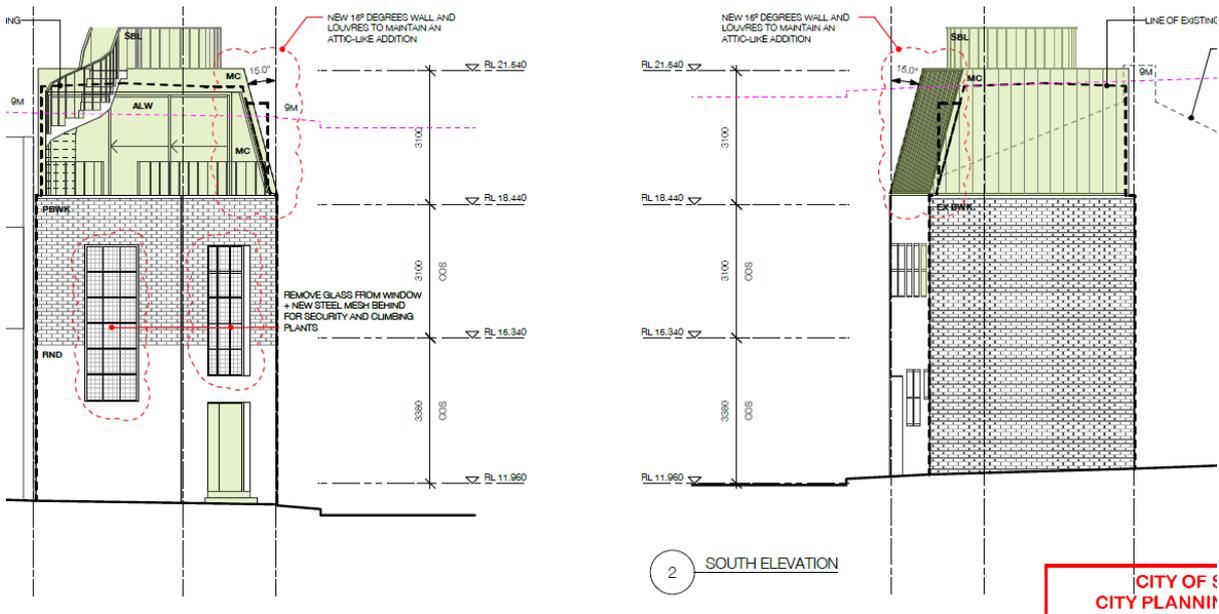


Figure 19: Refused north and south elevations

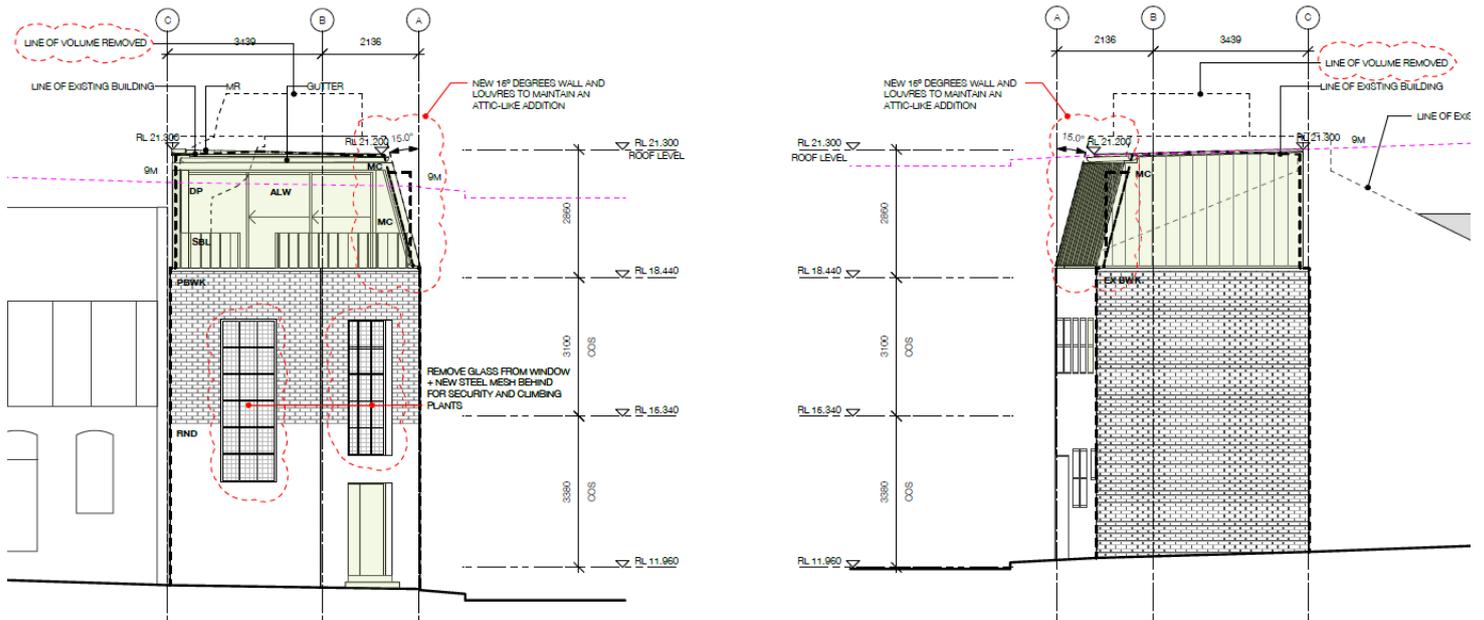


Figure 20: Proposed north and south elevations



Figure 21: Refused west elevation - materials



Figure 22: Proposed west elevation - materials

17. The applicant has submitted the following justification with the amended plans.
18. The amended proposal addresses reason for refusal 1:
 - (a) The existing building exceeds the height limit and FSR. The proposal as modified reduces the existing FSR slightly and removes an existing and proposed roof terrace.
 - (b) The removal of the proposed roof terrace and redesign of the second floor ensures that any height alteration is minimised to 150mm. Furthermore the design of the second floor now incorporates a 150 wall and louvres to ensure it appears as an attic-like addition.
 - (c) The gross floor area is now slightly below the existing gross floor area (3.9m²).
 - (d) The Clause 4.6 variations demonstrate that the development standards are unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify a variation to the control.
19. The amended proposal addresses reason for refusal 2:
 - (a) The amended proposal is consistent with the Clause 5.10 of the LEP 2012 and Section 3.9 of the Sydney DCP 2012 in the following manner:
 - (i) A proposed roof terrace has been removed and all alterations are generally within the envelope of the existing building.
 - (ii) The upper floor includes pitched walls at 15 degree to present an attic-like roof addition.
 - (iii) The proposed height, bulk and scale is consistent with the character of surrounding development.
 - (iv) The proposal is of a high standard of design and will improve the existing amenity of the dwelling.
 - (v) The proposal will not result in any adverse amenity impacts to surrounding neighbours in terms of privacy, solar access or views.
 - (b) As noted by John Oultram in the HIS and subsequent correspondence to Council:

The post war building will be retained with limited change to its visible elevations. The current roof form is modern resulting from the later mansard and this will be replaced to a similar form.
 - (c) As such the amended proposal will not have a detrimental effect on the Chippendale Heritage Conservation Area and therefore addresses Reason 2.
20. The amended proposal addresses reason for refusal 3:
 - (a) A proposed roof terrace has been removed and all alterations are generally within the envelope of the existing building. Floor space is slightly reduced to accommodate an internal courtyard. As such, there is no increase in bulk and scale and the design of the second floor includes a 15° pitch to present as an attic form.

- (b) The removal of the proposed roof terrace and access thereto ensures no adverse privacy impacts on adjoining neighbours.
 - (c) High quality materials of metal cladding copper / brass matte colour are proposed replacing a non – original form at this level and exhibiting design excellence in the streetscape and Heritage Conservation Area.
21. The amended proposal addresses reason for refusal 4:
- (a) The removal of the proposed roof terrace and access thereto ensures no adverse privacy impacts on adjoining neighbours.
22. The amended proposal addresses reason for refusal 5:
- (a) The proposal in its modified form is considered suitable, as it will not visibly increase the height of the building (150mm change), reduces bulk and scale and includes an attic style second floor, which is entirely consistent with the existing and the desired future character of the area.

History Relevant to the Development Application

23. D/2013/897 - On 26 August 2013, development consent was approved for the demolition of the existing rooftop level and replacement with a new mansard roof addition.
24. D/2016/1214 - On 5 December 2016, development consent was approved for strata subdivision of the existing mixed-use building into two lots and common property. One lot consisted of the commercial tenancy on the ground floor and the other lot consisted of the residential tenancy on the upper two floors. The subdivision was never registered and the consent was surrendered on 3 May 2018.
25. D/2018/1360 - On 3 April 2019, development consent was refused for alterations and additions to existing mixed-use warehouse building to include a new commercial studio, courtyard and garage on the ground floor, internal reconfiguration of the first floor, extension of the second floor onto the existing outdoor terrace, and addition of a roof terrace above.

Implications of the Proposal

Division 8.2 Reviews

26. In accordance with Section 8.2(1) the following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:
- (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
 - (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),

- (c) the decision of a council to reject and not determine an application for development consent.
27. The Panel may review a determination in accordance with Section 8.2(1)(a) of the Environmental Planning and Assessment Act 1979 if it has notified the request for review in accordance with:-
- (a) The regulations, if the regulations so require; or
 - (b) A development control plan, if Council has made a development control plan that requires the notification or advertising of requests for the review of its determinations; and
 - (c) It has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan.
28. The application has been notified in accordance with the City of Sydney Development Control Plan 2012 and is discussed in further detail within this report.
29. In accordance with Section 8.3(5) the review of a determination or decision made by a Local Planning Panel is to be conducted by the panel.
30. In accordance with Section 8.3(3), in requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.
31. The applicant has submitted an amended proposal with the review application as they are seeking to address the reasons for refusal.
32. The amendments include the following:
- (a) Internal alterations at ground floor level including a reduction in the size of the garage and use of the store room as a recreation room.
 - (b) Addition of a balcony adjacent to the external stairs at first floor level.
 - (c) Deletion of the roof terrace and associated access stairs.
 - (d) Provision of additional solar panels on the roof.
 - (e) Amendments to the roof addition including alterations to glazing, the addition of louvres and amendments to the materials.
33. In considering whether or not a development is substantially the same it is appropriate to consider both quantitative and qualitative aspects of the proposal and not the merits of the changes.
34. It is considered that the amended proposal satisfies the requirements of the substantially the same test as it results in a built form which has a similar height, bulk, scale and appearance to the original proposal. A comparison between the original and proposed plans is shown in Figures 7 to 22 above.

Section 4.15 Evaluation

35. Given that the previous determination was a refusal, a new and full assessment of the Section 8.2(1)(a) application under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been made, including consideration of the Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

36. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
37. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
- (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.
38. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

39. A BASIX Certificate has been submitted with the development application.
40. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Sydney Local Environmental Plan 2012

41. The site is located within the B4 Mixed Use zone. The proposed use is defined as commercial and residential and is permissible.
42. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>A maximum height of 9m is permitted.</p> <p>The existing building has a height of 9.41m (RL21.18). A height of 9.56m (RL21.30) is proposed.</p> <p>See discussion under the heading Issues.</p>
4.4 Floor Space Ratio	No	<p>A maximum FSR of 1.5:1 is permitted.</p> <p>The existing building has a GFA of 196.89sqm and an FSR of 2.11:1.</p> <p>The applicant states that the proposed GFA would be 195.6sqm which would result in a FSR of 2.0:1.</p> <p>Council's measurement of the proposed GFA is 182.3sqm which would result in a FSR of 1.89:1. A net reduction of 14.59sqm is therefore proposed.</p> <p>See discussion under the heading Issues.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio).</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).</p> <p>See discussion under the heading Issues.</p>

Development Control	Compliance	Comment
Division 4 6.21 Design Excellence	Yes	<p>The application proposes to utilise appropriate quality materials and detailing, including copper/brass matte coloured aluminium louvres to the new addition, and improvements to the facade of the existing building, including a dark grey coloured rendered paint finish on the ground level and dark grey coloured painted brickwork on the first floor level.</p> <p>The form and scale of the addition is considered to be appropriate to the site and not have a detrimental impact on the significance of the heritage conservation area or on the amenity of neighbouring properties.</p> <p>The proposal was reviewed by the City's Urban Designer who advised that the resolution of the architectural detail between the existing parapet and the new addition should be provided to ensure that the proposal meets design excellence. A condition of consent is recommended requiring this detail.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>A maximum of 2 car parking spaces is permitted for the site.</p> <p>The site currently has no on site car parking spaces. 1 car parking space is proposed within the new garage.</p>

Sydney Development Control Plan 2012

43. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Chippendale

The subject site is located in the Chippendale locality. The proposed alterations and additions to the mixed-use building are considered to be in keeping with the unique character of the area and design principles in that they respond to the contributory building and heritage conservation area and are appropriate in height, scale, design and form.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain as it will provide a sympathetic roof addition which uses high quality materials and does not create any additional amenity impacts.
3.5 Urban Ecology	Yes	The proposal includes the partial demolition of the ceiling to the ground floor and roof at the northern end of the building to create an internal void for a landscaped courtyard at the ground floor level. No changes have been made to this area when compared with the original proposal which was reviewed by the City's Landscape Assessment Officer who raised no objection.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	Yes	The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9). See discussion under the heading Issues.

3. General Provisions	Compliance	Comment
3.10 Significant Architectural Building Types	Yes	<p>The original application was accompanied by a Heritage Impact Statement which states that the building was constructed in stages between 1951 and 1957 as a commercial warehouse to replace a single storey 1880s cottage.</p> <p>The application is therefore subject to section 3.10.1 of the DCP which requires alterations and additions to sympathetic in scale and style to the existing building.</p> <p>The roof addition is considered to be complimentary to the original building, is simple in form, is clearly distinguishable as a new addition and complements the materials and articulation of the existing façade.</p> <p>The amended proposal is considered to meet the provisions of section 3.10.1.</p>
3.11 Transport and Parking	Yes	<p>The proposal includes a single car garage on the ground floor, with access provided from the existing garage door and vehicle crossover. The application was reviewed by the City's Transport and Access Unit who advised that the proposed length of the garage does not meet the requirements. However, transport have advised that given that only one car space is provided, the proposed garage is acceptable subject to a condition which requires any car using the garage to not exceed 4.4m in length.</p> <p>Given that a new use is not proposed, bicycle parking is not required to be provided. However, there is adequate room to store bicycles within the ground floor courtyard.</p>
3.14 Waste	Yes	<p>A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	No	<p>A maximum of 2 storeys is permitted.</p> <p>The existing building is 2 storeys in height with a mansard addition. The proposal involves the demolition and re-build of the mansard addition and would therefore not result in a change to the existing height in storeys.</p> <p>Whilst the attic addition would read as a third storey, the proposed design and materials are complimentary to the existing building and the form and scale of the addition would not detract from the character and significance of the existing building.</p> <p>For mixed-use buildings, the DCP requires a minimum floor to floor height of 4.5m for the non-residential use on the ground floor and 3.3m for residential floors above. The DCP requires habitable rooms in mixed use development to have a minimum floor to ceiling height of 2.7m.</p> <p>The proposal maintains the ground and first floor to floor heights of 3.38m and 3.1m respectively and the first floor level height of 3.1m. Given the building is an existing contributory building, the non-compliances are considered to be acceptable.</p> <p>The proposed addition would have a floor to ceiling height of 2.4m which is considered to provide an acceptable level of internal amenity and is capable of meeting the minimum floor to ceiling height of 2.4m under the Building Code of Australia.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	The existing building is built to all boundaries with no setbacks. The proposal would result in the existing rear and side setback alignments being maintained, which is consistent with the adjoining buildings.
4.2.3 Amenity	Yes	<p>Layout and proposed use of the building</p> <p>As was the case with the original proposal, each of the three levels are accessed via an external stair and are therefore capable of being self-contained, with no internal connectivity. See discussion under the heading Issues.</p> <p>Solar Access</p> <p>The submitted shadow diagrams show that the proposal would result in additional overshadowing to the front setbacks of the residential terraces on the opposite side of Smithers Street at 10.00am and a the private open space of 2 Smithers Street at 2.00pm. The shadow diagrams also show that the proposal would result in additional overshadowing to the roofs of various properties.</p> <p>The extent of the additional overshadowing is negligible and the diagrams show that the affected properties will continue to maintain a minimum of two hours solar access, as per the DCP requirements. As such the proposal is not considered to result in significant adverse impacts in relation to solar access.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>Privacy</p> <p>The roof terrace which was part of the original development application has been removed from the proposal. The proposal would not result in any additional privacy impacts to neighbouring properties.</p> <p>Private Open Space</p> <p>The proposal includes a ground floor courtyard with an area of 13sqm. This courtyard serves as an entry foyer/ circulation space and is not considered to contribute to private open space.</p> <p>Provision (6) (a) requires upper level units to have a minimum of 10sqm of private open space with a minimum dimension of 2m. A 4.7sqm balcony is provided at the first floor level and a 17sqm terrace at the second floor level. Both areas of external private open space would be accessed from living areas and are considered to provide an acceptable level of private open space for the dwelling.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The scale, modulation and façade articulation of the proposed development responds to the context provides an appropriate transition between the neighbouring terraces commercial buildings opposite.

Issues

Clause 4.6 request to vary the Height of Buildings development standard

44. The site is subject to a maximum Height of Buildings control of 9m. The existing building has a height of 9.41m (RL21.18) and the proposed development has a maximum height of 9.56m (RL21.30).
45. The variation to the height control results in an exceedance of the development standard by 0.56m which equates to a 6.22% variation.

46. The red line in Figure 23 shows the 9m height control in context with the proposed development.

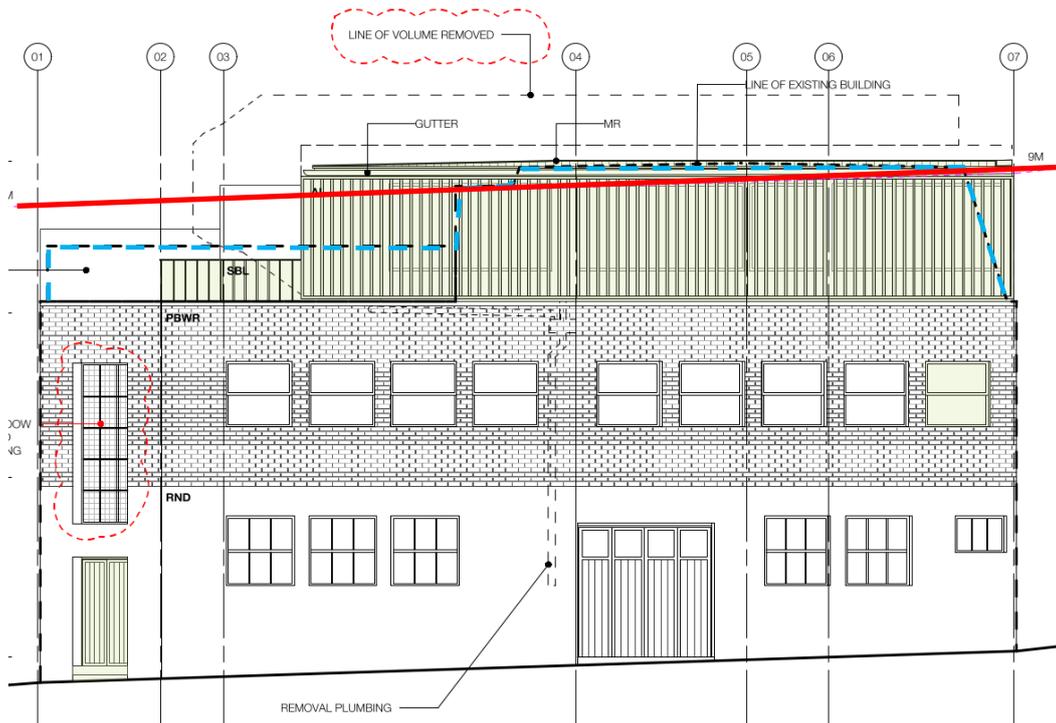


Figure 23: Proposed west elevation with 9m height control shown in red and the height of the existing building shown dashed in blue.

47. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - That there are sufficient environmental planning grounds to justify contravening the standard.
48. A copy of the applicant's written request is provided in Attachment B.

Applicants Written Request - Clause 4.6(3)(a) and (b)

49. The applicant seeks to justify the contravention of the Height of Buildings development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - The proposal meets the objectives of the height development standard as follows:

- Objective (a) seeks to provide appropriate heights, which allow for the environmental amenity of neighbouring properties. The proposal will ensure that adequate solar access is provided to adjoining properties and no new impacts are created in terms of privacy. In particular, it is noted that the components, which extend beyond the height control will not result in a loss of environmental amenity for the neighbouring properties as outlined above.
 - Objective (b) will be met as the proposal ensures an acceptable transition between this building and others in the Conservation Area.
 - Objective (c) is met as no views will be impacted upon and in particular, the non-compliant elements will not affect views from adjoining properties.
 - Objectives (d) and (e) are not applicable to this site.
- (ii) Compliance with the development standards is unreasonable and unnecessary as this would reduce the height of the existing building and compromise floor to ceiling heights with no benefit for neighbouring properties or in terms of the overall bulk of the building as presented to the public domain.
- (iii) The components of the second floor above the height control will not result in adverse building bulk that results in environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.
- (iv) The second floor has been redesigned to include pitched walls at 15 degree to present an attic-like roof addition, further reducing apparent bulk.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal seeks to undertake alterations and additions including a new second floor presenting an attic-like roof addition. The addition is recessive, using high quality materials and exhibits design excellence. This represents a better planning outcome for the residential amenity of the site with no adverse impacts on the area.
 - (ii) The proposal overall is therefore considered to be an appropriate response for the site and the non-compliant elements will not affect the amenity of adjoining properties, whilst improving the amenity of the subject property.
 - (iii) The proposed height is achieved without adverse impacts and the proposal will provide a suitable design and of suitable amenity in terms of the built environment, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).
 - (iv) The visual bulk of the component above the height control has been reduced by providing a 15 degree wall hipped away from the street.

- (v) Compliance with the height control will not result in improved amenity for adjoining properties and the visual bulk of the upper level as perceived from the street will be reduced. The lack of unreasonable impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

50. Development consent must not be granted unless the consent authority is satisfied that:

- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

51. The applicant's written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the objectives of the Height of Buildings development standard are achieved notwithstanding the non-compliance with the standard. The request and plans demonstrate that compliance with the height standard would result in a development that does achieve the minimum floor to ceiling heights under the BCA and the development is considered to be appropriate to the condition of the site and its context and provides an appropriate height transition between the site and surrounding heritage items and contributory items within a heritage conservation area.

Does the written request adequately address those issues at Clause 4.6(3)(b)?

52. The written request states that the proposal will not result in unreasonable impacts to neighbouring properties in terms of solar access, privacy, view loss and visual bulk. It also states that the addition is recessive, uses high quality materials and exhibits design excellence. This is accepted, the submitted solar diagrams show that the proposal will not have a detrimental impact on solar access to neighbouring properties and the proposal would not result in any additional overlooking. The non-compliance with the height control would enable a BCA compliant floor to ceiling height in the addition. Accordingly, it is considered that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.

Is the development in the public interest?

53. The objectives of the Height of Buildings development standard include:

- (a) to ensure the height of the development is appropriate to the condition of the site and its context;
- (b) to ensure appropriate height transitions between new development and heritage items; and
- (c) to promote the sharing of views.

54. The form and scale of the third storey addition is considered to be appropriate to the site and context and provides an appropriate height transition between the existing contributory item and the surrounding contributory and heritage items.
55. The objectives of the B4 Mixed Use zone relevant to the proposal include:
 - (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage.
56. The commercial and residential components of the building will be maintained, which is consistent with the mixed-use nature of Chippendale. The proposal is located in close proximity to public transport.
57. Accordingly, the proposal is considered to be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the B4 Mixed Use zone.

Conclusion

58. For the reasons provided above the requested variation to the Height of Buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the B4 Mixed Use zone.

Clause 4.6 request to vary the Floor Space Ratio development standard

59. The site is subject to a maximum Floor Space Ratio (FSR) of 1.5:1. The proposed development has an FSR of 1.89:1.
60. The existing building has an FSR of 2.11:1. The proposal results in a net decrease of 14.59sqm of floor space due to the installation of a void at first and second floor levels and the provision of a car parking space at the ground floor level. Despite the reduction in floor space, the development still represents an exceedance of 0.39:1 which equates to a 26.3% variation to the FSR development standard.
61. Figure 24 shows the Gross Floor Area plans submitted by the applicant.

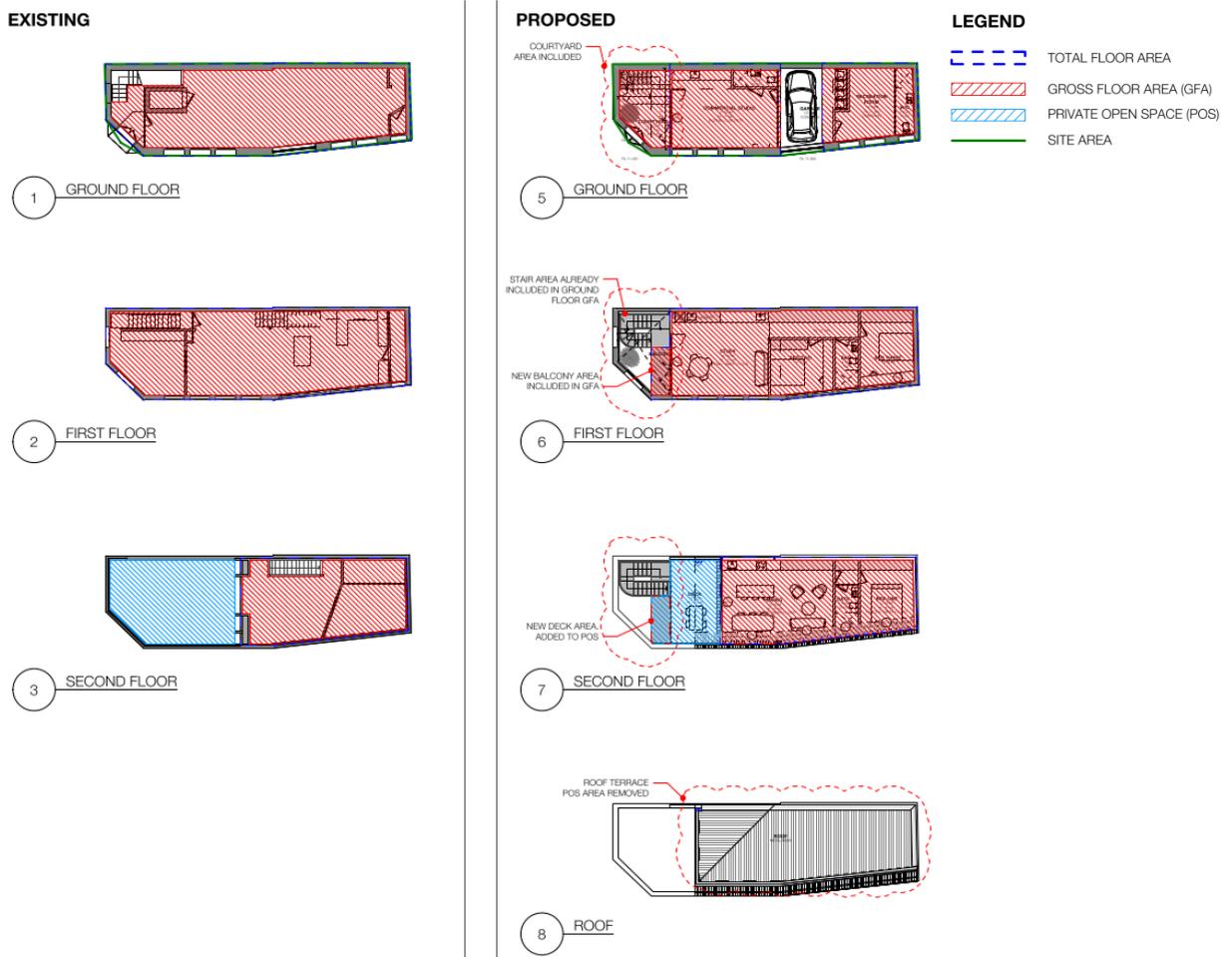


Figure 24: Existing and proposed GFA diagrams submitted by the applicant. The GFA is shown in red.

62. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) that there are sufficient environmental planning grounds to justify contravening the standard.
63. A copy of the applicant's written request is provided in Attachment B.

Applicants Written Request - Clause 4.6(3)(a) and (b)

64. The applicant seeks to justify the contravention of the Floor Space Ratio development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

- (i) The proposal meets the objectives of the Floor Space Ratio development standard as follows:
- Objective (a) is not applicable in this case.
 - Objective (b) seeks to regulate the density of development. In this case the FSR is being reduced.
 - Objective (c) seeks to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure. In this case the FSR is being reduced.
 - Objective (d) seeks to ensure that new development reflects the desired character of the locality. In this case the proposed FSR can be achieved without adverse impacts as the alterations reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of the locality.
- (ii) Compliance with the development standards is unreasonable and unnecessary as the proposal is to renovate an existing building and will result in a slight reduction in FSR.
- (iii) Exceedance of the FSR control will not create additional building bulk that results in adverse environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in FSR would not create additional benefit for adjoining properties or the locality.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal is for alterations to an existing building with an FSR over the control and it will result in a slight reduction to the existing FSR.
- (ii) The proposed FSR can be achieved without adverse impacts as the alterations reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of the locality.
- (iii) The intensity of the development is appropriate and acceptable, having regard to existing development on the site which has greater FSR.
- (iv) Non-compliance with the standard does not contribute to adverse environmental impacts.
- (v) The proposed development achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.
- (vi) The proposal will provide a suitable design and of suitable amenity in terms of the built environment, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).
- (vii) Reduction in the FSR would not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

65. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
 - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

66. The written request demonstrates that the objectives of the Floor Space Ratio development standard are achieved notwithstanding the non-compliance with the standard, in particular Clause 4.4(1)(d), which requires new development to reflect the desired future character of the locality and minimise adverse impacts on the amenity of the locality. The development results in a small reduction in overall FSR and the roof addition is considered to be sympathetic to the contributory building and does not result in any significant detrimental amenity impacts.

Does the written request adequately address those issues at clause 4.6(3)(b)?

67. The written request demonstrates that the density, scale and intensity of the development is appropriate to the existing building and within the context of surrounding development. The proposed addition is considered to be sympathetic to the host building with regards to bulk and scale and is comprised of high quality materials which would not have a detrimental impact on the wider heritage conservation area or on the amenity of neighbouring properties.
68. Accordingly, it is considered that the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention to the standard

Is the development in the public interest?

69. The objectives of the Floor Space Ratio development standard include:
- (a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future.
 - (b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.
 - (c) To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.
 - (d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.
70. The proposal is consistent with the desired future character of the locality as it responds to and complements the contributory building and heritage conservation area, and is appropriate in height, scale, design and form. The proposal will not have a detrimental impact on the amenity of surrounding neighbouring buildings.

71. The objectives of the B4 Mixed Use zone relevant to the proposal include:
 - (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
72. The commercial and residential components of the building will be maintained, which is consistent with the mixed-use nature of Chippendale. The proposal is located in close proximity to public transport.
73. Accordingly, the proposal is considered to be in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard and the B4 Mixed Use zone.

Conclusion

74. For the reasons provided above the requested variation to the Floor Space Ratio development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Floor Space Ratio development standard and the B4 Mixed Use zone.

Heritage

75. The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).
76. The original application was accompanied by a Heritage Impact Statement which states that the building was constructed in stages between 1951 and 1957 as a commercial warehouse to replace a single storey 1880s cottage.
77. The bulk and scale of the proposed addition is considered to be sympathetic to the existing contributory item and is considered to improve the appearance of the building when compared with the existing roof addition. The removal of the roof terrace and external stair has significantly reduced the bulk of the addition.
78. The amended proposal was reviewed by the City's Heritage Specialist, who recommended that the south elevation of the addition to be changed to a mansard form and for the proposed colour scheme to be amended to a lighter colour. These issues were not raised as contentions in the original assessment of the proposal.
79. Whilst the comments from the City's Heritage Specialist have been taken into consideration in the assessment of the amended proposal, the form of the addition on the south elevation is considered to be acceptable as it provides an appropriate height transition with the neighbouring two storey terraces, does not result in any detrimental amenity impacts to adjoining properties and provides a better amenity outcome for the future occupants of the building. The colour scheme is considered to be acceptable in this instance and is not considered to reduce the significance of the Heritage Conservation Area.

Layout and proposed use of the building

80. As was the case with the original proposal, each of the three levels are accessed via an external stair and are therefore capable of being self-contained, with no internal connectivity.
81. As both residential levels include a living area, bedrooms, bathroom and kitchen, the proposal appears to present as two apartments. The applicant has advised that the intention is to use the upper levels as a single dwelling and that they are not seeking development consent for two apartments and that a kitchen would not be installed on level 2.
82. The use and subdivision of the residential floors as two separate dwellings would not be supported. This is because the apartment on level 1 would not meet the minimum requirement for private open space and the occupiers of the top floor would need to walk past the doors of the first floor to access the top floor resulting in privacy issues. To ensure the upper floors are used a single dwelling, conditions of consent are recommended which state that the site cannot be subdivided and that the building is to be used as a single dwelling with a commercial use on the ground floor.
83. The applicant has confirmed that the proposed garage and recreation room on the ground floor are to be used by the residential dwelling.

Other Impacts of the Development

84. The proposed development is capable of complying with the BCA.
85. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

86. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

Internal Referrals

87. The conditions of other sections of Council have been included in the proposed conditions.
88. The application was discussed with Urban Design Specialists; Transport and Access who advised that the proposal is acceptable subject to the recommended conditions.
89. The application was discussed with the City's Heritage Specialists who raised concerns with certain aspects of the amended scheme. See discussion under the heading 'Heritage' in the Issues section.

External Referrals

Notification, Advertising and Delegation

90. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 18 June 2019 and 3 July 2019. As a result of this notification a total of 67 properties were notified and 1 submission was received.
91. The submission raised the following issue:
- (a) The proposal will have an adverse impact on parking.

Response - The proposal includes the provision of an off-street parking space which would reduce the impact on on-street parking. The mixed-use nature of the site would not change as a result of the proposal.

Public Interest

92. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

93. The development is not subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as credits have been applied for the existing commercial space and the existing 1 bedroom dwelling which results in a net population decrease.

Relevant Legislation

94. The Environmental Planning and Assessment Act 1979.

Conclusion

95. The application is a review of the determination of development application D/2018/1360 under the provisions of Section 8.2 (1) (a) of the Environmental Planning and Assessment Act.
96. The proposal has been amended to address the reasons for refusal including the removal of the roof terrace and amendments to form, detailed design and materials of the roof addition.
97. The form of the roof addition is considered to be sympathetic to the contributory building and surrounding conservation area and subject to conditions, demonstrates design excellence.
98. The applicant has submitted Clause 4.6 variations to the height and Floor Space Ratio development standards under the Sydney LEP 2012. The variations to the standards are considered to be in the public interest and are supported.

99. Having regard to the all of the above matters, it is considered that the proposal generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012, is acceptable and is recommended for approval.
100. The development, as modified, is considered to be substantially the same development as the development refused under D/2018/1360 in accordance with Clause 8.3 (3) of the EP&A Act 1979.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Sally Shepherd, Planner

Attachment A

Recommended Conditions of Consent
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CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. RD/2018/1360/A dated 12 June 2019 and the following drawings prepared by Kreis Grennan Architecture:

Drawing Number	Drawing Name	Date
001 Rev C	Basix Commitments	06/06/2019
030 Rev D	Proposed Floor Plans	06/06/2019
031 Rev D	Proposed Floor Plans	06/06/2019
032 Rev D	Drainage Concept Plan	06/06/2019
100 Rev D	Proposed Elevations	06/06/2019
101 Rev D	Proposed Elevations	06/06/2019
102 Rev D	Proposed Elevations	06/06/2019
103 Rev D	Proposed Materials	06/06/2019
200 Rev D	Proposed Sections	06/06/2019
201 Rev D	Proposed Sections	06/06/2019

and as amended by the conditions of this consent.

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

(2) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to the part of the building approved for residential use:

- (a) The residential accommodation must be used as a single dwelling and must not be strata subdivided.

(3) DESIGN DETAILS, MATERIALS AND SAMPLES SCHEDULE

The following shall be submitted to and approved by Council's Area Planning Manager prior to any Construction Certificate being issued:

- (a) A 1:20 detailed drawing of the resolution of the architectural detail between the existing parapet and the new addition; and
- (b) A detailed materials, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation. The materials and samples schedule/board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

(4) RESTRICTION ON USE OF CAR SPACE

The size of car/vehicle parking in the garage must not exceed 4.4m in length. All current and future occupants of the residential accommodation must be made aware of this limitation.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(5) SYDNEY WATER CERTIFICATE (TAP-IN)

- (a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- (b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

(6) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

IMPORTANT NOTE:

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

(7) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Principal Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(8) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT

- (a) The drainage system is to be constructed in accordance with the City's standard requirements as detailed in the City of Sydney's Stormwater Drainage Manual, as amended from time to time.

The development is to be designed so that the flow of pollutants from the site due to stormwater is reduced.

(9) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

(10) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the *National Construction Code (NCC)*. Prior to the issue of a Construction Certificate and Occupation Certificate the Principal Certifier must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

(11) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier:

- (a) prior to the commencement of demolition/excavation works; and
- (b) on completion of construction demolition/excavation works.

(12) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

- (a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);

- (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
- (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
- (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
- (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
- (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
- (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
- (ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

(13) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(14) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(15) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

(16) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(17) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(18) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier:

- (a) prior to the commencement of demolition/excavation works; and
- (b) on completion of construction demolition/excavation works.

(19) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2011.*

(20) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(21) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(22) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

Attachment B

**Review Application Form, Amended Plans
and Supporting Documents**

Application for Review of Determination

Under the Environmental Planning and Assessment Act 1979 Division 8.2

As all Information provided on the USB (excluding Part A of the Application form and non-exhibition plans) will be publicly available, personal information such as credit card details and any other personal information must NOT be copied onto the USB.

Please note: all fields on this form are mandatory and must be completed before submitting the application



Part B

Site Details

Street Number	Street Name	
21	O'CONNOR STREET	
Suburb	Lot Number	DP/SP
CHIPPENDALE	59	1070354

Applicant Details

Title	Given Name/s	Family Name
	ANTHONY & BERNADETTE	RODGERS & MULLIN
Organisation / Company Name (if applicable)		
C/O KREIS GRENNAN ARCHITECTURE		

Original Development Consent Details

Development Application (DA) Number	Determination - Date of Notice
D/2018/1360	3 April 2019

Detailed Description

Alterations and additions to existing mixed-use warehouse building to include a new commercial studio, courtyard and garage on the ground floor, internal reconfiguration of the first floor and extension of the second floor onto the existing outdoor terrace.

Review Details

Please specify the reason for the review:

REASONS FOR REFUSAL HAVE BEEN ADDRESSED IN AMENDED DESIGN.

Please list attached supporting information

REFER TO DOCUMENT REGISTER IN ARCHITECTURAL SET COVER SHEET.

Notes for completion of the Division 8.2 Review Application

- Note 1** If the DA or S4.55 was determined under delegated authority by a Council Officer, the review will be made by the Review of Determination Panel. If the decision was made by the Local Planning Panel, Council or the Central Sydney Planning Committee (CSPC) the application will be reviewed by the Local Planning Panel Council or CSPC.
- Note 2** Applications made under Division 8.2 of the Act to review the determination of a development application or Section 4.55 application will be notified and advertised in the same manner as the original application, fees apply. Anyone who made submission to the original application will be notified.
- Note 3** Under Section 10.4 of the Environmental Planning and Assessment Act 1979, any reportable political donation to a Councillor and / or any gift to a Councillors or Council employee within a two (2) year period before the date of this application must be publicly disclosed. Further information, including a "Political Donation and Gifts Disclosure Statement" form and a glossary of terms, is available online at the City's website www.cityofsydney.nsw.gov.au under "Development", or at any of Council's office locations (listed in the Lodgement Details of this form).
- Note 4** Plans and accompanying documents - All plans and documents must also be submitted in digital format and comply with the "Digital Requirements" document. For integrated development an extra digital copy of the plans and supporting documentation will be required on a separate USB for each referral agency.
NOTE: Digital file requirements must be virus free. Each plan and document must be supplied as a PDF file no larger than 20Mb in size and named in accordance with Council's [Digital Requirements](#)
As all information provided on the USB (excluding Part A of the Application form and non-exhibition plans) will be publicly available, personal information such as credit card details and any other personal information must NOT be copied onto the USB.

Lodgement Details

You can book an appointment to lodge your application at one of our centres here: <https://appointment.booking.cityofsydney.nsw.gov.au/#/map>.

MAIL: City of Sydney
GPO Box 1591
Sydney NSW 2001

DX Address: 1251 Sydney

IN PERSON: Town Hall House - Level 2, 456 Kent Street, Sydney
See our website for details of all customer service centres and opening hours:
<http://www.cityofsydney.nsw.gov.au/customer-service>

WHAT NOW: For further information regarding your application please contact us by:

TELEPHONE: (02) 9265 9333 or you can track your application on our website at:

WEBSITE: www.cityofsydney.nsw.gov.au/Development/DAsonExhibition/DASearch

Privacy & Personal Information Protection Notice

Purpose of Collection: For the application of a Division 8.2 review
Intended recipients: Council staff and approved contractors of the Council of the City of Sydney.
Supply: Division 8.2 Review Application is voluntary however a completed application is required to request a review.
Access/Correction: Contact the City of Sydney Council Customer Service Team to access or correct this information.
Storage: City of Sydney Council, 456 Kent Street Sydney NSW 2000

DOCUMENT REGISTER

21 O'CONNOR ST, CHIPPENDALE
17-090

Day	1	22	27	6
Month	11	1	3	6
Year	18	19	19	19

DRAWING NO.	DRAWING TITLE	SHEET SIZE	ISSUE
1 of 1			
ARCHITECTURAL DRAWINGS			
000	COVER SHEET + LOCATION	A3	A B C D
001	BASIX COMMITMENTS	A3	A B C
020	EXISTING FLOOR PLANS	A3	A B C
021	EXISTING FLOOR PLANS	A3	A B C
030	PROPOSED FLOOR PLANS	A3	A B C D
031	PROPOSED FLOOR PLANS	A3	A B C D
032	DRAINAGE CONCEPT PLAN	A3	A B C D
060	SHADOW DIAGRAMS - EXISTING - 21st JUNE	A3	A B C
061	SHADOW DIAGRAMS - EXISTING - 21st JUNE	A3	A B C
062	SHADOW DIAGRAMS - EXISTING - 21st JUNE	A3	A B C
063	SHADOW DIAGRAMS - PROPOSED - 21st JUNE	A3	A B C
064	SHADOW DIAGRAMS - PROPOSED - 21st JUNE	A3	A B C
065	SHADOW DIAGRAMS - PROPOSED - 21st JUNE	A3	A B C
066	SHADOW DIAGRAMS - SMITHERS ST. ELEV.	A3	A B
067	CALCULATIONS	A3	A B C D
100	PROPOSED ELEVATIONS	A3	A B C D
101	PROPOSED ELEVATIONS	A3	A B C D
102	PROPOSED ELEVATIONS	A3	A B C D
103	PROPOSED MATERIALS	A3	A B C D
200	PROPOSED SECTIONS	A3	A B C D
201	PROPOSED SECTIONS	A3	A B C D
900	3D EXTERIOR	A3	A B C D
901	3D EXTERIOR	A3	A B C D
	SURVEY	A3/A1	✓
	HILL&BLUME / 16.6.2017		
	STATEMENT OF ENVIRONMENTAL EFFECTS	A4	✓
	A SQUARED PLANNERS / -		
	HERITAGE REPORT	A4	✓
	JOHN OULTRAM HERITAGE & DESIGN / -		
	BASIX	A4	✓
	NO. - A298571_03		
	COST SUMMARY REPORT	A4	✓
	BDA CONSULTANTS PTY LTD		

DISTRIBUTION

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	27/3/19	DA AMENDMENT-2
D	06/06/19	SECTION 8.2 SUBMISSION

ISSUE	A	A	A	A
MEDIA	P	P	P	P
METHOD	B	E	E	E

ISSUE	A	A	A	A
MEDIA	P	P	P	P
METHOD	B	E	E	E

Ground Floor
319-325 Trafalgar Street
Petersham, NSW 2049
info@kreisgrennan.com.au
p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036

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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

DRAWING TITLE:
COVER SHEET + LOCATION

PROJECT REFERENCE:
17-090

ISSUE
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Project address	21 O'Connor Street 21 O'Connor Street Chippendale 2008
Project name	Sydney City Council
Street address	Deposited Plan 1070354
Local Government Area	59
Plan type and number	0
Lot number	
Section number	
Project type	Attached dwelling house
Dwelling type	
Type of alteration and addition	My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).

Fixtures and systems	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
Hot water The applicant must install the following hot water system in the development: gas instantaneous.	✓	✓	✓
Lighting The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light emitting diode (LED) lamps.	✓	✓	✓
Fixtures The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating. The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating. The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	✓	✓	✓

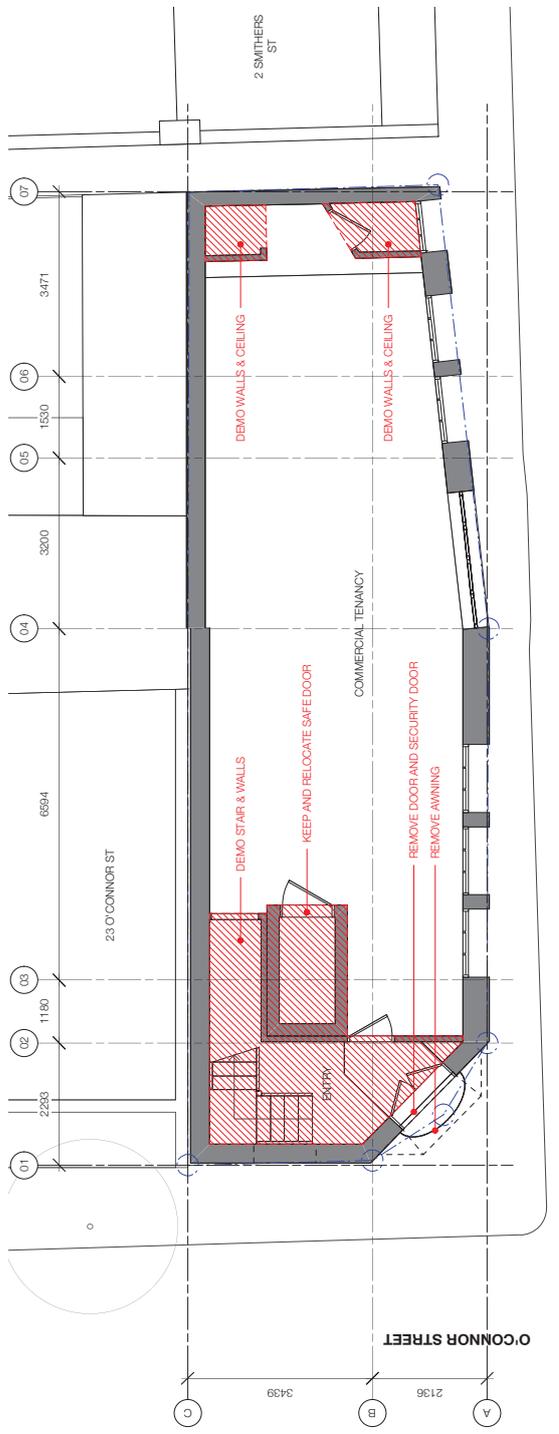
Construction	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
Insulation requirements The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m ² , b) insulation specified is not required for parts or altered construction where insulation already exists.	✓	✓	✓
Construction			
floor above existing dwelling or building:	Additional insulation required (R-value)	Other specifications	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		
flat ceiling, flat roof: framed	ceiling: R1.08 (up), roof: foil backed blanket (75 mm)	medium (solar absorbance 0.475 - 0.70)	



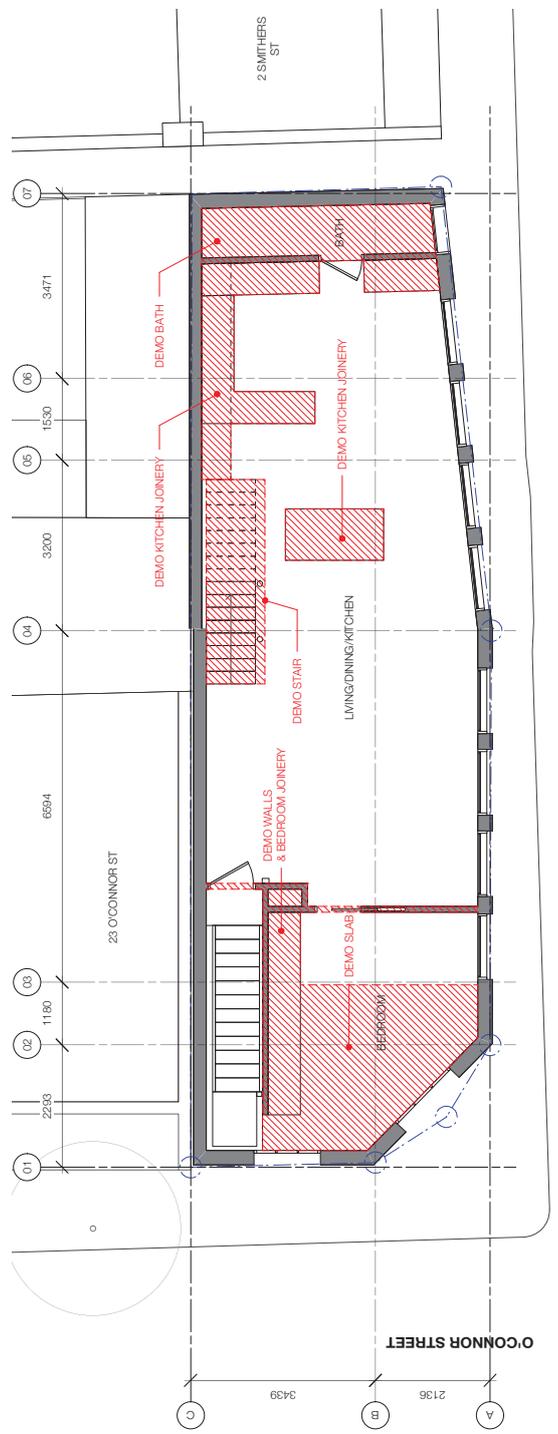
Glazing requirements	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check			
Windows and glazed doors The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door. The following requirements must also be satisfied in relation to each window and glazed door: Each window or glazed door with standard aluminium or timber frames and single clear or tinted glass may either match the description, or have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Penetration Rating Council (NPRC) conditions. For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony, or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill. Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35. External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed. Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm. Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.	✓	✓	✓			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type
W2	N	9.09	3.3	3.1	external louvre/blind (adjustable)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W3	W	1.5	3.7	9	external louvre/blind (adjustable)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W4	N	12.76	0	0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W5	W	7.81	0	0	external louvre/blind (fixed)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Glazing requirements	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type
W6	W	7.09	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W7	W	3.31	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W8	W	7.37	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Legend
In these commitments, "applicant" means the person carrying out the development. Commitments identified with a "✓" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development. (If a development application is to be lodged for the proposed development). Commitments identified with a "✓" in the "Show on CC/DC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development. Commitments identified with a "✓" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.



1 GROUND FLOOR



2 FIRST FLOOR

Ground Floor
319-325 Trafalgar Street
Petersham, NSW 2049
info@kreisgrennan.com.au
p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036



Kreis Grennan Architecture

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PROJECT:
ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
EXISTING FLOOR PLANS

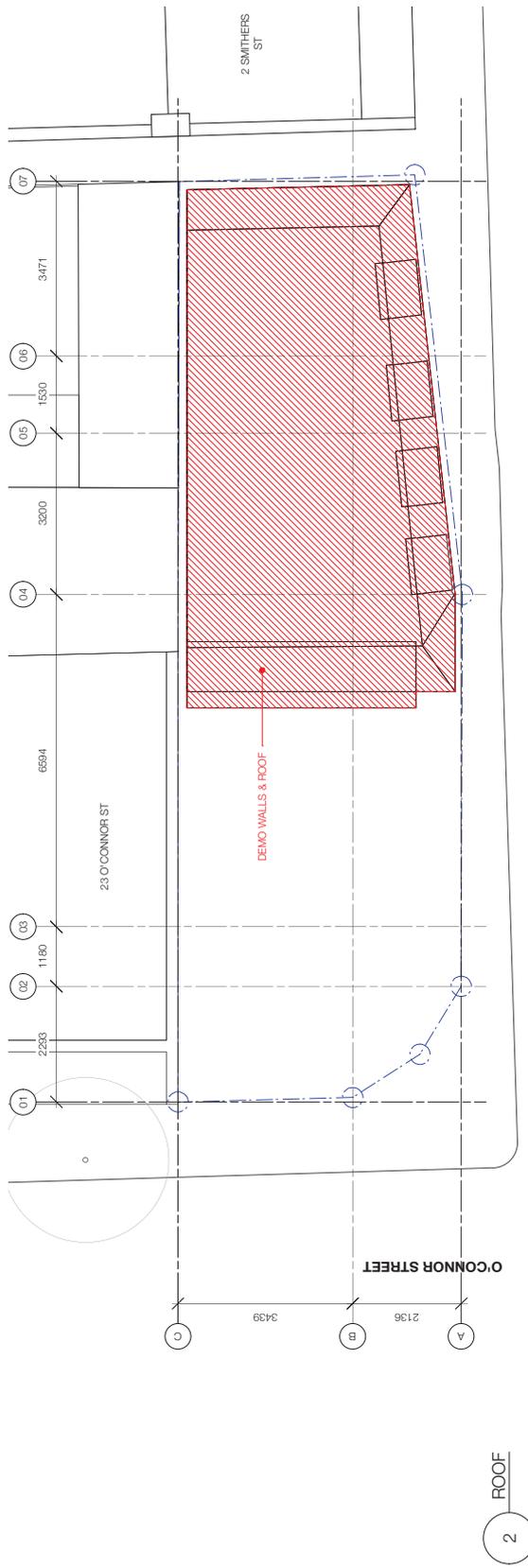
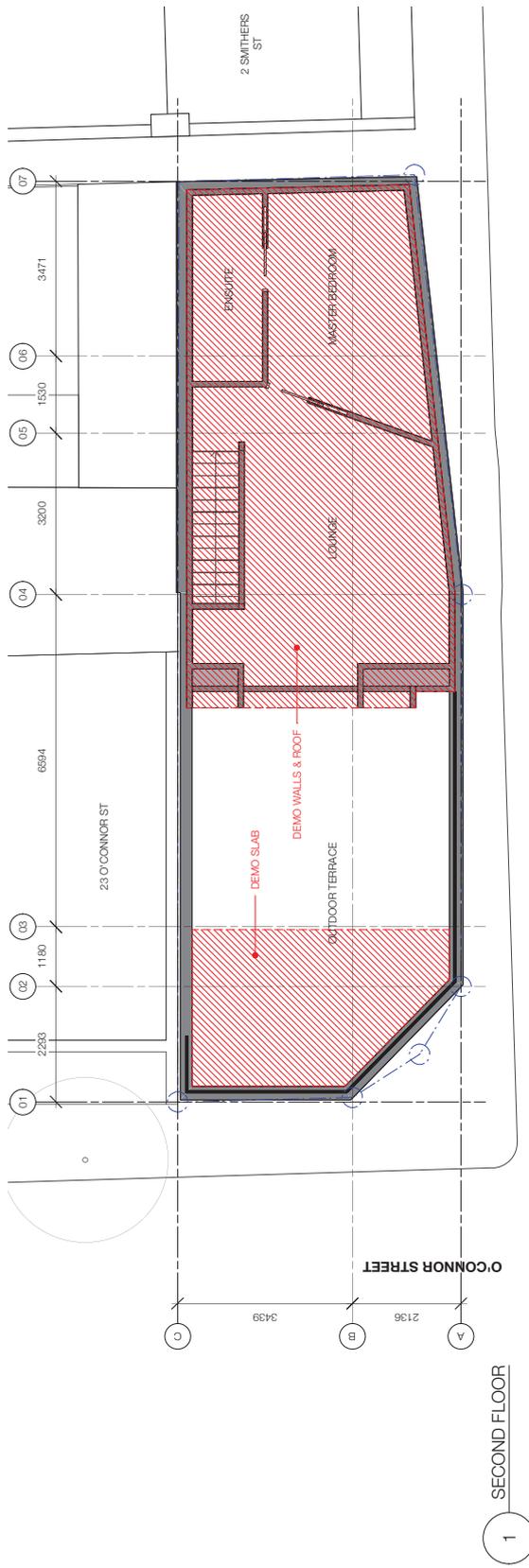
PROJECT REFERENCE:
17-090

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Ground Floor
319-325 Trafalgar Street
Petersham, NSW 2049
info@kreisgrennan.com.au
p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036



Kreis Grennan Architecture



PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
EXISTING FLOOR PLANS

PROJECT REFERENCE:
17-090

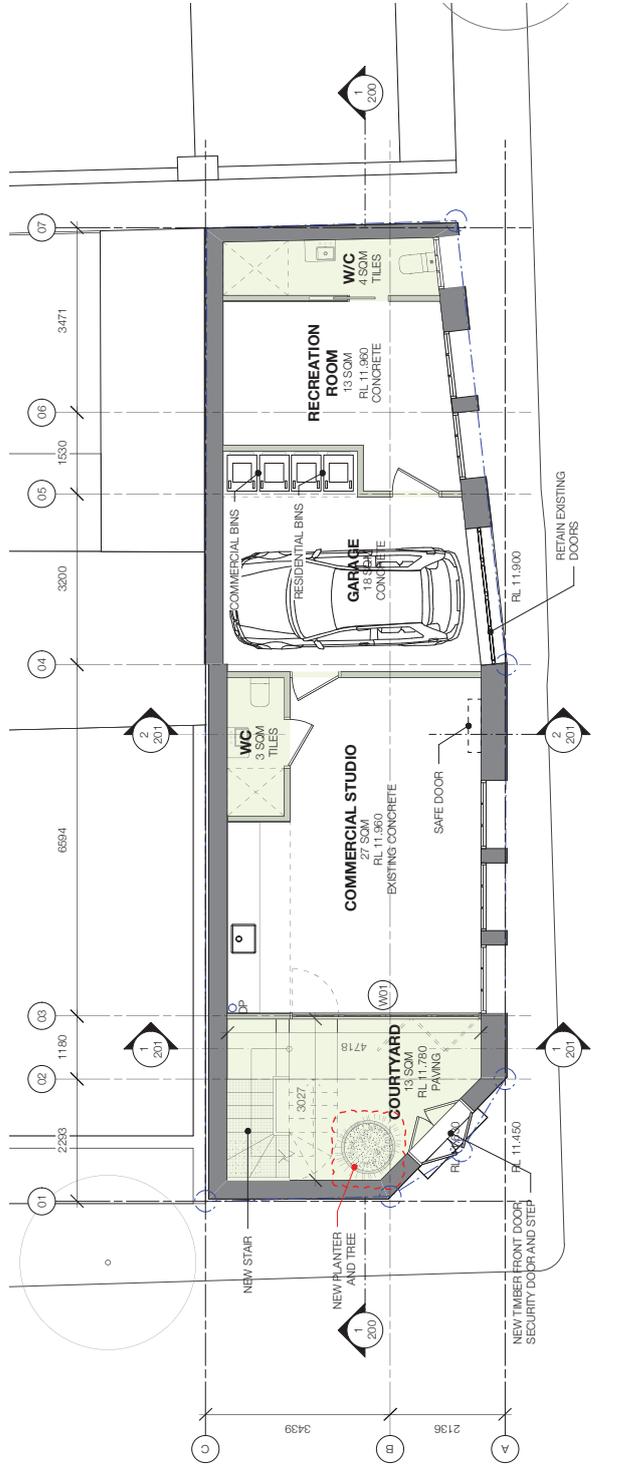
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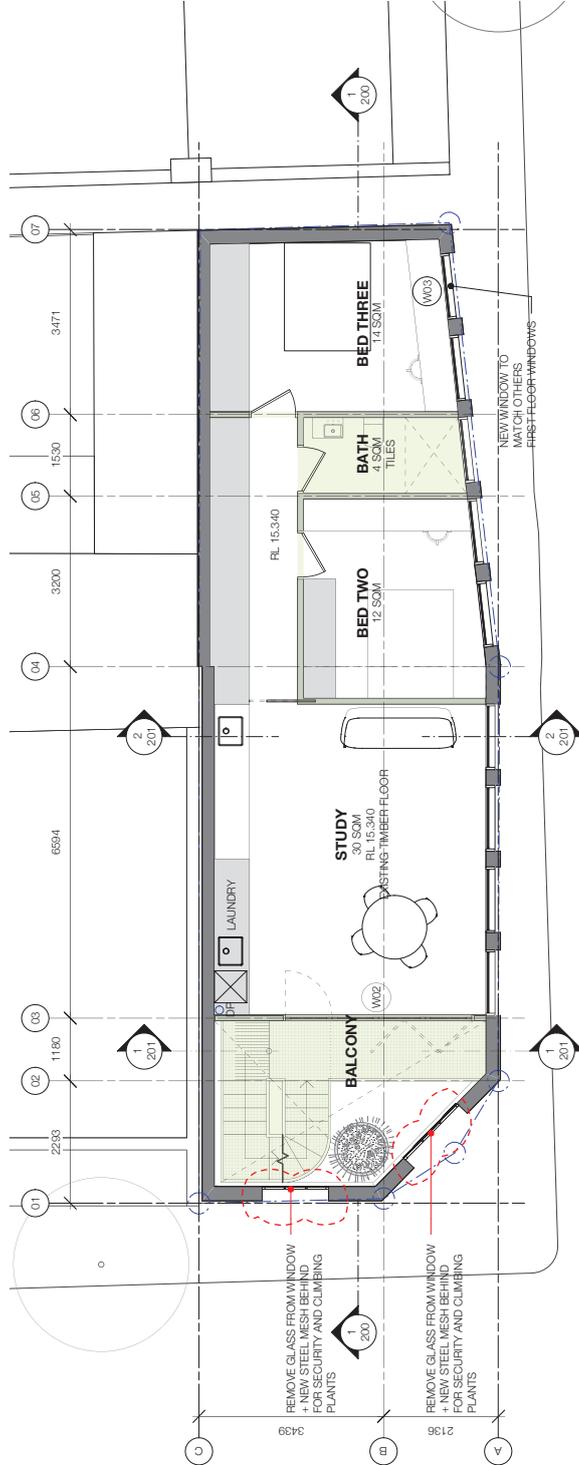
ISSUE:
C

DWG #:
021

SIZE:
A3



1 GROUND FLOOR



2 FIRST FLOOR

Ground Floor
 319-325 Trafalgar Street
 Petersham, NSW 2049
 info@kreisgrennan.com.au
 p: 02 9560 0888

Nominated Architect:
 Christian Grennan NSW Architect #6036

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
 STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	27/3/19	DA AMENDMENT-2
D	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED FLOOR PLANS

PROJECT REFERENCE:
17-090

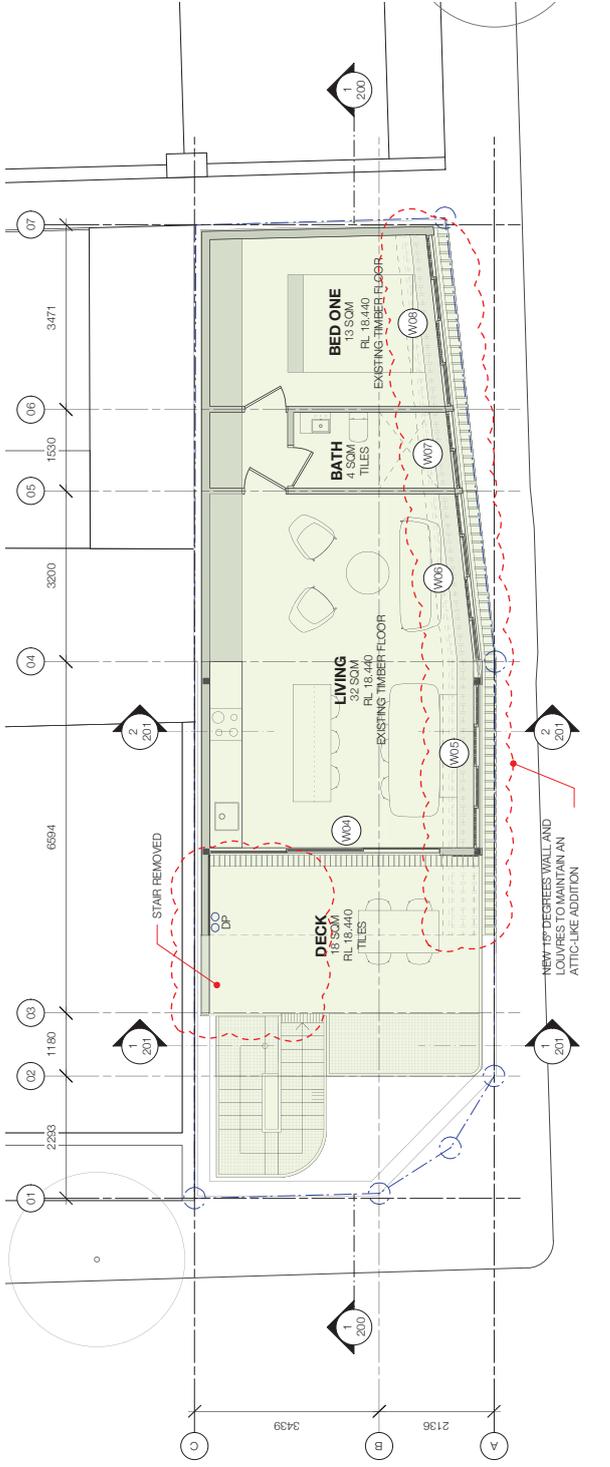
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SIZE:
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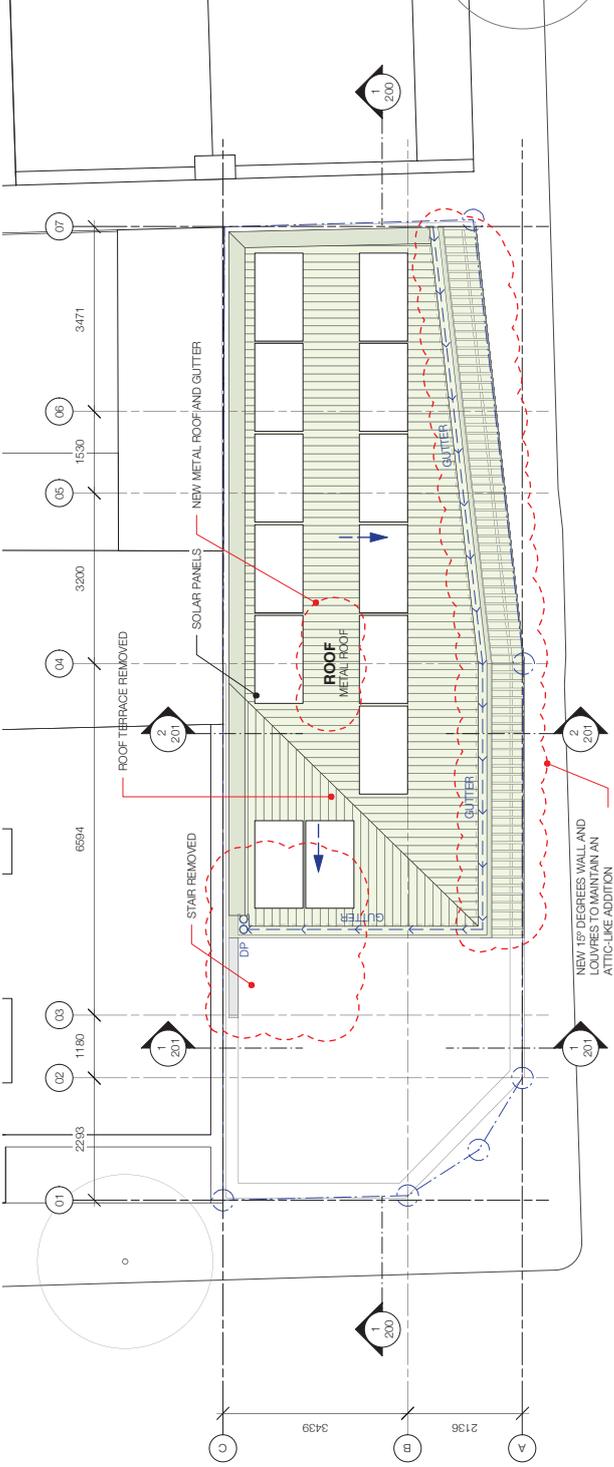
DWG #:
030



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1 SECOND FLOOR



2 ROOF

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p: 02 9560 0888



Nominated Architect:
Christian Grennan NSW Architect #6036

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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/11/19	DA AMENDMENT
C	27/3/19	DA AMENDMENT-2
D	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED FLOOR PLANS

PROJECT REFERENCE:
17-090

ISSUE:
D

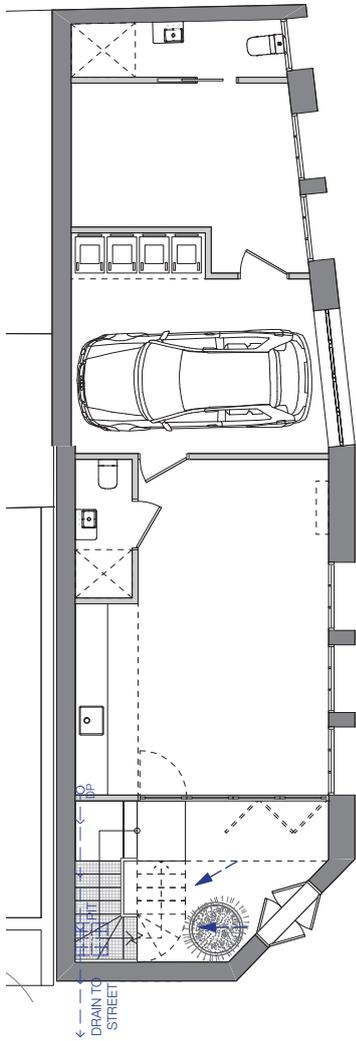
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DRAWN:
FZ

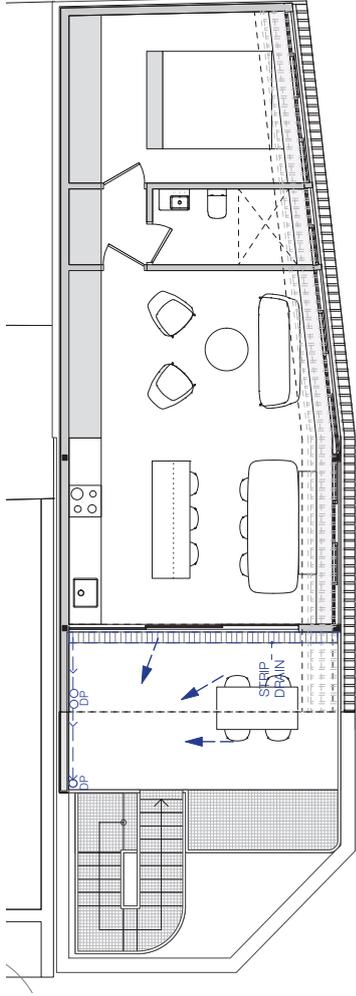
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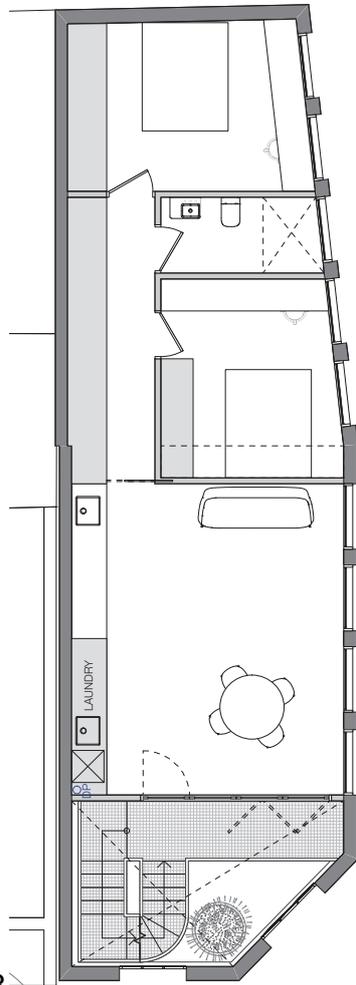
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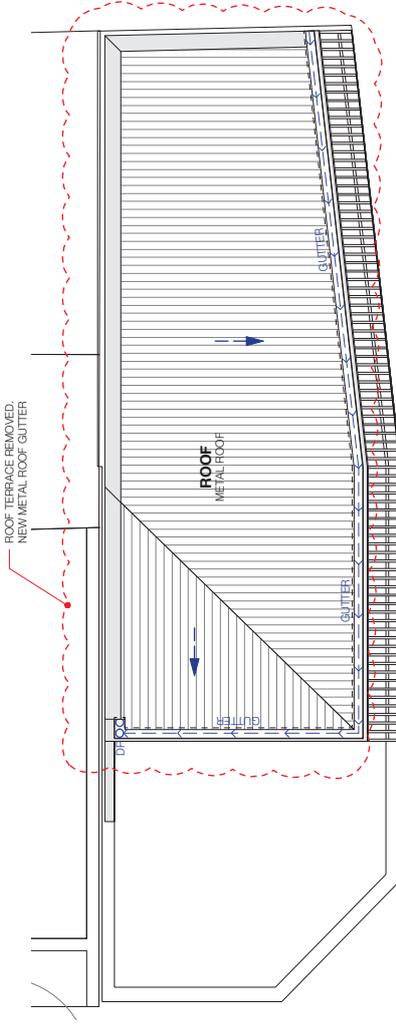
1 GROUND FLOOR



3 SECOND FLOOR



2 FIRST FLOOR



4 ROOF

Ground Floor
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info@kreisgrennan.com.au
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PROJECT:
ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT
C 27/3/19 DA AMENDMENT-2
D 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
CONCEPT DRAINAGE PLANS

PROJECT REFERENCE:
17-090

DRAWN:
FZ

SIZE:
A3

SCALE:
1:100

ISSUE:
D

DWG #:
032



NOTE: FOOTPRINT OF NEIGHBOURS NOT SURVEYED. APPROXIMATED EXTENT BASED ON SIXMAPS AERIAL VIEWS.

LEGEND

- LOT BOUNDARY
- NEIGHBOURS OPEN SPACE
- SHADOW CAST BY EXISTING BUILDING
- ADDITIONAL SHADOW CAST BY PROPOSED SECOND FLOOR VOLUME
- DECREASE ON SHADOW IMPACT BY PROPOSED SECOND FLOOR VOLUME

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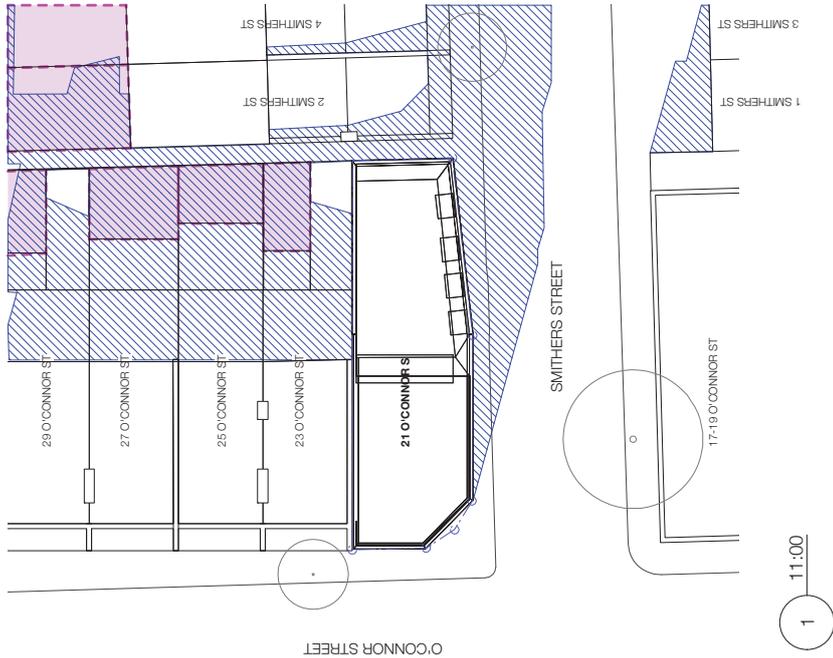
PROJECT: ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE: SHADOW DIAGRAMS - EXISTING - 21st JUNE
 PROJECT REFERENCE: 17-090
 DRAWN: FZ
 ISSUE: C
 SCALE: 1:250
 DWG #: 060
 SIZE: A3



Kreis Grennan Architecture



1 11:00

2 12:00

NOTE: FOOTPRINT OF NEIGHBOURS NOT SURVEYED. APPROXIMATED EXTENT BASED ON SIXMAPS AERIAL VIEWS.

LEGEND

- - - - - LOT BOUNDARY
- ▨ NEIGHBOURS OPEN SPACE
- ▧ SHADOW CAST BY EXISTING BUILDING
- ▩ ADDITIONAL SHADOW CAST BY PROPOSED SECOND FLOOR VOLUME
- DECREASE ON SHADOW IMPACT BY PROPOSED SECOND FLOOR VOLUME

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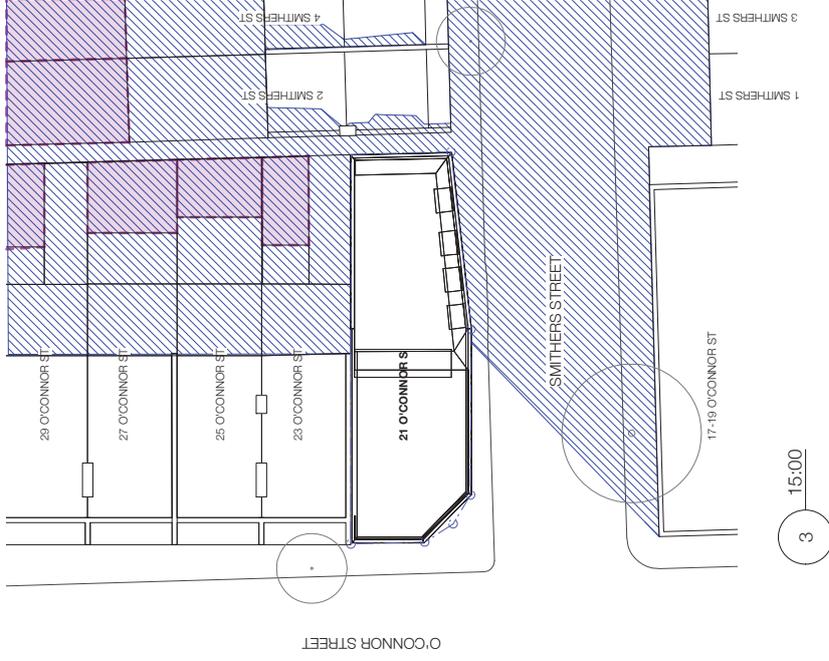
PROJECT: ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE: SHADOW DIAGRAMS - EXISTING - 21st JUNE
PROJECT REFERENCE: 17-090
DRAWN: FZ
ISSUE: C
SCALE: 1:250
SIZE: A3
DWG #: 061



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NOTE: FOOTPRINT OF NEIGHBOURS NOT SURVEYED. APPROXIMATED EXTENT BASED ON SKIMAPS AERIAL VIEWS.

- LEGEND**
- - - LOT BOUNDARY
 - - - NEIGHBOURS OPEN SPACE
 - ▨ SHADOW CAST BY EXISTING BUILDING
 - ▨ ADDITIONAL SHADOW CAST BY PROPOSED SECOND FLOOR VOLUME
 - ▨ DECREASE ON SHADOW IMPACT BY PROPOSED SECOND FLOOR VOLUME

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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
SHADOW DIAGRAMS - EXISTING - 21st JUNE

DRAWN: FZ

PROJECT REFERENCE: 17-090

SCALE: 1:250

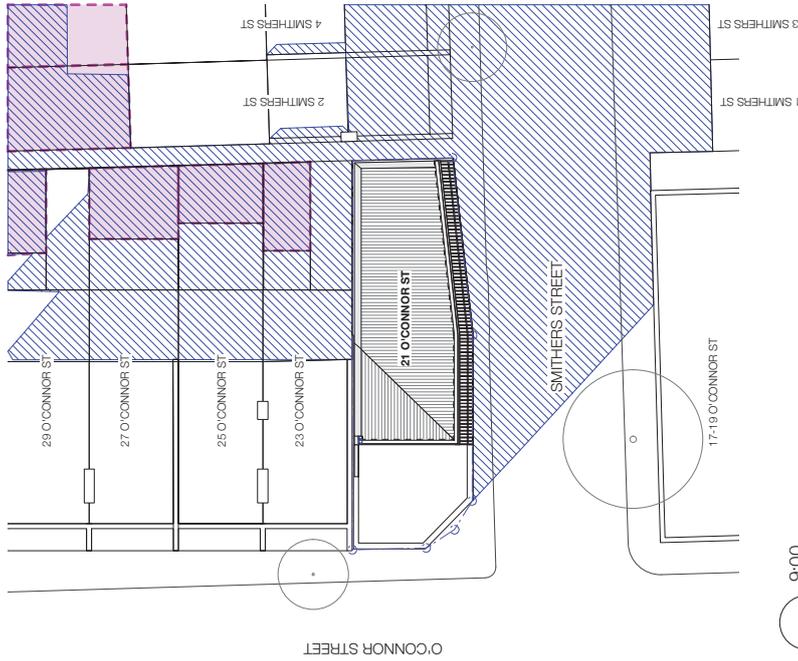
ISSUE: C

SIZE: A3

DWG #: 062



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1 9:00



2 10:00

NOTE: FOOTPRINT OF NEIGHBOURS NOT SURVEYED. APPROXIMATED EXTENT BASED ON SKIMAPS AERIAL VIEWS.

LEGEND

- - - LOT BOUNDARY
- - - NEIGHBOURS OPEN SPACE
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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
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ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
SHADOW DIAGRAMS - PROPOSED - 21st JUNE

PROJECT REFERENCE:
17-090

DRAWN:
FZ

ISSUE:
C

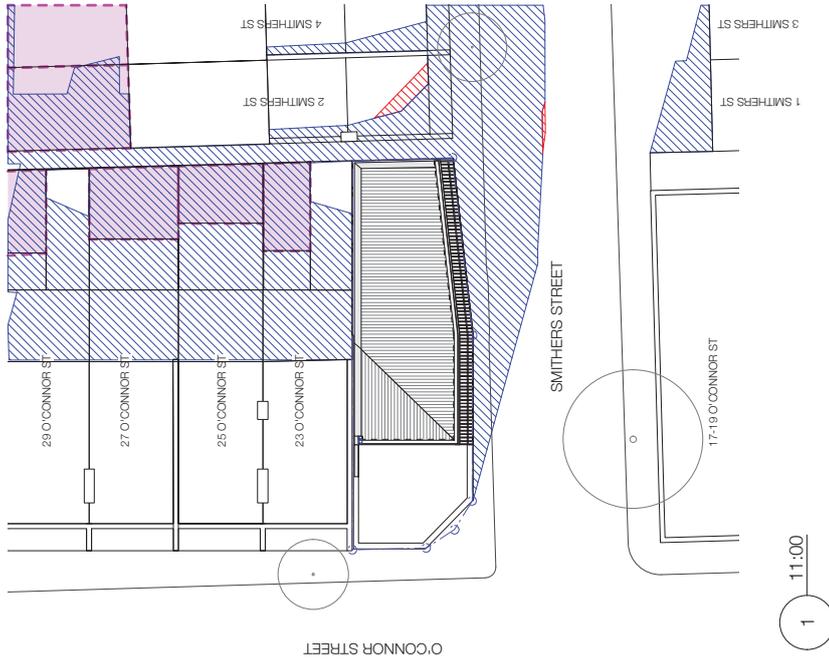
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DWG #:
063

SIZE:
A3



Kreis Grennan Architecture



1 11:00



2 12:00

NOTE: FOOTPRINT OF NEIGHBOURS NOT SURVEYED. APPROXIMATED EXTENT BASED ON SKIMAPS AERIAL VIEWS.

LEGEND

- LOT BOUNDARY
- NEIGHBOURS OPEN SPACE
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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
SHADOW DIAGRAMS - PROPOSED - 21st JUNE

PROJECT REFERENCE:
17-090

DRAWN:
FZ

ISSUE:
C

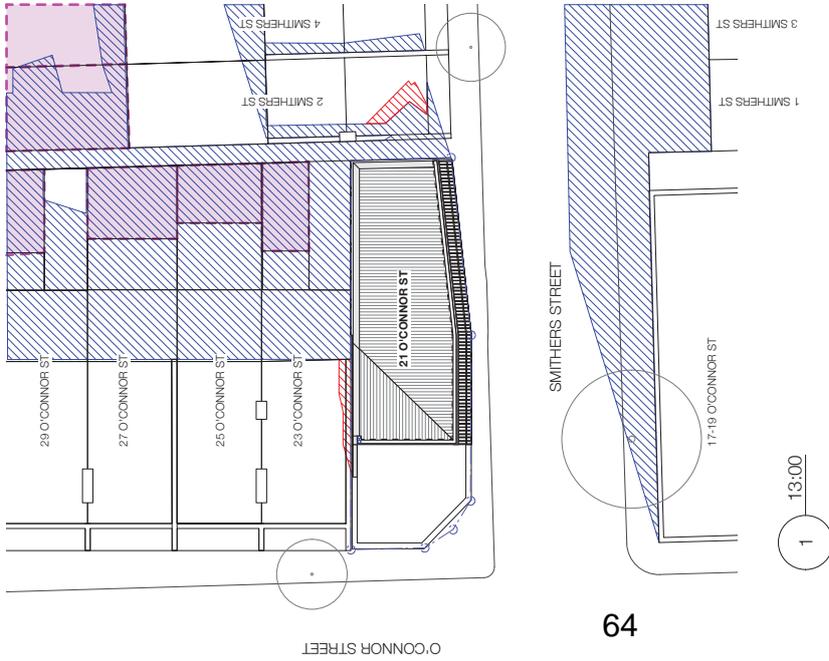
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064

SIZE:
A3



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LEGEND

- - - LOT BOUNDARY
- - - NEIGHBOURS OPEN SPACE
- ▨ SHADOW CAST BY EXISTING BUILDING
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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
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DRAWING TITLE:
SHADOW DIAGRAMS - PROPOSED - 21st JUNE

PROJECT REFERENCE: 17-090

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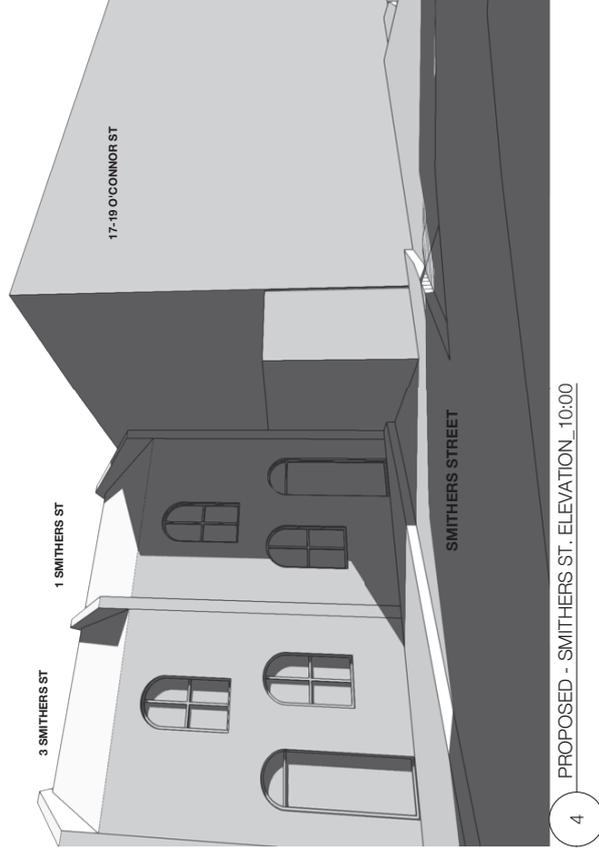
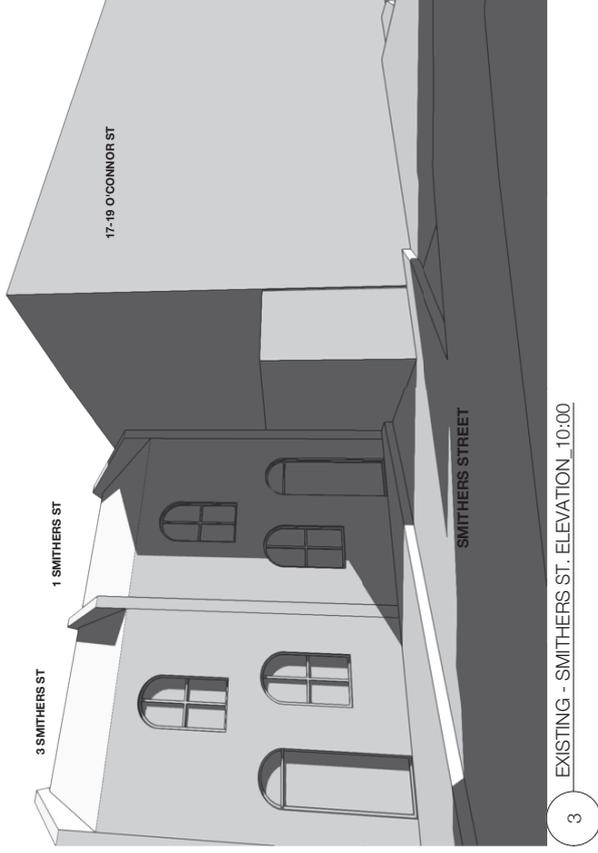
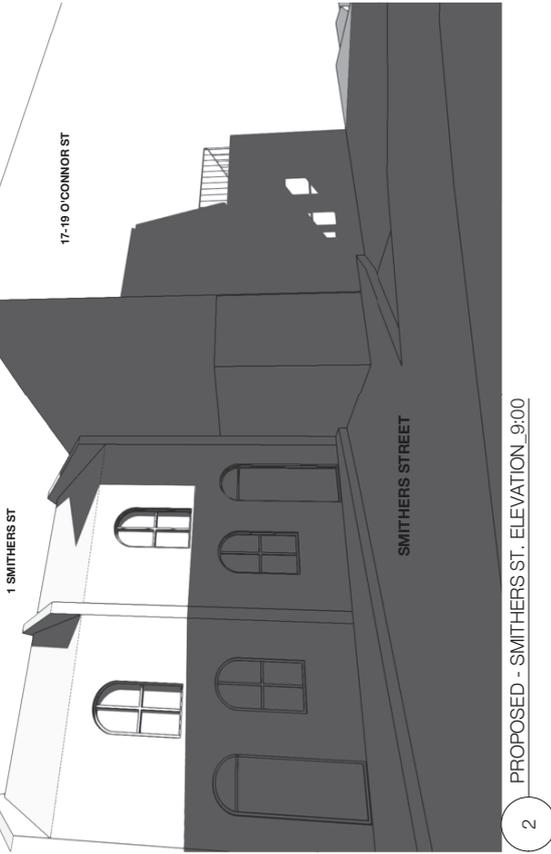
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SCALE: 1:250

SIZE: A3

DWG #: 065





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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
 STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE DATE DESCRIPTION
 A 22/1/19 DA AMENDMENT
 B 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
**SHADOW DIAGRAMS - SMITHERS ST.
 ELEVATION - 21st JUNE**

PROJECT REFERENCE:
 17-090

SCALE:
 1:250

ISSUE:
 B

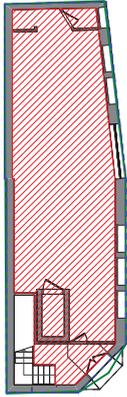
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SIZE:
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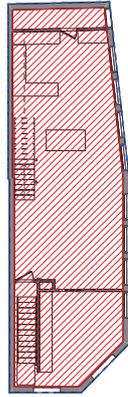


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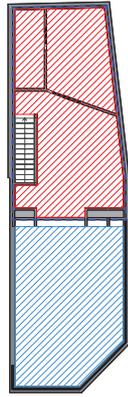
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1 GROUND FLOOR



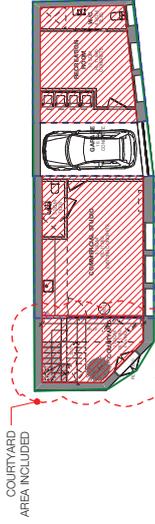
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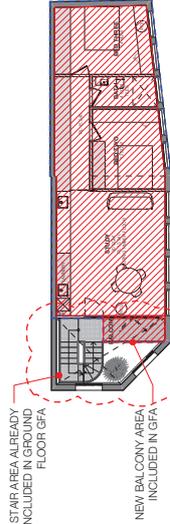
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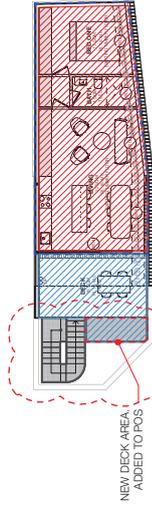
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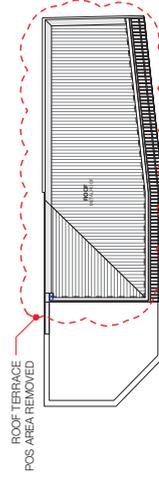
5 GROUND FLOOR



6 FIRST FLOOR



7 SECOND FLOOR



8 ROOF

	EXISTING	PROPOSAL
SITE AREA (SQM)	96.2	96.2
GFA (SQM)	199.5	195.6
FSR	2.1	2.0
SITE COVERAGE	100%	100%
PRIVATE OPEN SPACE (SQM)	35.8	18.5
TOTAL FLOOR AREA	241.1	207.2

LEGEND

- TOTAL FLOOR AREA
- GROSS FLOOR AREA (GFA)
- PRIVATE OPEN SPACE (POS)
- SITE AREA

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT
C 27/3/19 DA AMENDMENT-2
D 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
CALCULATIONS

PROJECT REFERENCE:
17-090

SCALE:
1:250

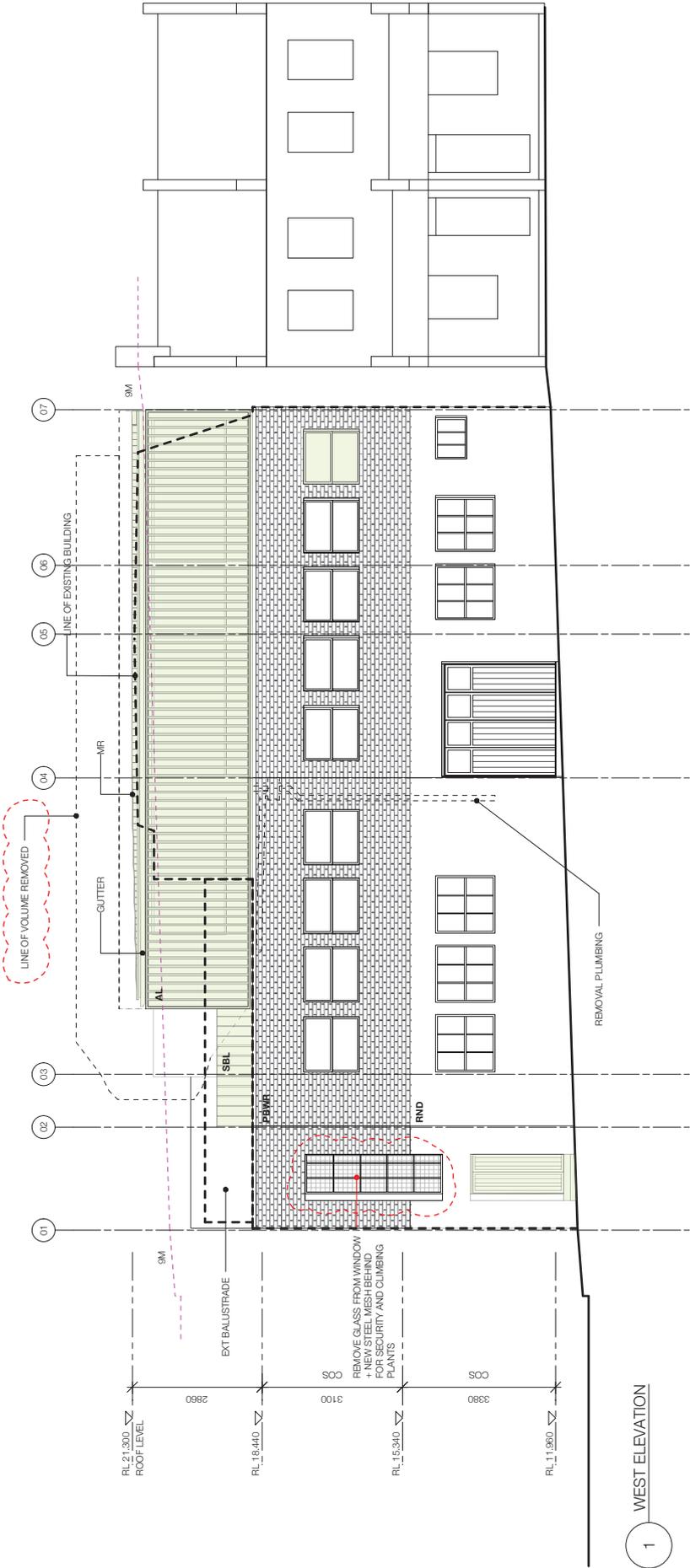
ISSUE:
D

SIZE:
A3

DWG #:
067



Kreis Grennan Architecture



1 WEST ELEVATION

SCHEDULE OF EXISTING COLOURS & FINISHES

EX BWK	EXISTING BRICKWORK WHITE COLOUR
---------------	------------------------------------

SCHEDULE OF PROPOSED COLOURS & FINISHES

RND	RENDED PAINT FINISH DARK GREY COLOUR
PBWR	PAINTED BRICKWORK DARK GREY COLOUR
ALW	ALUMINIUM WINDOWS DARK GREY COLOUR
AL	ALUMINIUM LOUVRES COPPER / BRASS MATTE COLOUR
MC	METAL CLADDING COPPER / BRASS MATTE COLOUR
SBL	STEEL BALUSTRADE DARK GREY COLOUR
MR	METAL ROOF COPPER / BRASS MATTE COLOUR

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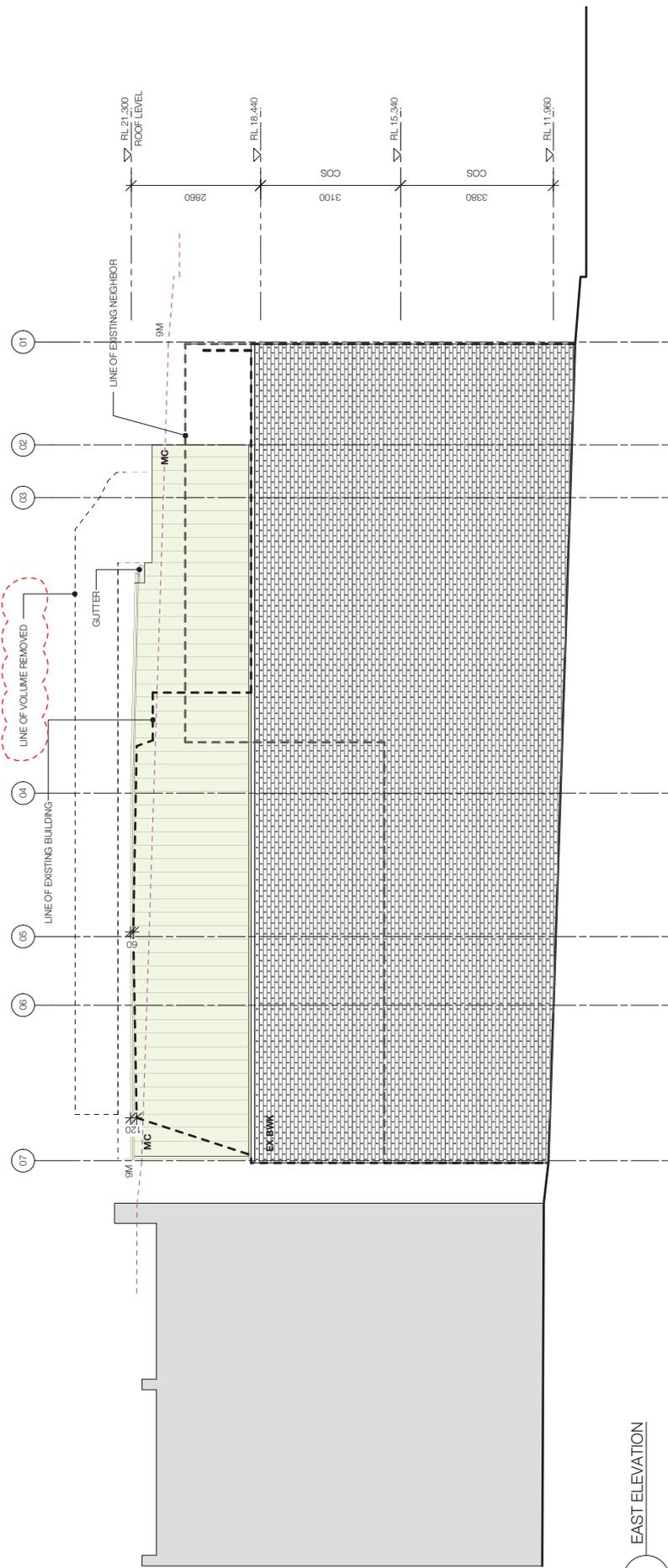
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ISSUE DATE DESCRIPTION
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D 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED ELEVATIONS
PROJECT REFERENCE:
17-090
DRAWN:
FZ
ISSUE:
D





SCHEDULE OF EXISTING COLOURS & FINISHES

EX BWK
EXISTING BRICKWORK
WHITE COLOUR



SCHEDULE OF PROPOSED COLOURS & FINISHES

RND
RENDER PAINT FINISH
DARK GREY COLOUR



PBWR
PAINTED BRICKWORK
DARK GREY COLOUR



ALW
ALUMINIUM WINDOWS
DARK GREY COLOUR



AL
ALUMINIUM LOUVRES
COPPER / BRASS MATTE
COLOUR



MC
METAL CLADDING
COPPER / BRASS MATTE
COLOUR



SBL
STEEL BALLUSTRADE
DARK GREY COLOUR



MR
METAL ROOF
COPPER / BRASS MATTE
COLOUR



NEW METAL ROOF

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Nominated Architect:
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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

DRAWING TITLE:
PROPOSED ELEVATIONS

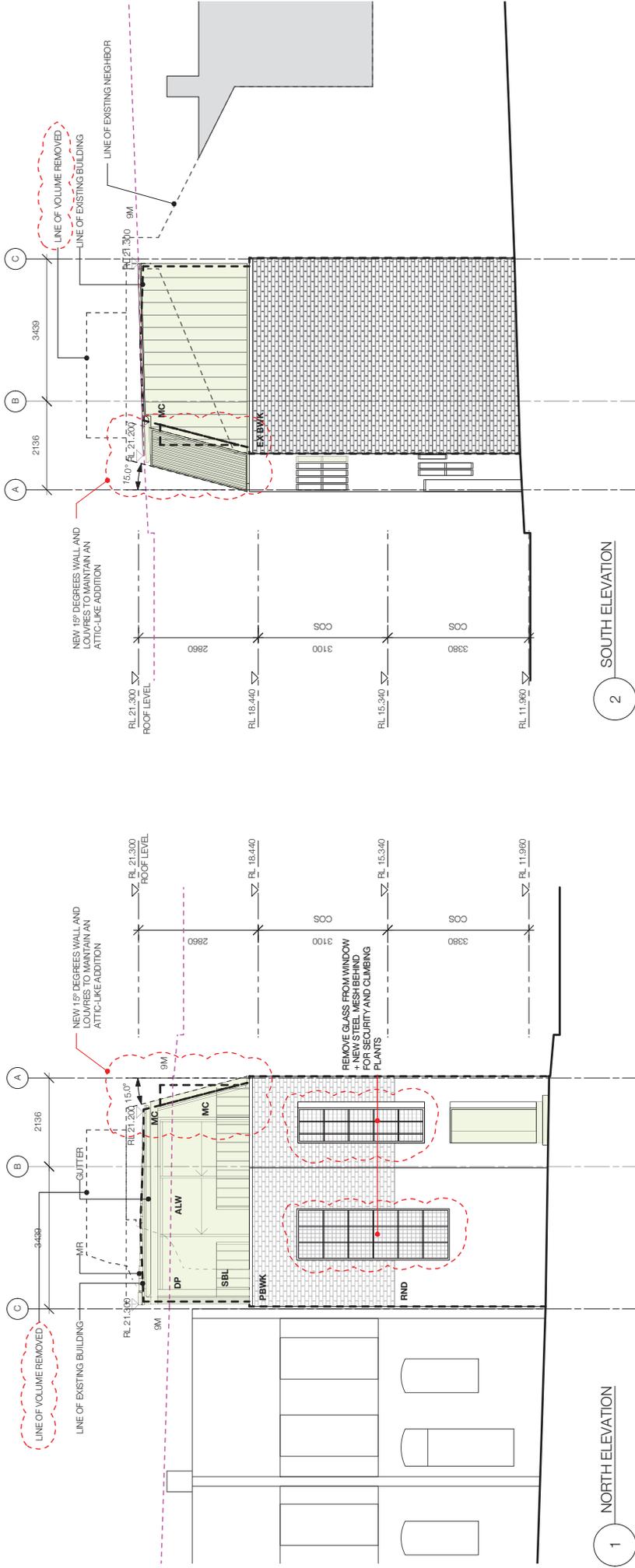
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DATE: **06/06/19**

DESCRIPTION: **SECTION 8.2 SUBMISSION**

PROJECT REFERENCE: **17-090**

DRAWN: **FZ**



69

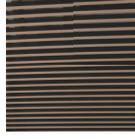
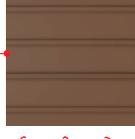
1 NORTH ELEVATION

2 SOUTH ELEVATION

SCHEDULE OF EXISTING COLOURS & FINISHES

	EX BWK EXISTING BRICKWORK WHITE COLOUR
--	---

SCHEDULE OF PROPOSED COLOURS & FINISHES

	RND RENDER PAINT FINISH DARK GREY COLOUR
	PBWR PAINTED BRICKWORK DARK GREY COLOUR
	ALW ALUMINIUM LOUVRES DARK GREY COLOUR
	AL ALUMINIUM LOUVRES COPPER / BRASS MATTE COLOUR
	MC METAL CLADDING COPPER / BRASS MATTE COLOUR
	SBL STEEL BALLUSTRADE DARK GREY COLOUR
	MR METAL ROOF COPPER / BRASS MATTE COLOUR

Ground Floor
319-325 Trafalgar Street
Petersham, NSW 2049
info@kreisgrennan.com.au
p: 02 9560 0888

KGA

Nominated Architect:
Christian Grennan NSW Architect #6036

Kreis Grennan Architecture

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT
C 27/3/19 DA AMENDMENT-2
D 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED ELEVATIONS

PROJECT REFERENCE:
17-090

DRAWN:
FZ

ISSUE:
D

SCALE:
1:100

SIZE:
A3

DWG #:
102

CLIENT:
A. RODGERS & B. MULLIN



1 WEST ELEVATION

SCHEDULE OF PROPOSED COLOURS & FINISHES

RND RENDED PAINT FINISH DARK GREY COLOUR	PBWR PAINTED BRICKWORK DARK GREY COLOUR	ALW ALUMINIUM WINDOWS DARK GREY COLOUR	AL ALUMINIUM LOUVRES COPPER / BRASS MATTE COLOUR	MC METAL CLADDING COPPER / BRASS MATTE COLOUR	SBL STEEL BALUSTRADE DARK GREY COLOUR	MR METAL ROOF COPPER / BRASS MATTE COLOUR

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PROJECT:
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STREET, CHIPPENDALE**

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT
C 28/3/19 DA AMENDMENT-2
D 06/06/19 SECTION 8.2 SUBMISSION

DRAWING TITLE:
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PROJECT REFERENCE:
17-090

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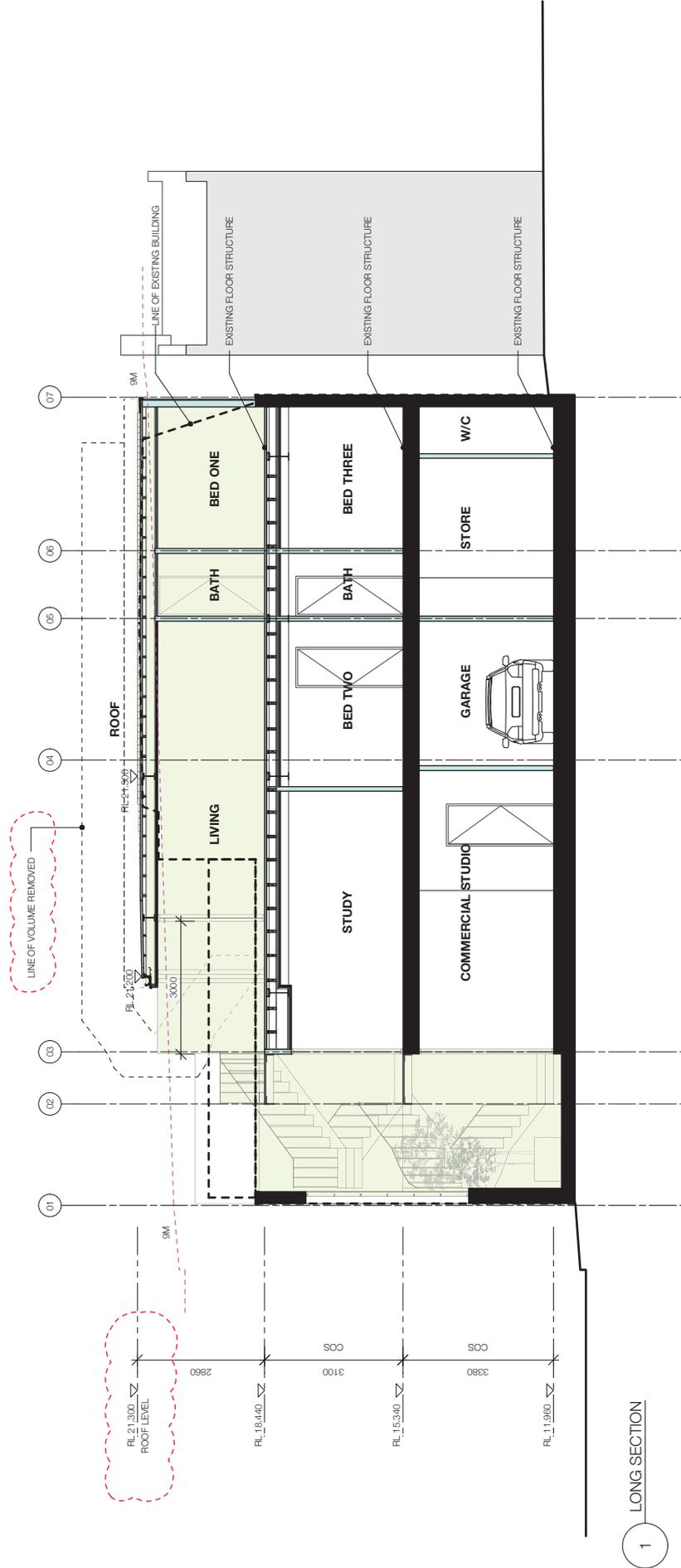
CLIENT:
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ISSUE:
D

SIZE:
A3

DWG #:
103





1 LONG SECTION

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
 STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
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D	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED SECTION

PROJECT REFERENCE:
17-090

SCALE:
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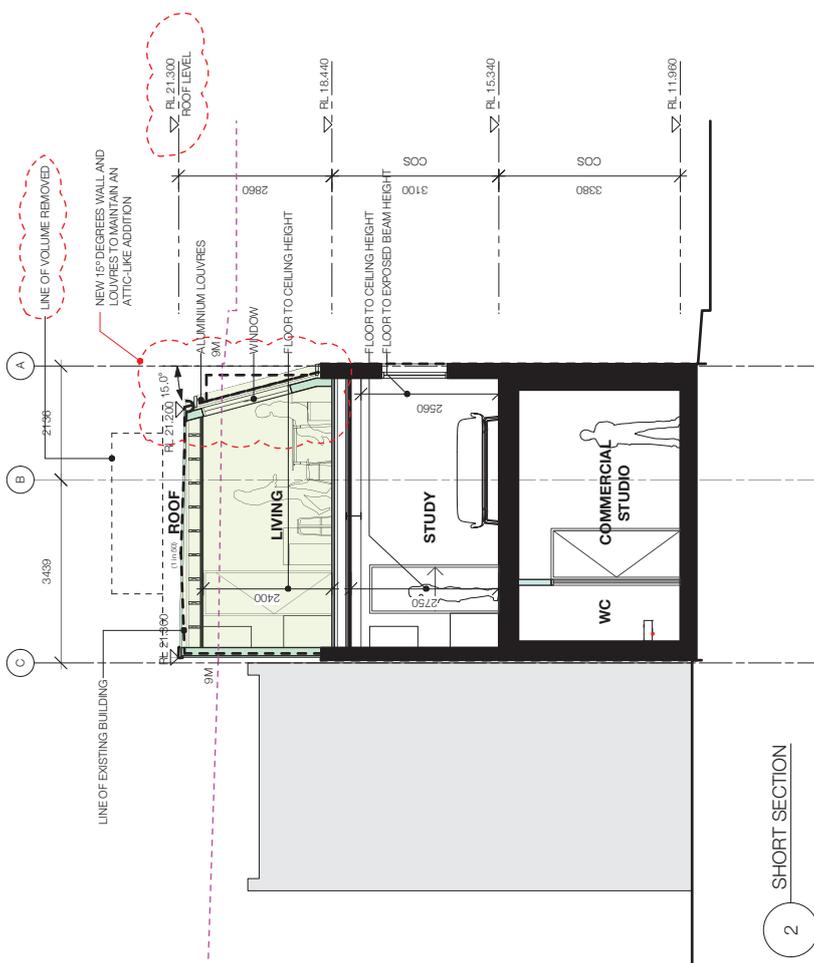
ISSUE:
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DRAWN:
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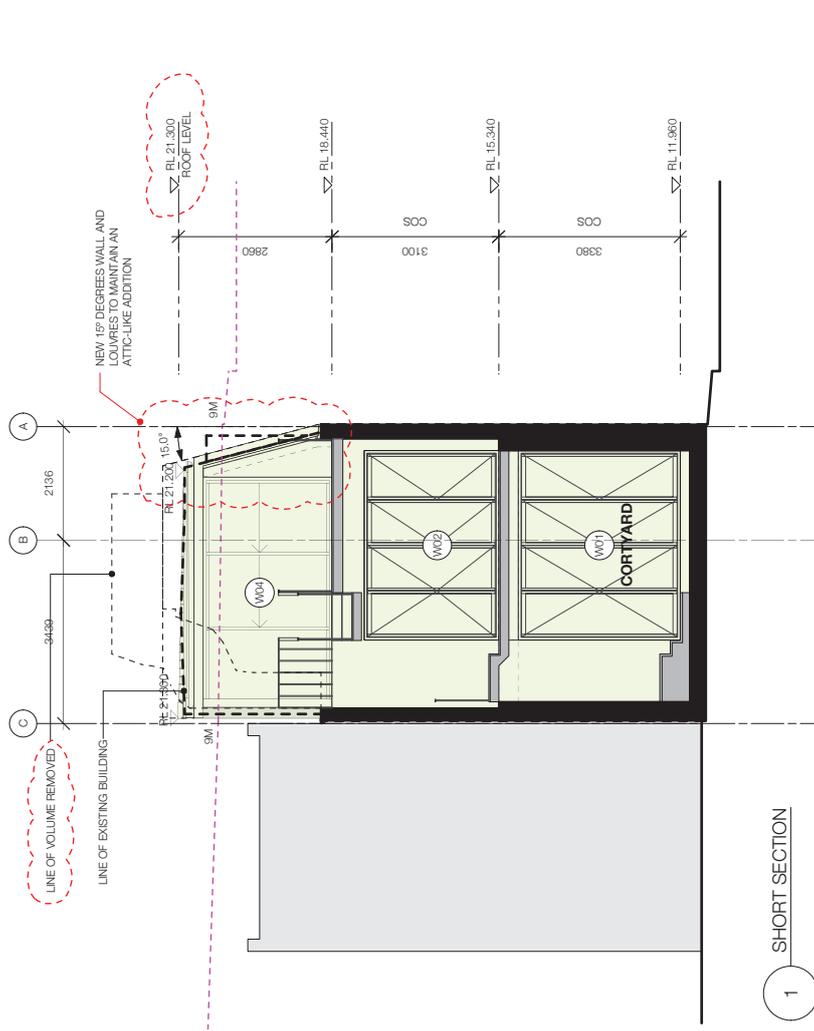
SIZE:
A3

DWG #:
200





1 SHORT SECTION



2 SHORT SECTION

Ground Floor
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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE	DATE	DESCRIPTION
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B	22/1/19	DA AMENDMENT
C	27/3/19	DA AMENDMENT-2
D	06/06/19	SECTION 8.2 SUBMISSION

DRAWING TITLE:
PROPOSED SECTION

PROJECT REFERENCE:
17-090

ISSUE:
D

SCALE:
1:100

DRAWN:
FZ

ISSUE #:
201

SIZE:
A3



Kreis Grennan Architecture



1 EXISTING VIEW - NORTH-WEST

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 info@kreisgrennan.com.au
 p: 02 9560 0888

Nominated Architect:
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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
 STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

DRAWING TITLE:
3D EXTERIOR
 PROJECT REFERENCE:
17-090

ISSUE	DATE	DESCRIPTION
A	01/11/18	DA SUBMISSION
B	22/1/19	DA AMENDMENT
C	27/3/19	DA AMENDMENT-2
D	06/06/19	SECTION 8.2 SUBMISSION

SCALE:
NTS
 ISSUE:
D

SIZE:
A3
 DWG #:
900



Kreis Grennan Architecture



1 PROPOSED VIEW - NORTH-WEST

Ground Floor
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 Petersham, NSW 2049
 info@kreisgrennan.com.au
 p: 02 9560 0888

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D	06/06/19	SECTION 8.2 SUBMISSION

SCALE:
NTS
 ISSUE:
D

SIZE:
A3
 DWG #:
901



Kreis Grennan Architecture

Section 82a Review
Statement of Environmental Effects

for
**Alterations and Additions to
Dwelling House**

21 O'Connor Street, Chippendale

June 2019

AP 1175

D/2018/1360



Preface

This report accompanies amended plans submitted in relation to D/2018/1360.

D/2018/1360 was refused by the Local Planning Panel on 3 April 2019, due to concerns regarding compliance with development standards, heritage and character concerns.

Following this, amended plans have been prepared for submission to Council for consideration. This approach would meet the requirements of s8.2(1)(a) and 8.3 of the Act.

This statement and the amended plans address all concerns raised by the Council in relation to the previous application.

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Report Prepared by: Lewis Adey

Signature



Date: 6 June 2019

1. Background

D/2018/1360 was refused by the City Local Planning Panel on 3 April 2019 for the following reasons:

1. *The variations sought to development standards prescribed under Clause 4.3 Height and Clause 4.4 Floor Space Ratio of the Sydney LEP 2012 are inconsistent with the provisions of Clause 4.6 and are not considered to be in the public interest.*
2. *The proposal results in unsympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9). The proposal is therefore contrary to the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.*
3. *The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it is excessive in bulk and scale, will have detrimental impacts on the character of the contributory building and wider heritage conservation area, and will have adverse impacts on the amenity of neighbouring buildings.*
4. *The proposal will have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy impacts as well as potential acoustic impacts, and as such is inconsistent with the provisions of Section 4.2.3 of the Sydney DCP 2012.*
5. *The proposal is not in keeping with the desired future character of the area and is not considered to be in the public interest.*

2. Amended Proposal

This statement is to be read in conjunction with the following plans prepared by Kries Grennan Architecture, dated 6 June 2019:

000	D	COVER SHEET + LOCATION
001	C	BASIX COMMITMENTS
020	C	EXISTING FLOOR PLANS
021	C	EXISTING FLOOR PLANS
030	D	PROPOSED FLOOR PLANS
031	D	PROPOSED FLOOR PLANS
032	D	DRAINAGE CONCEPT PLAN
060	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
061	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
062	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
063	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
064	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
065	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
066	B	SHADOW DIAGRAMS - SMITHERS ST. ELEV.
067	D	CALCULATIONS
100	D	PROPOSED ELEVATIONS
101	D	PROPOSED ELEVATIONS
102	D	PROPOSED ELEVATIONS
103	D	PROPOSED MATERIALS
200	D	PROPOSED SECTIONS
201	D	PROPOSED SECTIONS
900	D	3D EXTERIOR
901	D	3D EXTERIOR

The proposal has been modified in the following manner:

- Deletion of roof terrace and access stairs thereto
- New metal roof and gutter
- New 15° degrees wall and louvres to maintain an attic-like addition

3. Assessment of Amended Proposal against Reasons for Refusal

- The variations sought to development standards prescribed under Clause 4.3 Height and Clause 4.4 Floor Space Ratio of the Sydney LEP 2012 are inconsistent with the provisions of Clause 4.6 and are not considered to be in the public interest.*

Comment

The existing building exceeds the height limit and FSR. The proposal as modified reduces the existing FSR slightly and removes an existing and proposed roof terrace.

Site Area (96.2m ²)	Existing	Proposed	Control	Complies
Height	9.41m RL 21.18	9.56m RL 21.30	9m	NO (existing non compliance)
Floor Space Ratio	2.07:1 (199.5m ²)	2.03:1 (195.6m ²)	1.5:1 (144.3m ²)	NO (reduction in existing FSR))

The removal of the proposed roof terrace and redesign of the second floor ensures that any height alteration is minimised to 150mm. Furthermore the design of the second floor now incorporates a 15° wall and louvres to ensure it appears as an attic-like addition. An amended Clause 4.6 variation is attached to this report (see Appendix 1).

The gross floor area is now slightly below the existing gross floor area (3.9m²). An amended Clause 4.6 variation is attached to this report (see Appendix 2).

The Clause 4.6 variations demonstrate that the development standards are unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify a variation to the control.

The amended proposal therefore addresses Reason 1.

- 2. *The proposal results in unsympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9). The proposal is therefore contrary to the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.***

Comment

The amended proposal is consistent with the Clause 5.10 of the LEP 2012 and Section 3.9 of the Sydney DCP 2012 in the following manner:

- A proposed roof terrace has been removed and all alterations are generally within the envelope of the existing building.
- The upper floor includes pitched walls at 15 degree to present an attic-like roof addition.
- The proposed height, bulk and scale is consistent with the character of surrounding development.
- The proposal is of a high standard of design and will improve the existing amenity of the dwelling.
- The proposal will not result in any adverse amenity impacts to surrounding neighbours in terms of privacy, solar access or views.

As noted by John Oultram in the HIS and subsequent correspondence to Council:

The post war building will be retained with limited change to its visible elevations. The current roof form is modern resulting from the later mansard and this will be replaced to a similar form.

As such the amended proposal will not have a detrimental effect on the Chippendale Heritage Conservation Area and therefore addresses Reason 2.

- 3. *The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it is excessive in bulk and scale, will have detrimental impacts on the character of the contributory building and wider heritage conservation area, and will have adverse impacts on the amenity of neighbouring buildings.***

Comment

A proposed roof terrace has been removed and all alterations are generally within the envelope of the existing building. Floor space is slightly reduced to accommodate an internal courtyard. As such, there is no increase in bulk and

scale and the design of the second floor includes a 15° pitch to present as an attic form.

The removal of the proposed roof terrace and access thereto ensures no adverse privacy impacts on adjoining neighbours.

High quality materials of metal cladding copper / brass matte colour are proposed replacing a non – original form at this level and exhibiting design excellence in the streetscape and Heritage Conservation Area.

The amended proposal therefore addresses Reason 3.

- 4. The proposal will have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy impacts as well as potential acoustic impacts, and as such is inconsistent with the provisions of Section 4.2.3 of the Sydney DCP 2012.***

Comment

The removal of the proposed roof terrace and access thereto ensures no adverse privacy impacts on adjoining neighbours.

The amended proposal therefore addresses Reason 4.

- 5. The proposal is not in keeping with the desired future character of the area and is not considered to be in the public interest.***

Comment

The proposal in its modified form is considered suitable, as it will not visibly increase the height of the building (150mm change), reduces bulk and scale and includes an attic style second floor, which is entirely consistent with the existing and the desired future character of the area.

The amended proposal therefore addresses Reason 5.

Summary and Conclusions

The proposal has been amended to address the concerns raised by Council and is considered to be consistent with the objectives and controls contained in Council's LEP and DCP.

Appendix 1
Clause 4.6 Variation – Height

21 O'Connor Street, Chippendale

REQUEST FOR VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF SYDNEY LEP 2012

Clause 4.3 – Building Height

Clause 4.3 of the Sydney LEP 2012 and the associated map prescribe a maximum building height of 9 metres for this site. The existing building has a maximum height of 9.41m, exceeding the control. The removal of the proposed roof terrace and redesign of the second floor ensures that any height alteration is now minimised to 150mm. Furthermore the design of the second floor now incorporates a 15° wall and louvres to ensure it appears as an attic-like addition.



The percentage variation with the control is 4.5%.

The proposal therefore seeks to vary the building height development standard.

Prior to the approval and construction of the additions approved on 26/08/2013 (D/2013/897) for the demolition of an existing roof-top level, the height was 9.84m. This was reduced to 9.41m as a result of that approval. It is now proposed to be 9.56m.

The objectives of Clause 4.3 are as follows:

- a) *to ensure the height of development is appropriate to the condition of the site and its context,*
- b) *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- c) *to promote the sharing of views,*
- d) *to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- e) *in respect of Green Square:*
 - i. *to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*
 - ii. *to ensure the built form contributes to the physical definition of the street network and public spaces.*

The zoning of the land is B4 Mixed Use. The objectives of the B4 zone are:

- *to provide a mixture of compatible uses;*
- *to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling;*
- *to ensure uses support the viability of centres*

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the Sydney Local Environmental Plan 2012 allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The clause goes on to state:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that*

contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard*
- (4) Consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the height of building development standard.

The NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the DP&I's Guide.

Clause 4.6(3)(a) and (b) and 4.6(4)

The proposal is considered against the four matters required to be established under Clause 4.6.

1. Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case (4.3(a)):

The most common way of establishing that compliance with a standard is unreasonable and unnecessary is to establish that the objectives of the standard are met, even though the standard is not complied with: see *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245. This objection relies on this method. Compliance with the objectives of the height standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- Compliance with the development standards is unreasonable and unnecessary as this would reduce the height of the existing building and compromise floor to ceiling heights with no benefit for neighbouring properties or in terms of the overall bulk of the building as presented to the public domain.
- The components of the second floor above the height control will not result in adverse building bulk that results in environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.
- The second floor has been redesigned to include pitched walls at 15 degree to present an attic-like roof addition, further reducing apparent bulk.

2. There are sufficient environmental planning grounds to justify contravening the development standard (4.3(b)):

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposal seeks to undertake alterations and additions including a new second floor presenting an attic-like roof addition. The addition is recessive, using high quality materials and exhibits design excellence. This represents a better planning outcome for the residential amenity of the site with no adverse impacts on the area.

The proposal overall is therefore considered to be an appropriate response for the site and the non-compliant elements will not affect the amenity of adjoining properties, whilst improving the amenity of the subject property.

The proposed height is achieved without adverse impacts and the proposal will provide a suitable design and of suitable amenity in terms of the built environment, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

The visual bulk of the component above the height control has been reduced by providing a 15 degree wall hipped away from the street.

Compliance with the height control will not result in improved amenity for adjoining properties and the visual bulk of the upper level as perceived from the street will be reduced. The lack of unreasonable impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.

3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):

The written request adequately addresses the matters referred to above by Clause 4.6(3)(a) and (b).

4. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out:

The proposal will be in the public interest as it meets the objectives of the height development standard as follows:

Objective (a) seeks to provide appropriate heights, which allow for the environmental amenity of neighbouring properties. The proposal will ensure that adequate solar access is provided to adjoining properties and no new impacts are created in terms of privacy. In particular, it is noted that the components, which extend beyond the height control will not result in a loss of environmental amenity for the neighbouring properties as outlined above.

Objective (b) will be met as the proposal ensures an acceptable transition between this building and others in the Conservation Area.

Objective (c) is met as no views will be impacted upon and in particular, the non-compliant elements will not affect views from adjoining properties.

Objective (d) is not applicable to this site.

Objective (e) is not applicable to this site.

The zoning of the property is B4 and the objectives of the zone are:

- *to provide a mixture of compatible uses;*
- *to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling;*
- *to ensure uses support the viability of centres*

The proposal is consistent with the zone objectives and in particular, it is noted that the additional height beyond the height standard will not result in a development, which is inconsistent with the zoning.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives of the B4 zone. In addition, the above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

Conclusion

The consistency of the development with the zone objectives and the objectives of the height standard and the lack of impact arising is sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

Despite the breach with the standard, the proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979 (formerly 5(a)(i) and (ii) of the Act), which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land and to promote good design and amenity of the built environment.

In the context of other requirements of Clause 4.6, it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.



Lewis Adey

6 June 2019

Director

aSquare Planning Pty Ltd

Appendix 2
Clause 4.6 Variation – FSR

21 O'Connor Street, Chippendale

REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF CITY OF SYDNEY LEP 2012 Clause 4.4 – Floor Space Ratio

Clause 4.4 of Sydney Local Environmental Plan 2012 and the associated map prescribe a maximum floor space ratio (FSR) of 1.5:1 (144.3m²) for this site. The proposal, including an open courtyard enclosed by walls, seeks to provide a maximum FSR of 2.03:1 (195.6m²), providing a non-compliance with this control. The percentage variation is 33%.

It should be noted that the existing building has a greater FSR of 2.07:1 (199.5m²) and this is being slightly reduced by the proposal.

Nonetheless, the proposal seeks to vary the FSR development standard.

The objectives of Clause 4.4 are as follows:

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

The zoning of the land is B4 Mixed Use. The objectives of the zone are:

- to provide a mixture of compatible uses;*
- to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling;*
- to ensure uses support the viability of centres*

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the Sydney Local Environmental Plan 2012 allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

17 of 23



- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The clause goes on to state:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard*
- (4) *Consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard.

The NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the DP&I's Guide.

Clause 4.6(3) and 4.6(4)

The proposal is considered against the four matters required to be established under Clause 4.6.

1. Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

The most common way of establishing that compliance with a standard is unreasonable and unnecessary is to establish that the objectives of the standard are met, even though the standard is not complied with: see *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245. This objection relies on this method. Compliance with the objectives of the height standard is addressed under **Point 4 below**.

In addition, the following points are raised:

- Compliance with the development standards is unreasonable and unnecessary as the proposal is to renovate an existing building and will result in a slight reduction in FSR by 3.9m²
- Exceedance of the FSR control will not create additional building bulk that results in adverse environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in FSR would not create additional benefit for adjoining properties or the locality.

2. There are sufficient environmental planning grounds to justify contravening the development standard:

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is for alterations to an existing building with an FSR of 2.07:1 and an existing building and will result in a slight reduction in FSR by 3.9m²

The proposed FSR can be achieved without adverse impacts as the alterations reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of the locality.

In addition, the following is noted:

- The intensity of the development is appropriate and acceptable, having regard to existing development on the site which has greater FSR;
- Non-compliance with the standard does not contribute to adverse environmental impacts;
- The proposed development achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone ; and
- The proposal will provide a suitable design and of suitable amenity in terms of the built environment , which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

Reduction in the FSR would not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):

The written request adequately addresses the matters referred to above by Clause 4.6(3).

4. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out:

The proposal will be in the public interest as it meets the objectives of the FSR development standard as follows:

Objective (a) is not applicable in this case

Objective (b) seeks to regulate the density of development. In this case the FSR is being reduced.

Objective (c) seeks to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure. In this case the FSR is being reduced.

Objective (d) seeks to ensure that new development reflects the desired character of the locality.

In this case the proposed FSR can be achieved without adverse impacts as the alterations reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of the locality.

The zoning of the land is B4 Mixed Use. The objectives of the zone are:

- *to provide a mixture of compatible uses;*
- *to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling;*
- *to ensure uses support the viability of centres*

The proposal is consistent with the zone objectives, as it will retain, renovate and enhance an existing mixed use building within a Heritage Conservation Area.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives of the R3 zone.

In addition, the above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

Conclusion

The consistency of the development with the zone objectives and the objectives of the height standard and the lack of impact arising is sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

Despite the breach with the standard, the proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979 (formerly 5(a)(i) and (ii) of the Act), which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

In the context of other requirements of Clause 4.6, it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.



Lewis Adey RPIA
Director
aSquare Planning Pty Ltd
6 June 2019

Appendix 3

Plans

000	D	COVER SHEET + LOCATION
001	C	BASIX COMMITMENTS
020	C	EXISTING FLOOR PLANS
021	C	EXISTING FLOOR PLANS
030	D	PROPOSED FLOOR PLANS
031	D	PROPOSED FLOOR PLANS
032	D	DRAINAGE CONCEPT PLAN
060	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
061	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
062	C	SHADOW DIAGRAMS - EXISTING - 21st JUNE
063	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
064	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
065	C	SHADOW DIAGRAMS - PROPOSED - 21st JUNE
066	B	SHADOW DIAGRAMS - SMITHERS ST. ELEV.
067	D	CALCULATIONS
100	D	PROPOSED ELEVATIONS
101	D	PROPOSED ELEVATIONS
102	D	PROPOSED ELEVATIONS
103	D	PROPOSED MATERIALS
200	D	PROPOSED SECTIONS
201	D	PROPOSED SECTIONS
900	D	3D EXTERIOR
901	D	3D EXTERIOR

Attachment C

Refused Plans

**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

**D/2018/1360
03/04/2019**

**These plans should be read in
conjunction with the decision notice**

Project address	21 O'Connor Street 21 O'Connor Street Chippendale 2008
Project name	Sydney City Council
Street address	Deposited Plan 1070354
Local Government Area	59
Plan type and number	0
Lot number	
Section number	
Project type	Attached dwelling house
Dwelling type	
Type of alteration and addition	My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).

Fixtures and systems	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
Hot water The applicant must install the following hot water system in the development: gas instantaneous.	✓	✓	✓
Lighting The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.	✓	✓	✓
Fixtures The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating. The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating. The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	✓	✓	✓

Construction	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
Insulation requirements The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m ² , b) insulation specified is not required for parts or altered construction where insulation already exists.	✓	✓	✓
Construction			
floor above existing dwelling or building:	Additional insulation required (R-value)	Other specifications	
external wall: framed (weatherboard, fibro, metal clad)	nil R1.30 (or R1.70 including construction)		
flat ceiling, flat roof: framed	ceiling: R1.08 (up), roof: foil backed blanket (75 mm)	medium (solar absorbance 0.475 - 0.70)	



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p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036

Kreis Grennan Architecture

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PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT

DRAWING TITLE:
BASIX COMMITMENTS

PROJECT REFERENCE:
17-090

DRAWN:
FZ

ISSUE:
B

SCALE:
NTS

SIZE:
A3

DWG #:
001

Glazing requirements	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check			
Windows and glazed doors The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door. The following requirements must also be satisfied in relation to each window and glazed door: Each window or glazed door with standard aluminium or timber frames and single clear or tinted glass may either match the description, or have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Penetration Rating Council (NPRC) conditions. For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony, or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill. Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35. External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed. Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm. Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.	✓	✓	✓			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type
W2	N	9.09	3.3	3.1	external louvre/blind (adjustable)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W3	W	1.5	3.7	9	external louvre/blind (adjustable)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W4	N	12.76	0	0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W5	W	7.81	0	0	external louvre/blind (fixed)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Glazing requirements	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type
W6	W	7.09	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W7	W	3.31	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W8	W	7.37	0	0	external louvre/blind (fixed)	U-value: 7.63, SHGC: 0.75) standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Legend

In these commitments, "applicant" means the person carrying out the development.

Commitments identified with a "✓" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Commitments identified with a "✓" in the "Show on CC/DC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.

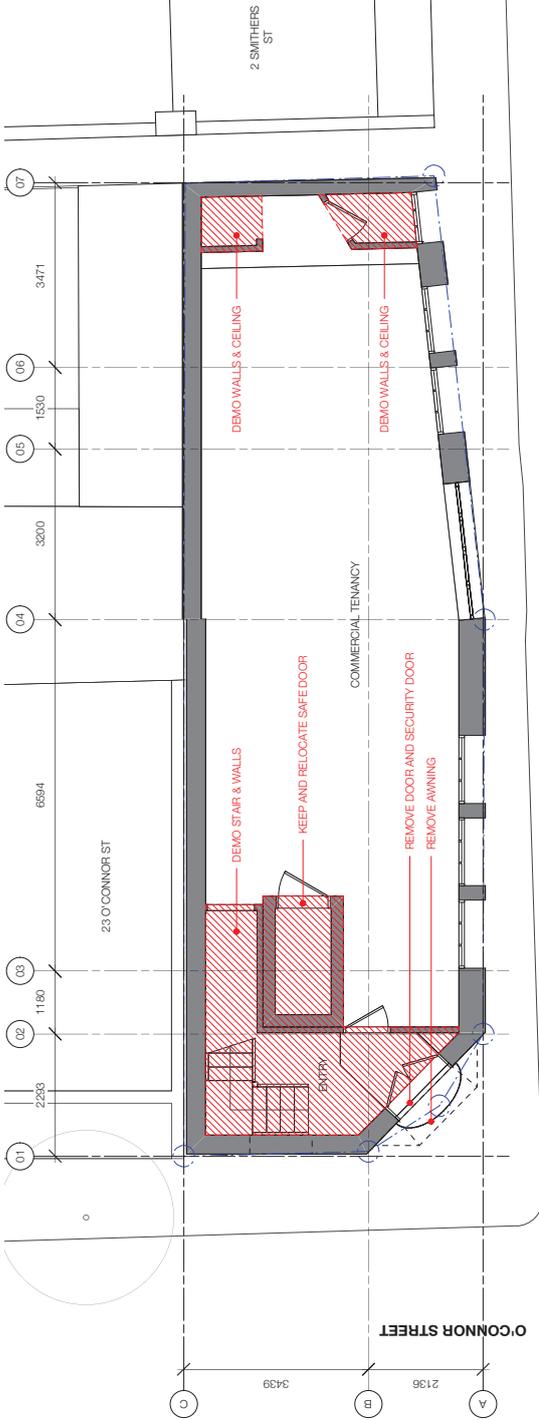
Commitments identified with a "✓" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.

**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

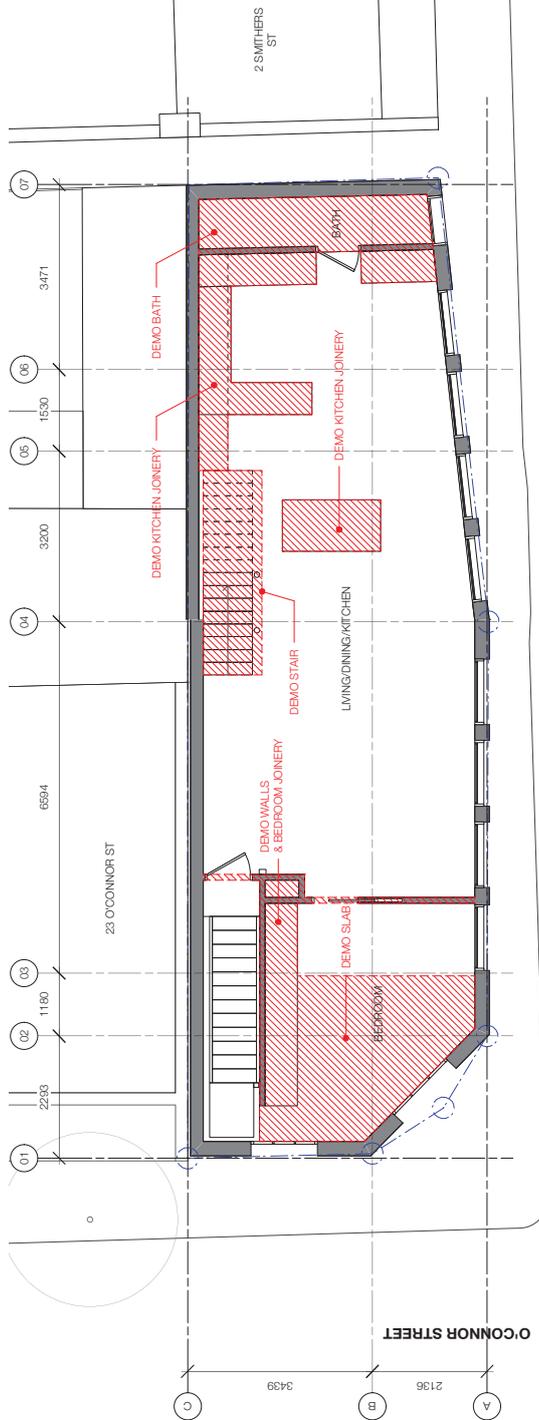
**D/2018/1360
03/04/2019**

**These plans should be read in
conjunction with the decision notice**



1 GROUND FLOOR

SMITHERS STREET



2 FIRST FLOOR

SMITHERS STREET

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p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036

Kreis Grennan Architecture

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PROJECT:
ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE **DATE** **DESCRIPTION**
A 01/11/18 DA SUBMISSION
B 22/1/19 DA-AMENDMENT

DRAWING TITLE:
EXISTING FLOOR PLANS

PROJECT REFERENCE:
17-090

DRAWN:
FZ

ISSUE:
B

SCALE:
1:100

SIZE:
A3

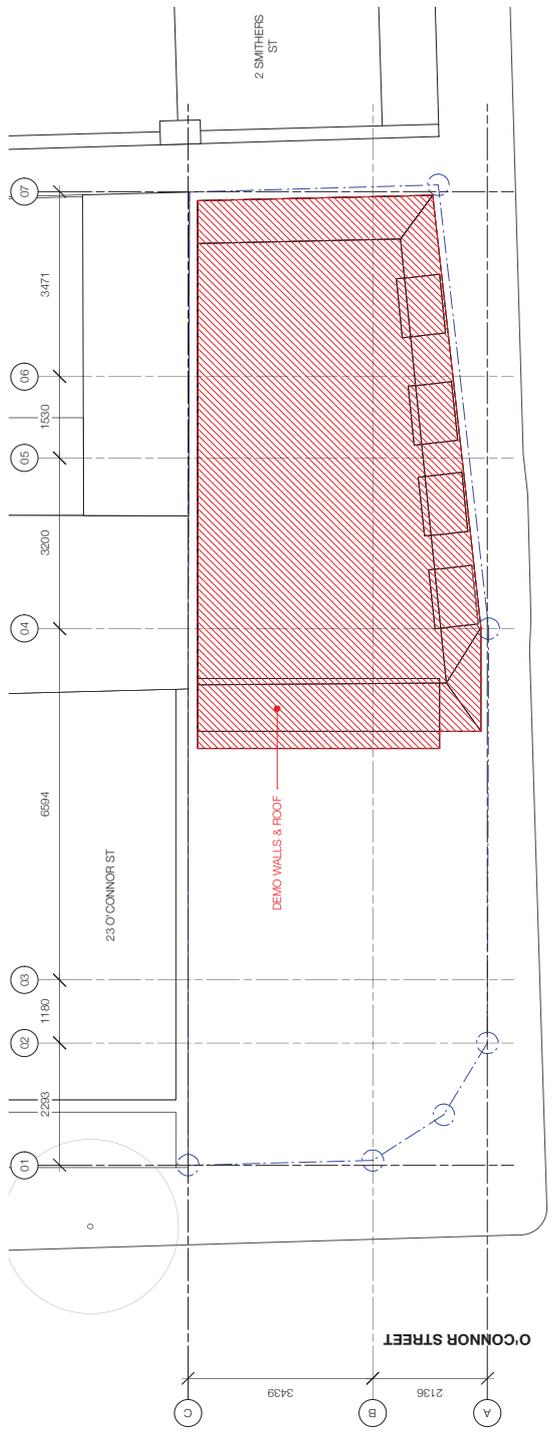
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CITY PLANNING DIVISION**
REFUSAL
D/2018/1360
03/04/2019
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1 SECOND FLOOR



2 ROOF

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Nominated Architect:
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B 22/1/19 DA-AMENDMENT

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EXISTING FLOOR PLANS
PROJECT REFERENCE:
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DRAWN:
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ISSUE:
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DWG #:
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SIZE:
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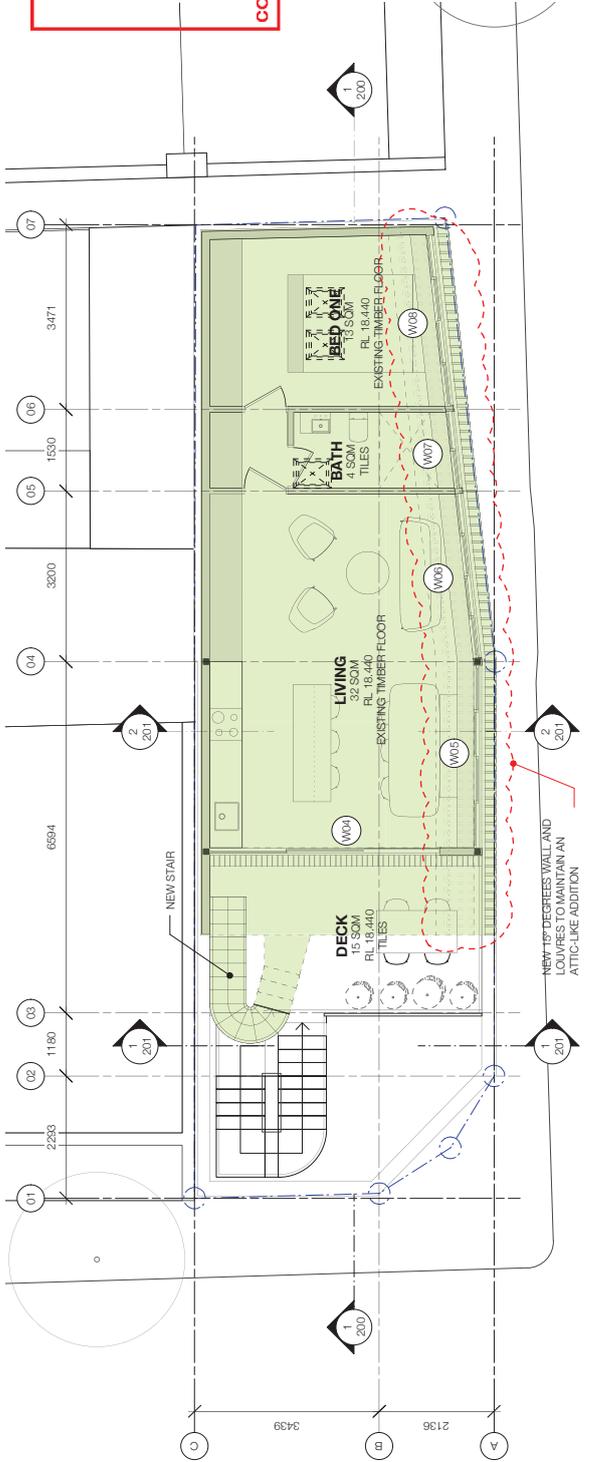
Kreis Grennan Architecture

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CITY PLANNING DIVISION**

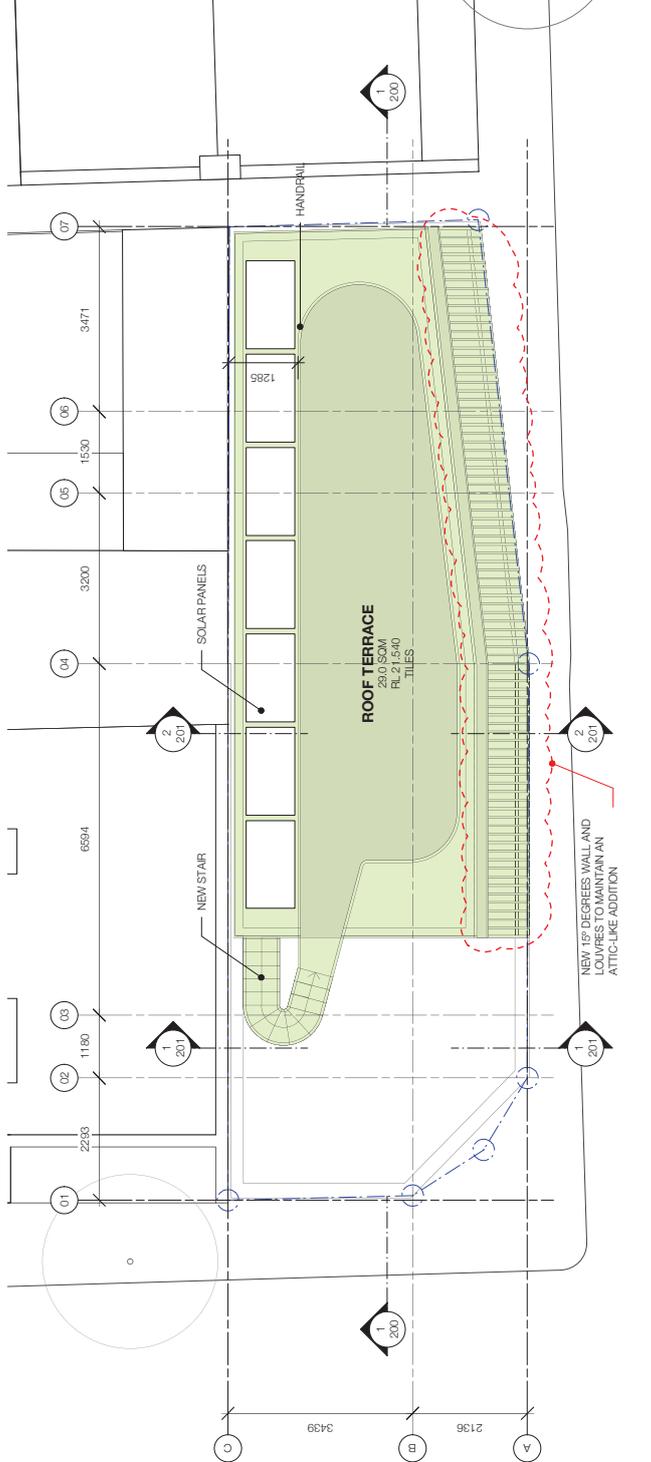
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**D/2018/1360
03/04/2019**

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1 SECOND FLOOR



2 ROOF

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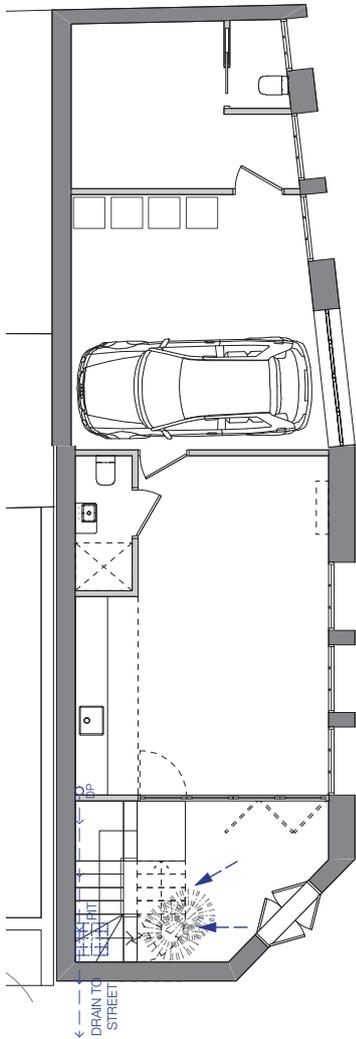
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STREET, CHIPPENDALE

ISSUE **DATE** **DESCRIPTION**
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B 22/1/19 DA AMENDMENT

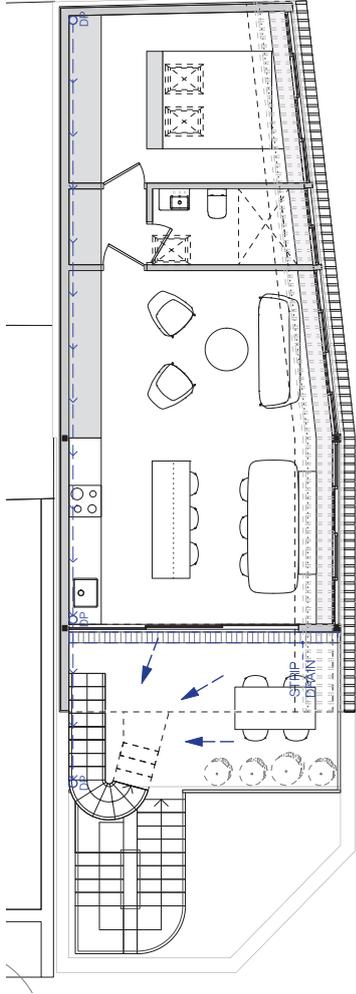
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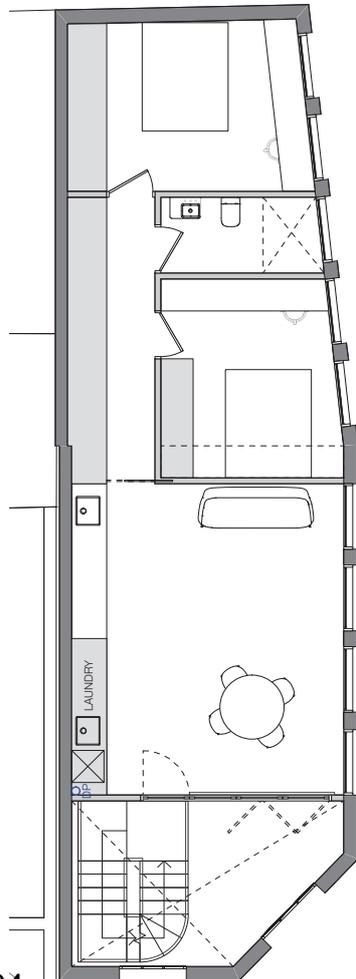
Kreis Grennan Architecture



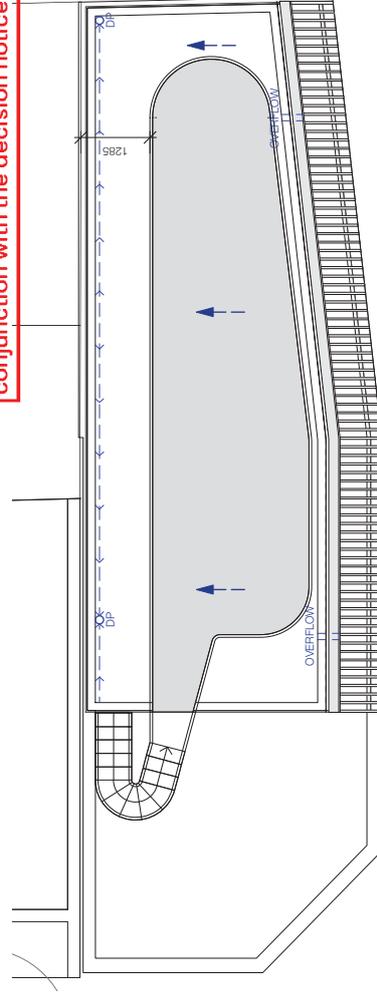
1 GROUND FLOOR



3 SECOND FLOOR



2 FIRST FLOOR



4 ROOF

**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

D/2018/1360
03/04/2019

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**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT

DRAWING TITLE:
CONCEPT DRAINAGE PLANS

PROJECT REFERENCE:
17-090

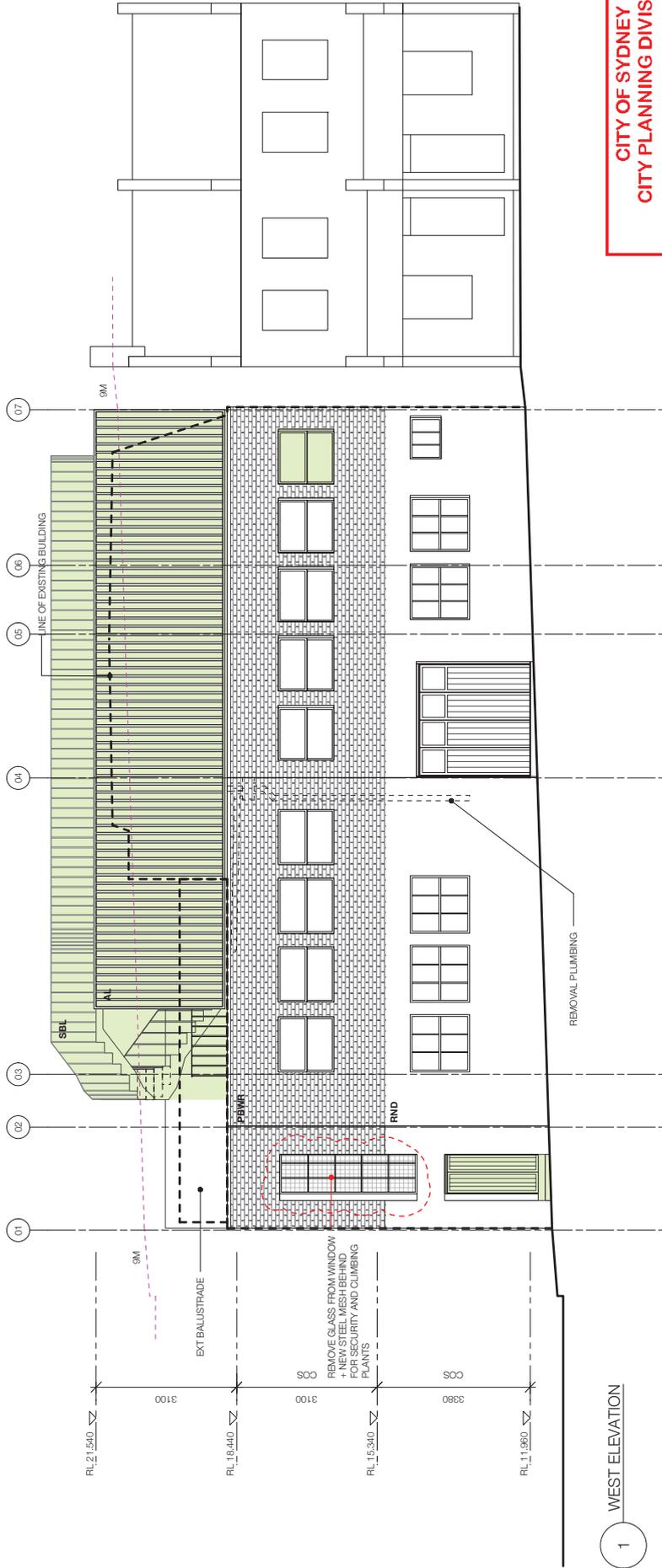
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ISSUE:
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DWG #:
032

SIZE:
A3





1 WEST ELEVATION

**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

D/2018/1360
03/04/2019

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SCHEDULE OF EXISTING COLOURS & FINISHES

EX BWK EXISTING BRICKWORK WHITE COLOUR	
---	--

SCHEDULE OF PROPOSED COLOURS & FINISHES

RND RENDER PAINT FINISH DARK GREY COLOUR	
PBWR PAINTED BRICKWORK DARK GREY COLOUR	
AL ALUMINIUM LOUVERES GOLD MATTE COLOUR	
MC METAL CLADDING DARK GREY COLOUR	
MA METAL AWNING GOLDEN MATTE COLOUR	
SBL STEEL BALUSTRADE DARK GREY COLOUR	

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Nominated Architect:
Christian Grennan NSW Architect #6036

Kreis Grennan Architecture

PROJECT:
ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE

CLIENT:
A. RODGERS & B. MULLIN

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT

DRAWING TITLE:
PROPOSED ELEVATIONS

PROJECT REFERENCE:
17-090

SCALE:
1:100

ISSUE:
B

DRAWN:
FZ

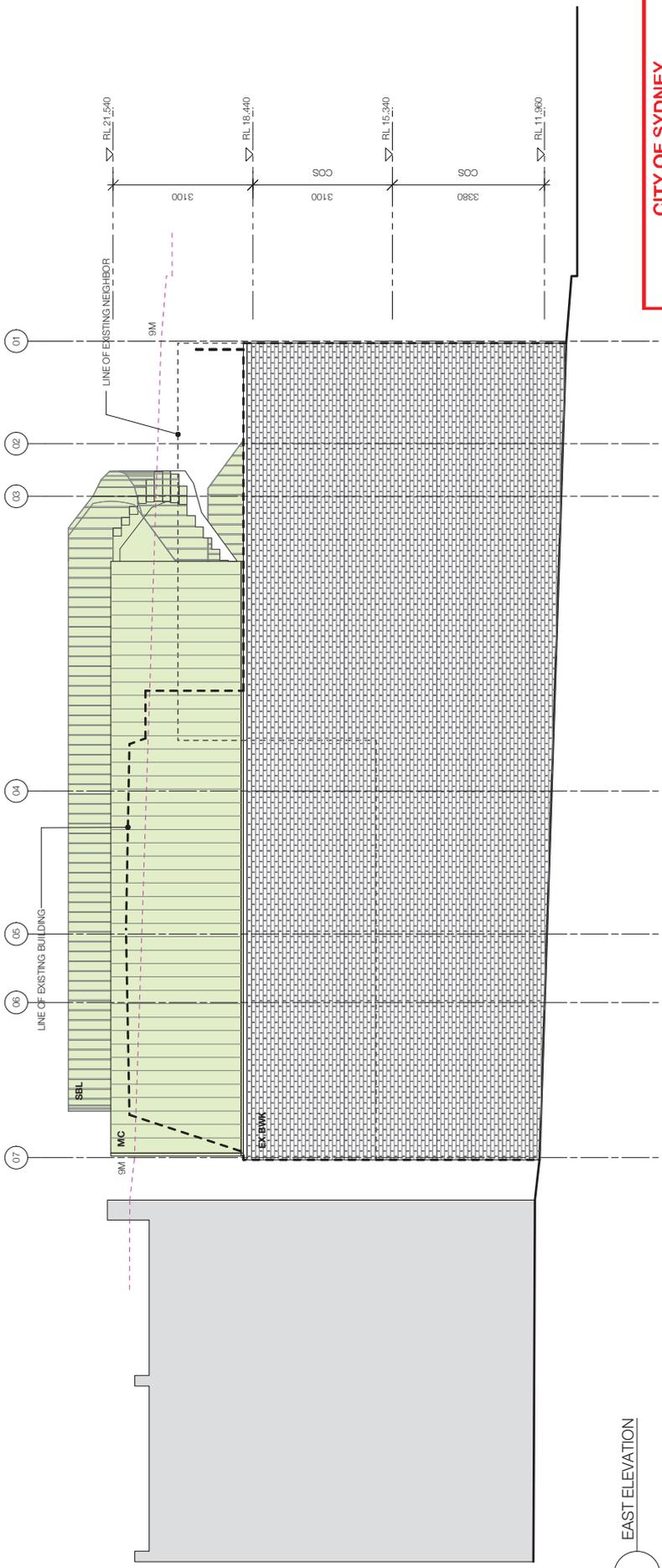
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1 EAST ELEVATION



**CITY OF SYDNEY
CITY PLANNING DIVISION**
REFUSAL
D/2018/1360
03/04/2019
**These plans should be read in
conjunction with the decision notice**

SCHEDULE OF EXISTING COLOURS & FINISHES

EX BWK
EXISTING BRICKWORK
WHITE COLOUR

SCHEDULE OF PROPOSED COLOURS & FINISHES

RND
RENDER PAINT FINISH
DARK GREY COLOUR

PBWR
PAINTED BRICKWORK
DARK GREY COLOUR

AL
ALUMINUM LOUVERS
GOLD MATTE COLOUR

MC
METAL CLADDING
DARK GREY COLOUR

MA
METAL AWNING
GOLDEN MATTE COLOUR

SBL
STEEL BALUSTRADE
DARK GREY COLOUR

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KGa

Notnated Architect:
Christian Grennan NSW Architect #6036

Kreis Grennan Architecture

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**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

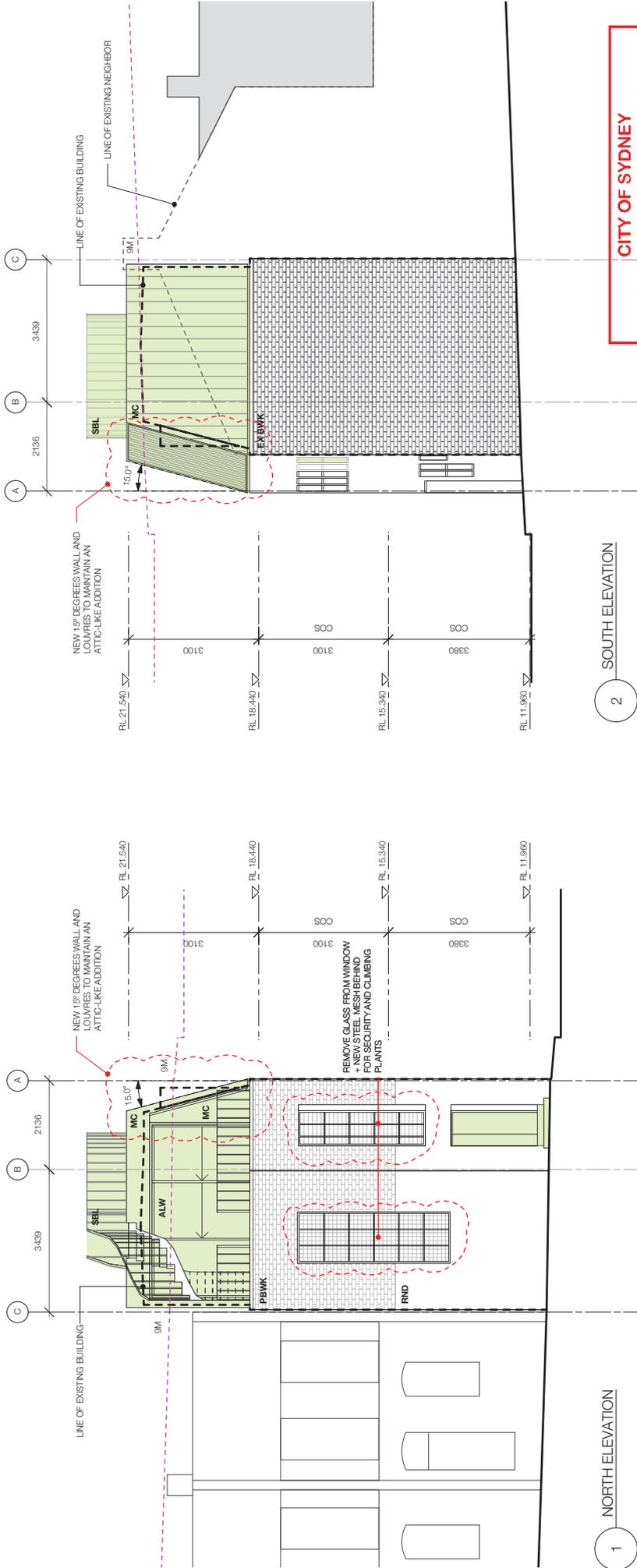
ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT

DRAWING TITLE:
PROPOSED ELEVATIONS
PROJECT REFERENCE:
17-090
DRAWN:
FZ

SCALE:
1:100
ISSUE:
B

CLIENT:
A. RODGERS & B. MULLIN

SIZE:
A3
DWG #:
101



1 NORTH ELEVATION

2 SOUTH ELEVATION

**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

**D/2018/1360
03/04/2019**

**These plans should be read in
conjunction with the decision notice**

SCHEDULE OF EXISTING COLOURS & FINISHES

EX BWK
EXISTING BRICKWORK
WHITE COLOUR

SCHEDULE OF PROPOSED COLOURS & FINISHES

RND
RENDER PAINT FINISH
DARK GREY COLOUR

PBWR
PAINTED BRICKWORK
DARK GREY COLOUR

AL
ALUMINIUM LOUVRES
GOLD MATTE COLOUR

MC
METAL CLADDING
DARK GREY COLOUR

MA
METAL AWNING
GOLDEN MATTE COLOUR

SBL
STEEL BALUSTRADE
DARK GREY COLOUR

Ground Floor
319-325 Trafalgar Street
Petersham, NSW 2049
info@kreisgrennan.com.au
p: 02 9560 0888

Nominated Architect:
Christian Grennan NSW Architect #6036

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
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Kreis Grennan Architecture

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CITY PLANNING DIVISION**
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D/2018/1360
03/04/2019
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SCHEDULE OF PROPOSED COLOURS & FINISHES



RND
RENDER PAINT FINISH
DARK GREY COLOUR



PBWR
PAINTED BRICKWORK
DARK GREY COLOUR



AL
ALUMINUM LOUVERES
GOLD MATTE COLOUR



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STREET, CHIPPENDALE**

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DRAWING TITLE:
PROPOSED MATERIALS

PROJECT REFERENCE:
17-090

Kreis Grennan Architecture

CLIENT:
A. RODGERS & B. MULLIN

SCALE:
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ISSUE:
B

SIZE:
A3

DWG #:
103

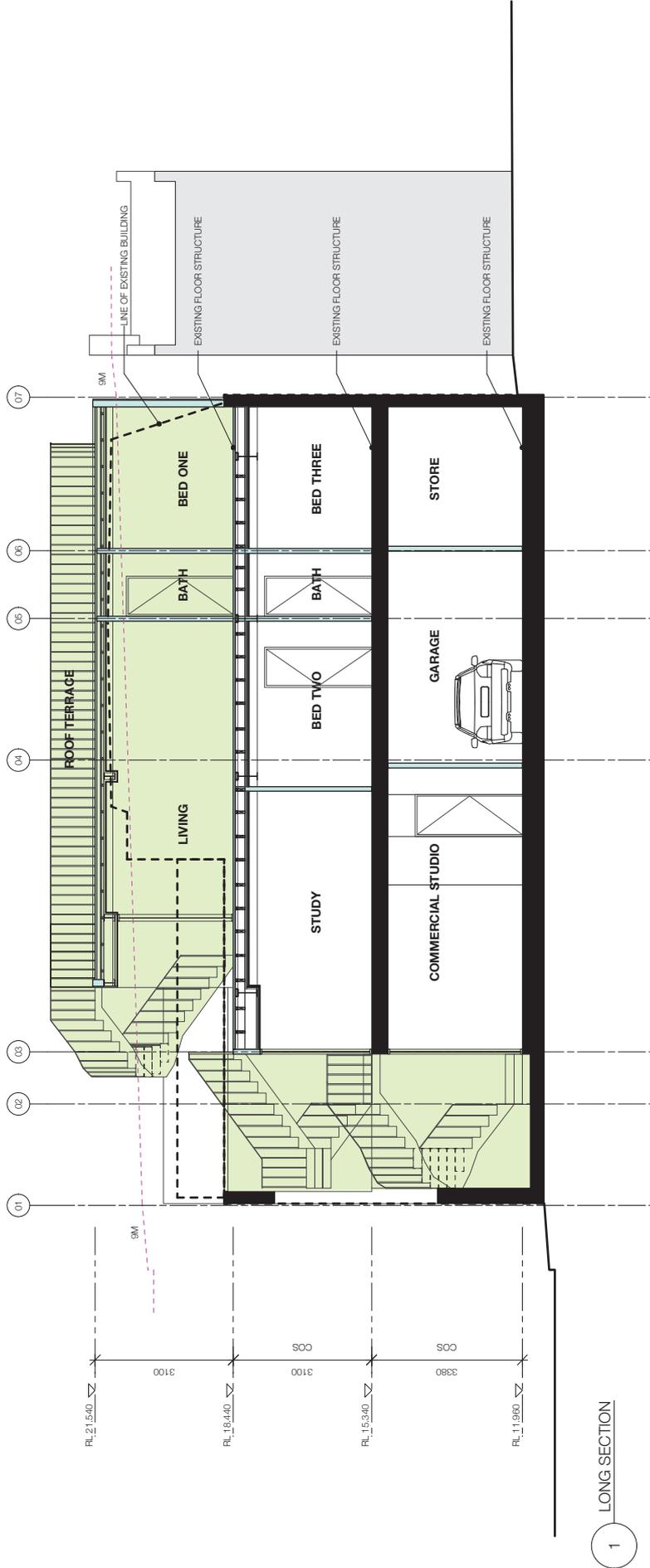


**CITY OF SYDNEY
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REFUSAL

**D/2018/1360
03/04/2019**

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PROJECT: **ALTERATIONS TO 21 O'CONNOR STREET, CHIPPENDALE**

ISSUE DATE DESCRIPTION
A 01/11/18 DA SUBMISSION
B 22/1/19 DA AMENDMENT

DRAWING TITLE: **PROPOSED SECTION**

PROJECT REFERENCE: **17-090**

SCALE: **1:100**

ISSUE: **B**

DRAWN: **FZ**

SIZE: **A3**

DWG #: **200**

Kreis Grennan Architecture

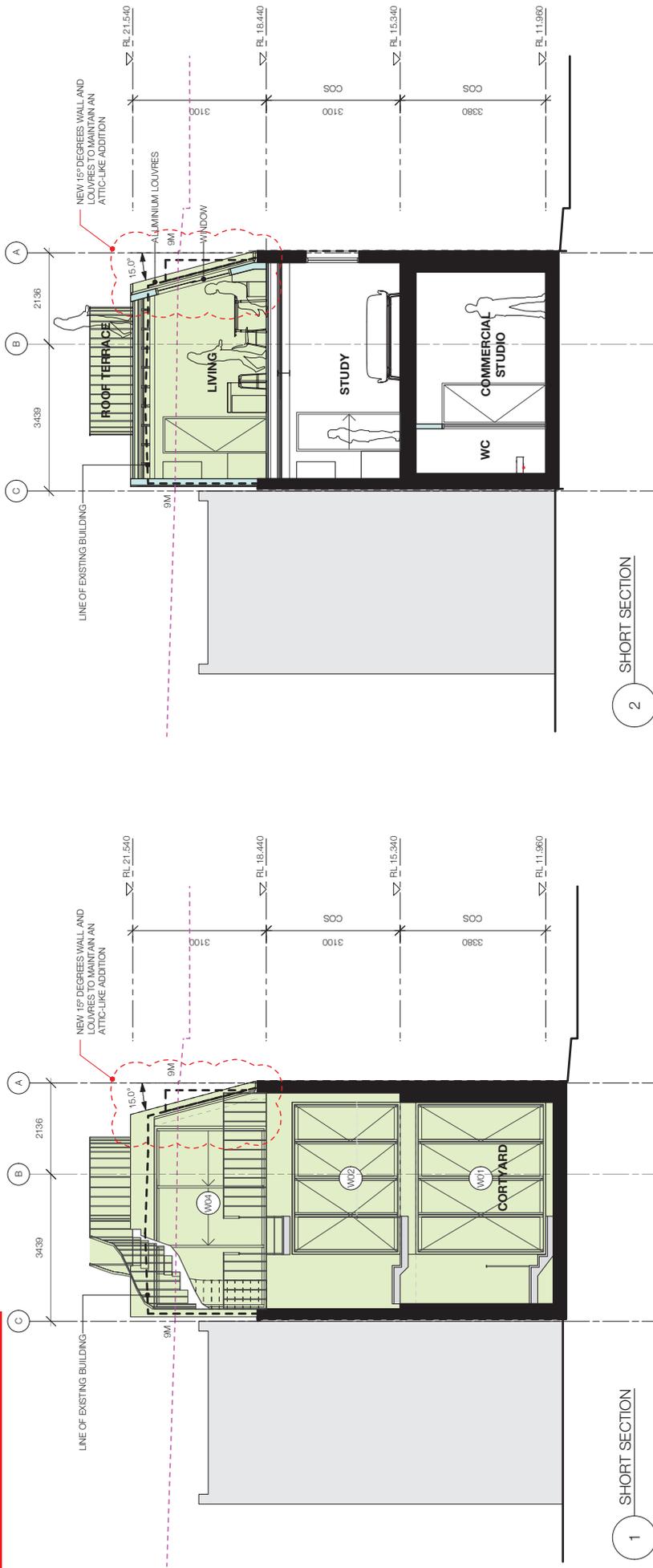


**CITY OF SYDNEY
CITY PLANNING DIVISION**

REFUSAL

**D/2018/1360
03/04/2019**

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PROJECT:
**ALTERATIONS TO 21 O'CONNOR
STREET, CHIPPENDALE**

CLIENT:
A. RODGERS & B. MULLIN

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17-090
DRAWN:
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ISSUE:
B
SCALE:
1:100
SIZE:
A3
DWG #:
201



Kreis Grennan Architecture

Attachment D

Original Notice of Determination

City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000

Telephone +61 2 9265 9333
Fax +61 2 9265 9222
council@cityofsydney.nsw.gov.au
GPO Box 1591 Sydney NSW 2001
cityofsydney.nsw.gov.au



3 April 2019

Mr A Rodgers and Ms B T Mullin
C/- Kreis Grennan Architecture
319-325 Trafalgar St
PETERSHAM NSW 2049

NOTICE OF DETERMINATION - REFUSAL

DEVELOPMENT APPLICATION FOR 21 O'Connor Street, CHIPPENDALE NSW 2008
APPLICATION NO: D/2018/1360

Dear Sir/Madam

Please find enclosed the Notice of Determination relating to your development application at the above site. The application was **refused** for the reasons outlined in the enclosed Notice.

A copy of the planning report by the Council officers, which assessed the proposal is available online at the City's website development.cityofsydney.nsw.gov.au/DASearch/

If further information is required, please contact **Zeb McInnes ph. 02 9246 7263, email zmcinnes@cityofsydney.nsw.gov.au**.

Yours faithfully

Zeb McInnes
Planner

NOTICE OF DETERMINATION – REFUSAL issued under Section 4.16(1)(b)
of the Environmental Planning and Assessment Act 1979

Development Application No. D/2018/1360

Applicant Mr A Rodgers and Ms B T Mullin

Land to be developed 21 O'CONNOR STREET, CHIPPENDALE NSW
2008

LOT 59 DP 1070354

Proposed development Alterations and additions to existing mixed-use
warehouse building to include a new commercial
studio, courtyard and garage on the ground floor,
internal reconfiguration of the first floor, extension of
the second floor onto the existing outdoor terrace,
and addition of a roof terrace above.

Cost of development \$611,128

Determination The application was determined by the Local
Planning Panel and was **refused** consent.

Date of refusal 3 April 2019

Reasons for refusal

1. The variations sought to development standards prescribed under Clause 4.3 Height and Clause 4.4 Floor Space Ratio of the Sydney LEP 2012 are inconsistent with the provisions of Clause 4.6 and are not considered to be in the public interest.
2. The proposal results in unsympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9). The proposal is therefore contrary to the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.
3. The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it is excessive in bulk and scale, will have detrimental impacts on the character of the contributory building and wider heritage conservation area, and will have adverse impacts on the amenity of neighbouring buildings.
4. The proposal will have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy impacts as well as potential acoustic impacts, and as such is inconsistent with the provisions of Section 4.2.3 of the Sydney DCP 2012.
5. The proposal is not in keeping with the desired future character of the area and is not considered to be in the public interest.

Community Consultation

Two submissions were received. Issues raised in all submissions have been taken into account in the report.

Right of appeal

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months of the date of this notification.

Division 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination.

Division 8.2 does not apply to complying development, designated development, integrated development or a determination made by Council under Division 4.2 in respect of Crown applications.



per

GRAHAM JAHN AM

Director - City Planning, Development & Transport

Attachment E

Original Planner's Report

Item 6.**Development Application: 21 O'Connor Street, Chippendale****File No.:** D/2018/1360**Summary****Date of Submission:** 8 November 2018**Applicant:** Kreis Grennan Architecture**Architect/Designer:** Kreis Grennan Architecture**Owner:** Anthony Rodgers and Bernadette Mullin**Cost of Works:** \$611,128**Zoning:** The use is defined as commercial and residential and is permissible in the B4 Mixed Use zone.**Proposal Summary:** The application proposes alterations and additions to the existing mixed-use warehouse building to include a new commercial studio, courtyard and garage on the ground floor, internal reconfiguration of the first floor, extension of the second floor onto the existing outdoor terrace, and addition of a roof terrace above.

The application is referred to the Local Planning Panel for determination as the proposal seeks to vary the floor space ratio and height of buildings development standards prescribed by Sydney LEP 2012 by more than 10%.

The site is subject to a maximum building height of 9m under the Sydney LEP 2012. The proposal has a maximum building height of 10.83m, which exceeds the standard by 18.45%.

The site is subject to a maximum floor space ratio of 1.5:1 under the Sydney LEP 2012. The proposal has a floor space ratio of 1.93:1, which exceeds the standard by 25%.

A request to vary the standards has been made pursuant to Clause 4.6 of the Sydney LEP 2012. The requests to vary the standards are not supported in this instance for the reasons outlined in this report.

**Proposal Summary
(continued):**

The proposal has been considered by the Design Advisory Panel Residential Subcommittee who recommended the applicant maintain an attic-like addition, retain the window frames, and provide further information in relation to overlooking and overshadowing impacts.

The application was amended on 23 January 2019 following feedback from City staff. The amendments include the addition of a pitched side wall and changes to the window design.

The proposal results in an unacceptable non-compliance with the Sydney LEP 2012 height control and Sydney DCP 2012 height in storeys control, will result in overlooking impacts, is excessive in bulk and scale, and is unsympathetic to the contributory building and conservation area. As such the proposal is not supported.

The application was notified in accordance with Council's notification policy. Two submissions have been received relating to excessive height, bulk and scale, overlooking impacts, overshadowing impacts and streetscape and heritage impacts.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)
- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iii) Sydney Local Environmental Plan 2012 (Gazetted 12 December 2012, as amended)
- (iv) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)
- (v) City of Sydney Development Contributions Plans 2015

Attachments:

- A. Selected Drawings
- B. Clause 4.6 Variation Requests

Recommendation

It is resolved that consent be refused for Development Application No. D/2018/1360 for the following reasons:

- (A) The variations sought to development standards prescribed under Clause 4.3 Height and Clause 4.4 Floor Space Ratio of the Sydney LEP 2012 are inconsistent with the provisions of Clause 4.6 and are not considered to be in the public interest.
- (B) The proposal results in unsympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9). The proposal is therefore contrary to the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.
- (C) The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it is excessive in bulk and scale, will have detrimental impacts on the character of the contributory building and wider heritage conservation area, and will have adverse impacts on the amenity of neighbouring buildings.
- (D) The proposal will have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy impacts, and as such is inconsistent with the provisions of Section 4.2.3 of the Sydney DCP 2012.
- (E) The proposal is not in keeping with the desired future character of the area and is not considered to be in the public interest.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 20 November 2018.
2. The site is irregular in shape with an area of approximately 96.2sqm. It is located on the south-eastern corner of O'Connor Street and Smithers Street with its primary frontage to Smithers Street. A two storey building, with mansard attic addition, is contained within the site.
3. The existing two storey building was constructed as a commercial warehouse in the post-war period. A mansard attic addition was approved in 2013. The building includes a commercial premises on the ground floor level and a residential dwelling occupying the first floor level and attic level. The building includes an outdoor roof terrace on the first floor at the northern end of the building.
4. Surrounding land uses are residential and commercial. A row of two-storey terrace houses adjoins the site to the north, south and east. A two storey commercial building adjoins the site to the west. Larger scale commercial buildings and residential flat buildings are located on Abercrombie Street and Buckland Street.
5. The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).
6. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from O'Connor Street



Figure 3: Site viewed from Smithers Street

Proposal

7. The application seeks consent for alterations and additions to the existing mixed-use building including:
 - (a) Ground Floor:**
 - (i) demolition of internal walls and stair;
 - (ii) addition of new 13sqm internal courtyard with tree, landscaping and stair to upper levels; and
 - (iii) addition of new commercial studio, garage, store room and two WCs.
 - (b) First Floor:**
 - (i) demolition of internal walls, stair and slab on the northern section of the building;
 - (ii) removal of the glass from the two northern windows and replacement with steel mesh; and
 - (iii) addition of study with kitchen and laundry facilities, two bedrooms and bathroom.
 - (c) Second Floor:**
 - (i) demolition of mansard attic addition including walls and roof and demolition of slab on the northern section of the building;
 - (ii) new addition with pitched walls containing living room with kitchen, bedroom and bathroom; and
 - (iii) addition of a 15.8sqm roof terrace.
 - (d) Roof:**
 - (i) addition of 29sqm roof terrace with solar panels above the new addition.
8. While the application does not seek approval for subdivision, the proposal could facilitate future subdivision of the building. Each of the three levels are accessible from the internal courtyard via an external stair and are capable of being self-contained, with no internal connectivity.
9. It is noted that strata subdivision of the building was sought by the current owners and approved in 2016. The consent was then surrendered in 2018.
10. Following preliminary assessment of the application by City staff and a presentation to the City of Sydney Design Advisory Panel Residential Subcommittee, a request for amended plans was sent on 20 December 2018. The applicant was required to address a number of issues, including:
 - (i) Request to delete the new roof terrace and stair and amend the form of the addition to maintain an attic-like addition.
 - (ii) Request to retain the window frames to the north of the building.

(iii) Request for further information on overlooking and overshadowing impacts, materials and finishes, ventilation and tree.

11. Amended plans were received on 23 January 2019 and form the basis of this assessment.
12. Plans of the proposed development (as amended) are provided below.

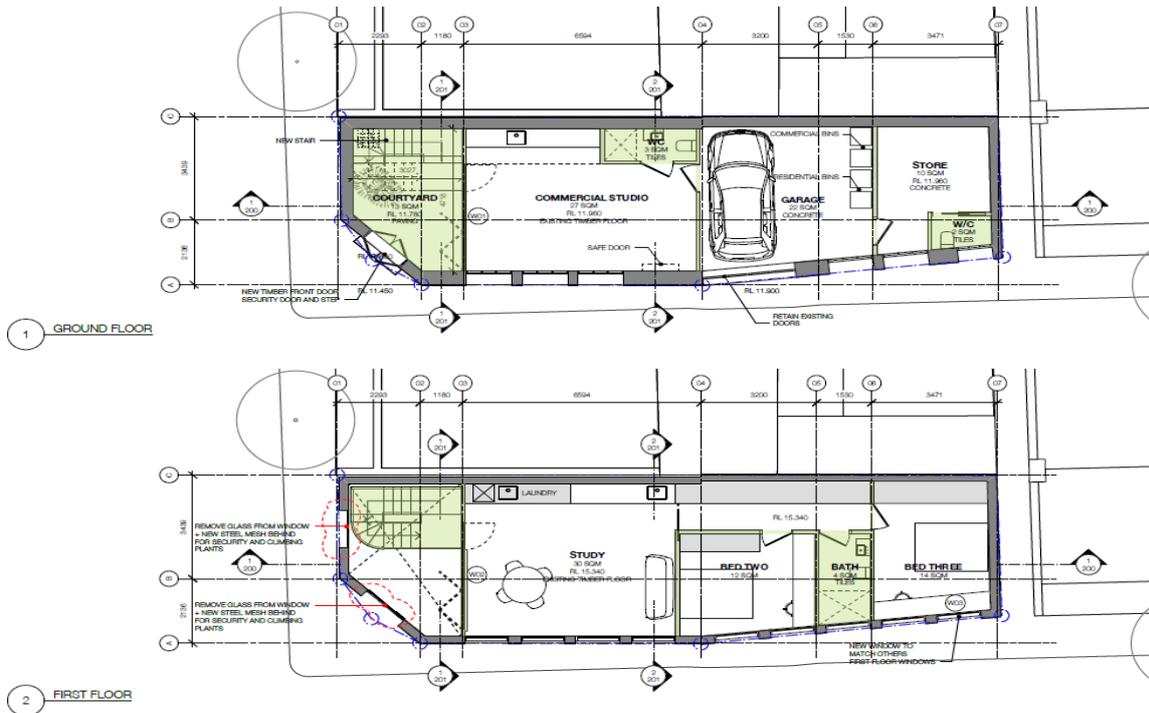


Figure 4: Proposed ground and first floor plans

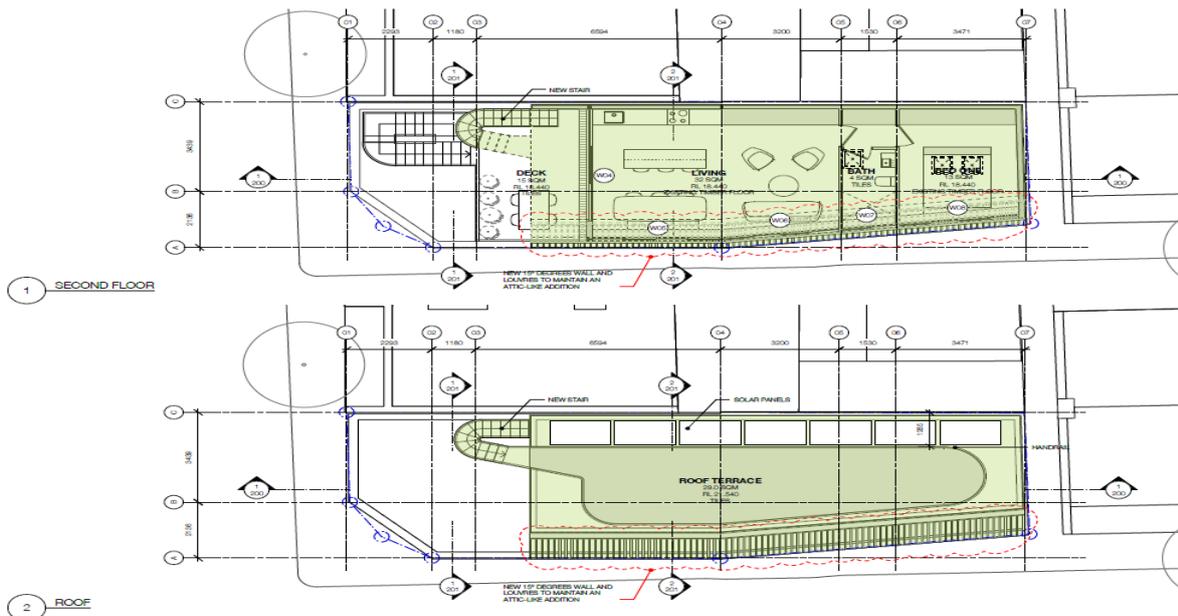


Figure 5: Proposed second floor and roof terrace plans



Figure 6: Proposed west elevation

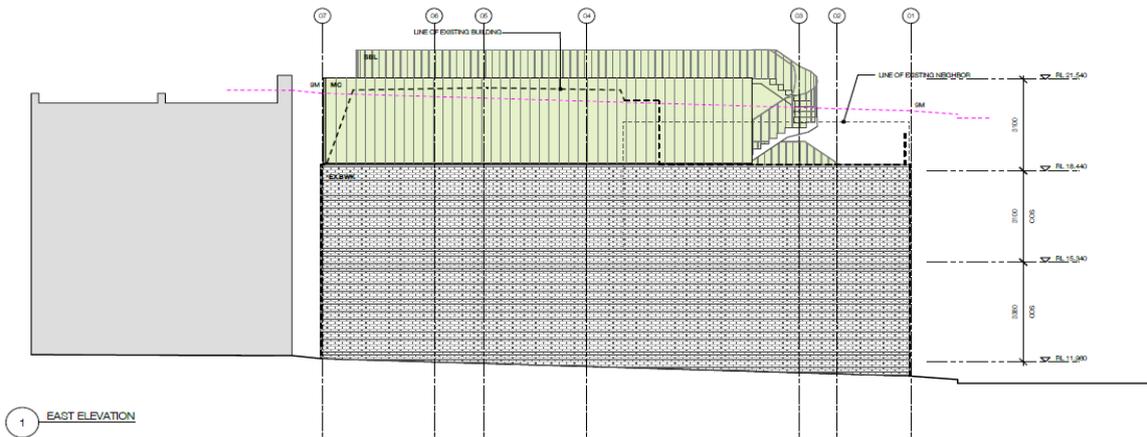


Figure 7: Proposed east elevation

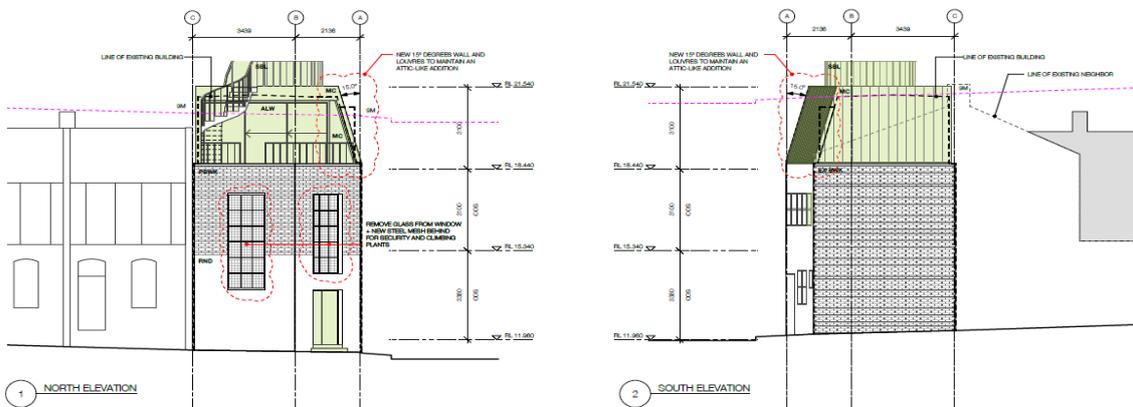


Figure 8: Proposed north elevation (left) and south elevation (right)



Figure 9: Materials and finishes



Figure 10: Photomontage

History Relevant to the Development Application

13. On 26 August 2013, D/2013/897 was approved for demolition of the existing rooftop level and replacement with a new mansard roof addition.
14. On 5 December 2016, D/2016/1214 was approved for strata subdivision of the existing mixed-use building into two lots and common property. One lot consisted of the commercial tenancy on the ground floor and the other lot consisted of the residential tenancy on the upper two floors. The subdivision was never registered and the consent was surrendered on 3 May 2018.

Economic/Social/Environmental Impacts

15. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

16. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
17. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.
18. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the SREP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

19. A BASIX Certificate has been submitted with the development application.
20. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.

Sydney LEP 2012

21. The site is located within the B4 Mixed Use zone. The use is defined as commercial and residential and is permissible.
22. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>A maximum height of 9m is permitted.</p> <p>A height of 10.83m is proposed to the top of the balustrade and 10.11m to the top of the addition.</p> <p>See discussion under the heading Issues.</p>
4.4 Floor Space Ratio	No	<p>A maximum FSR of 1.5:1 is permitted.</p> <p>The existing building has a GFA of 196.89sqm and an FSR of 2.11:1. The proposal includes a net reduction in GFA of 16.52sqm with an FSR of 1.93:1.</p> <p>See discussion under the heading Issues.</p>
4.6 Exceptions to development standards	No	<p>The proposal seeks to vary the development standards prescribed under Clause 4.3 and Clause 4.4.</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	No	<p>The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).</p> <p>The bulk and scale of the proposed addition, roof terrace and external stair are not considered to be sympathetic to the existing contributory item and overwhelm the integrity of the host building. The proposal does not provide an appropriate height transition to the neighbouring two storey terraces.</p> <p>The application was reviewed by the City's Heritage Specialist, who raised concerns with the form of the addition, the roof terrace and external stair. The application is not supported.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	No	<p>The application proposes to utilise appropriate quality materials and detailing, including gold matte coloured aluminium louvres to the new addition, and improvements to the facade of the existing building, including a dark grey coloured rendered paint finish on the ground level, dark grey coloured painted brickwork on the first floor level and gold matte coloured doors.</p> <p>However, the form and scale of the addition, roof terrace and external stair are excessive in height and bulk and will have unacceptable impacts on the heritage conservation area and to the visual privacy of the neighbouring properties.</p> <p>The proposed development fails to satisfy the requirements of this provision.</p>

Sydney DCP 2012

23. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Chippendale

The subject site is located in the Chippendale locality. The proposed alterations and additions to the existing mixed-use building are not considered to be in keeping with the unique character of the area and design principles in that they do not respond to or complement the contributory building and heritage conservation area, and are inappropriate in height, scale, design and form.

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	<p>The proposal includes the partial demolition of the ceiling to the ground floor and roof at the northern end of the building to create an internal void for a landscaped courtyard at the ground floor level. The application has been reviewed by the City's Landscape Assessment Officer, who raised no objection.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	No	<p>The site is not a heritage item but is identified as a contributory building within the Chippendale Conservation Area (C9).</p> <p>The application was accompanied by a Heritage Impact Statement which states that the building was constructed in stages between 1951 and 1957 as a commercial warehouse to replace a single storey 1880s cottage.</p> <p>The proposed works retain the form and detail of the original two storey warehouse building. The proposed addition, roof terrace and external stair are considered to be excessive in height, bulk and scale and will overwhelm the contributory building.</p> <p>The application was reviewed by the City's Heritage Specialist, who raised concerns with the form of the addition, the roof terrace and external stair. The application is not supported.</p>
3.10 Significant Architectural Building Types	No	The proposal retains the form and detail of the original two storey warehouse building. However, the upper level addition is unsympathetic in scale and style to the existing building, dominates the original building, and is not simple in form. The application is not supported.

3. General Provisions	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The proposal includes a single car garage on the ground floor, with access provided from the existing garage door and vehicle crossover. The application was reviewed by the City's Transport and Access Unit, who raised no objection.</p> <p>The proposal attracts a requirement for two bike parking spaces, as per Table 3.5. In the event of an approval, a condition of consent would be recommended for these two bike parking spaces to be provided.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	No	<p>A maximum of two storeys is permitted.</p> <p>The existing building is two storeys, with a mansard attic addition. The proposed addition is not recessed from the parapet, and reads as a third storey.</p> <p>The DCP requires a minimum floor to floor height of 4.5m for the ground floor, and 3.6m for each storey above.</p> <p>The proposal maintains the ground floor level floor to floor height of 3.38m and first floor level floor to floor height of 3.1m. Given the building is a contributory building and the non-compliances are existing, they are considered acceptable.</p> <p>The second floor level floor to floor height is 3.1m with a floor to ceiling height of 2.9m. Acceptable internal amenity is provided on this level.</p> <p>See discussion under heading Issues.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	The existing rear and side setback alignments are maintained, which is consistent with the adjoining buildings.
4.2.3 Amenity	Partial compliance	<p>As discussed earlier in the report, each of the three levels are accessible from the internal courtyard via an external stair and are capable of being self-contained, with no internal connectivity. Each of the three levels provide acceptable internal amenity in regards to solar and daylight access, natural ventilation, ceiling heights, size and layouts, access to private open space and storage. The subdivision of the building was not sought under this application.</p> <p>Solar Access</p> <p>The shadow diagrams show additional overshadowing to the front private open space and windows of the properties opposite Smithers Street at 10.00am and the private open space of the eastern neighbours at 3.00pm. It is noted that the extent of additional shadows cast by the proposal is minor, and that the affected properties maintain a minimum of two hours solar access, as per DCP requirements. The shadow diagrams show additional overshadowing to the roofs of various neighbouring properties at different stages of the day. As such the proposal is not considered to result in significant adverse impacts in relation to solar access.</p> <p>Privacy</p> <p>The proposal includes a roof terrace above the new addition, which will result in unacceptable privacy impacts to the neighbouring private open space and is inconsistent with DCP provisions. Refer to Figure 14.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>The proposed outdoor terrace at the first floor is considered to replicate the existing site conditions and as such does not exacerbate privacy impacts on neighbouring properties.</p> <p>See discussion under heading Issues.</p> <p>Private Open Space</p> <p>The proposal includes a ground floor courtyard with an area of 13sqm. This courtyard serves as an entry foyer/ circulation space and is not considered to contribute to private open space. A 15sqm terrace is provided at the first floor, and a 29sqm roof terrace is provided above the third storey addition. The roof terrace is considered excessive given the detrimental visual impacts and privacy impacts on neighbouring properties. The application is not supported.</p>
4.2.4 Fine grain, architectural diversity and articulation	No	<p>The proposed third storey addition is not recessed from the parapet of the existing warehouse building and its form and scale does not provide an appropriate transition between the neighbouring terraces and commercial buildings. The application is not supported.</p>

Issues

Clause 4.6 Variation to the Height Development Standard

24. The site is subject to a maximum height of buildings control of 9m. The proposal has a height of 10.83m to the top of the roof terrace balustrading, and 10m to the top of the third storey addition.
25. The existing building has a maximum height of 9.3m. The variation sought to the height control results in an exceedance to the development standard by 1.83m (or an 18.45% variation). The red arrow in Figure 11 indicates the 9m height control.

26. During the assessment of the application, the applicant was advised that the proposed addition was considered excessive, and the roof terrace was not supported. It was recommended that the roof terrace be deleted and the form of the addition be amended to maintain an attic form. In response, the applicant submitted amended plans which provided a hipped wall to the western elevation of the addition (15 degrees from the vertical) while retaining the roof terrace above and external stair.



Figure 11: West elevation with the 9m height limit plane indicated by the red arrow and the existing addition indicated by the dashed red line

27. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - that there are sufficient environmental planning grounds to justify contravening the standard.
28. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

29. The applicant seeks to justify the contravention of the height development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - Compliance with the development standard would compromise the amenity of the upper level with no additional benefit for neighbouring properties or in terms of the overall bulk of the building as presented to the public domain.

- (ii) Exceedance of the height control will not create additional building bulk that results in environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy, loss of visual amenity and a reduction in this bulk would not create additional benefits for adjoining properties or the locality.
 - (iii) The development is consistent with the objectives of the development standard notwithstanding the non-compliance.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal seeks to provide open space at roof level and improved amenity for the upper level habitable space, with no adverse impacts on the area. The proposal is considered to be an appropriate response for the site and the non-compliant elements would not affect the amenity of adjoining properties, whilst improving the amenity of the subject property.
 - (ii) The proposed height can be achieved without adverse impacts and the proposal will provide a suitable design and of suitable amenity.
 - (iii) Reduction in the height of the second floor level will not improve solar access to windows or open space of adjoining properties, as the additional impact from the proposal is limited to minor additional overshadowing of Smiths Street and the roofs of adjoining residential dwellings.
 - (iv) The provision of the second floor addition as proposed will not result in any additional loss of privacy, noting that the balustrade to the front deck at this level is compliant in terms of height.
 - (v) The visual bulk of the component above the height control has been reduced by providing a 15 degree wall hipped away from the street.
 - (vi) Compliance with the height control will not result in improved amenity for adjoining properties and the visual bulk of the upper level as perceived from the street will not be reduced. The lack of unreasonable impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

30. Development consent must not be granted unless the consent authority is satisfied that:

- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

- (c) Does the written request adequately address those issues at Clause 4.6(3)(a)? - That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

31. The applicant's written request has failed to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as they have failed to demonstrate that the development satisfies the objectives of the standard. The written request instead relies on the claim that compliance with the height of buildings development standard would not improve amenity to adjoining sites or reduce the visual bulk of the proposal, and would result in reduced amenity of the subject site. No information has been provided to support these claims, noting that the third storey addition exceeds the minimum floor to ceiling height required under the National Construction Code. Furthermore, the development is in fact considered to be inconsistent with the objectives of the height of buildings development standard as it is not considered to be appropriate to the condition of the site and its context and does not provide an appropriate height transition between the site and surrounding heritage items and contributory items within the heritage conservation area.



Figure 12: The north elevation (left) and east elevation (right) illustrating the difference in scale between the subject site and the neighbouring terraces

32. The written request has therefore failed to demonstrate that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has failed to demonstrate that strict compliance with the standard is unreasonable or unnecessary for the proposal.

Does the written request adequately address those issues at clause 4.6(3)(b)? - That there are sufficient environmental planning grounds to justify contravening the standard.

33. The written request states that the proposal will not result in unacceptable impacts in terms of privacy or solar access. This is not accepted, particularly with respect to the new roof terrace, which is likely to result in significant privacy impacts on surrounding properties. Furthermore, the development does not respond appropriately to the existing conditions of the site and its context, and is considered to result in a detrimental heritage and streetscape outcome.
34. Accordingly, it is considered that the applicant has not adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.

Is the development in the public interest?

35. The objectives of the height of buildings development standard include:

- (a) to ensure the height of the development is appropriate to the condition of the site and its context;
 - (b) to ensure appropriate height transitions between new development and heritage items; and
 - (c) to promote the sharing of views.
36. The form and scale of the third storey addition and roof terrace is not considered to be appropriate to the site and its context and does not provide an appropriate transition between the existing contributory item, and surrounding contributory and heritage items.
37. The objectives of the B4 Mixed Use zone relevant to the proposal include:
- (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage.
38. The commercial and residential components of the building will be maintained, which is consistent with the mixed-use nature of Chippendale. The proposal is located in close proximity to public transport. The proposal is consistent with the objectives of the B4 Mixed Use zone.
39. The proposal is not considered to be in the public interest because it is inconsistent with the objectives of the height of buildings development standard.

Conclusion

40. For the reasons provided above the requested variation to the height standard is not supported as the applicant's written request has failed to address the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development would not be in the public interest because it is inconsistent with the objectives of the development standard.

Clause 4.6 Variation to the Floor Space Ratio Development Standard

41. The site is subject to a floor space ratio control of 1.5:1. The proposed development has a floor space ratio of 1.93:1.
42. The existing building has an FSR of 2.11:1. The proposal results in a net decrease of 16.52sqm of floor space as a result of the creation of a void at the first and second floor and provision of a car parking space within the ground floor. Despite the reduction in floor space, the development still represents an exceedance of 0.43:1 (25% over the standard).

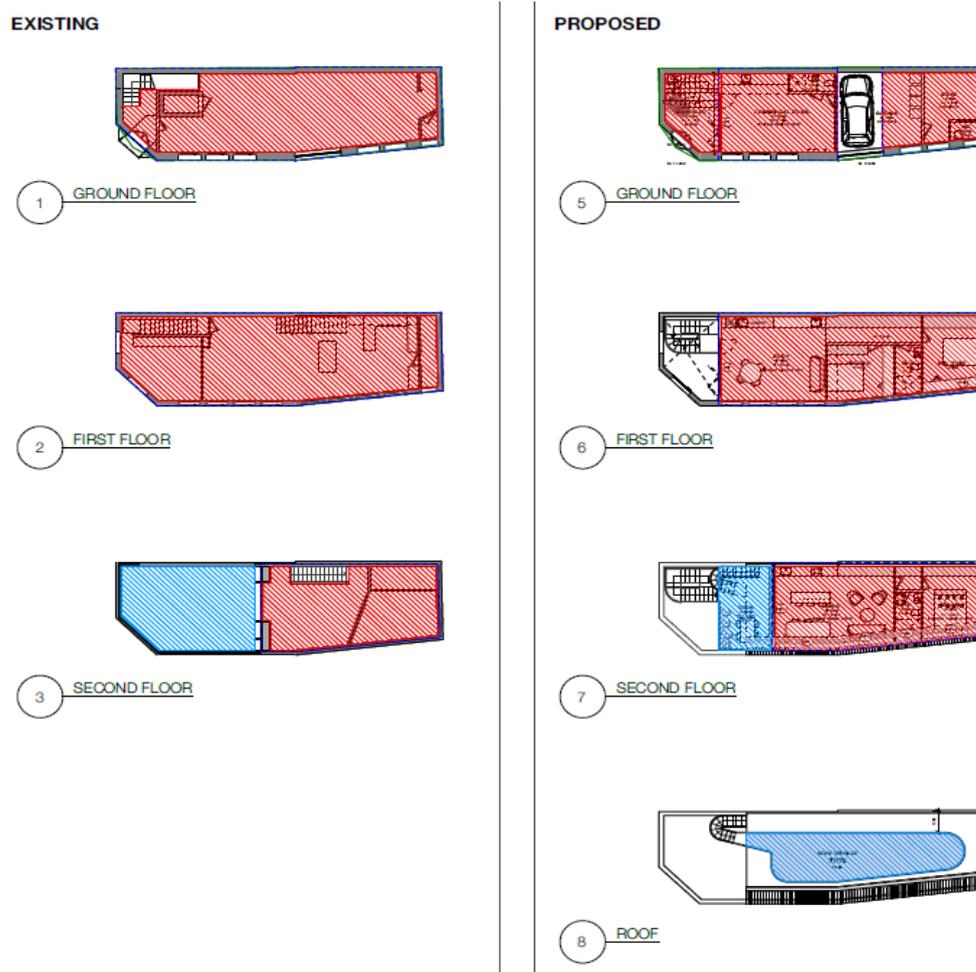


Figure 13: The applicant's FSR calculations showing existing FSR (left) and proposed FSR (right). FSR is shown in red and private open space in blue.

43. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - that there are sufficient environmental planning grounds to justify contravening the standard.
44. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

45. The applicant seeks to justify the contravention of the floor space ratio (FSR) development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - Compliance with the standard is unreasonable and unnecessary as the proposal results in a reduction in FSR.

- (ii) Exceedance of the control will not create additional bulking bulk that results in adverse environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in FSR would not create additional benefits for adjoining properties or the locality.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposed FSR can be achieved without adverse impacts as the alterations reflect the desired character of the locality and minimises adverse impacts on the locality.
 - (ii) The intensity of the development is appropriate and acceptable.
 - (iii) The non-compliance does not contribute to adverse environmental impacts.
 - (iv) The proposal achieves compliance with the relevant objectives of the standard and of the zone.
 - (v) The proposal will provide a suitable design and of suitable amenity in terms of the built environment.
 - (vi) The proposal will not result in adverse impacts in terms of solar access, privacy, view loss and visual bulk.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

46. Development consent must not be granted unless the consent authority is satisfied that:
- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
 - (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)? - That compliance with the development standard is unreasonable or necessary in the circumstances of the case.

47. The written request has failed to demonstrate that the objectives of the floor space ratio development standard are achieved notwithstanding the non-compliance with the standard, in particular Clause 4.4(1)(d), which requires new development to reflect the desired future character of the locality and minimise adverse impacts on the amenity of the locality.
48. The development results in a small reduction in overall FSR due to internal changes on the ground and first floor levels. Notwithstanding, the proposal results in increased bulk at the third storey which is considered to result in an unsympathetic built form. Furthermore, the roof terrace above, is likely to result in significant privacy impacts to the neighbouring properties.

49. Accordingly, it is considered that the applicant has failed to demonstrate that strict compliance with the standard is unreasonable or unnecessary for the proposal.

Does the written request adequately address those issues at clause 4.6(3)(b)? - That there are sufficient environmental planning grounds to justify contravening the standard.

50. The request has failed to demonstrate that the density, scale and intensity of the development are appropriate to the existing building and within the context of surrounding development. The proposed addition is considered to result in unsympathetic bulk and scale which is considered to result in detrimental impacts to the wider heritage conservation area, and adversely impacts on the amenity of the neighbouring properties.

51. Accordingly, it is considered that the applicant has failed to demonstrate that there are sufficient environmental planning grounds to justify the contravention to the standard.

Is the development in the public interest?

52. The objectives of the floor space ratio development standard include:

- (a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future.
- (b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.
- (c) To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.
- (d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

53. The proposal is inconsistent with the desired future character of the locality as it does not respond to or complement the contributory building and heritage conservation area, and is inappropriate in height, scale, design and form. The proposal will impact on the amenity of the neighbouring buildings, in particular, privacy and visual bulk.

54. The objectives of the B4 Mixed Use zone relevant to the proposal include:

- (a) To provide a mixture of compatible land uses.
- (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

55. The commercial and residential components of the building will be maintained, which is consistent with the mixed-use nature of Chippendale. The proposal is located in close proximity to public transport. The proposal is consistent with the objectives of the B4 Mixed Use zone.

56. The proposal is not in the public interest because it is inconsistent with the objectives of the floor space ratio development standard.

Conclusion

57. For the reasons provided above the requested variation to the floor space ratio standard is not supported as the applicant's written request has failed to address the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development would not be in the public interest because it is inconsistent with the objectives of the floor space ratio standard.

Height, Scale and Bulk

58. The site is subject to a 9m height control under Clause 4.3 of the Sydney LEP 2012. The existing building is 9.3m in height.
59. The site is subject a two storey height control under Section 4.1.1 of the Sydney DCP 2012. The existing building is two storeys in height with a mansard attic addition above.
60. The proposal includes the demolition of the existing mansard attic level and construction of a new third storey addition with roof terrace above. Concern was raised with the applicant that the addition was excessive and as such, should be amended to provide an attic-like form and delete the roof terrace.
61. In response to these concerns, the applicant submitted amended plans which provide a pitched wall (15 degrees from the vertical) on the western elevation of the additional storey with the roof terrace and external stair retained.
62. The addition is not recessed from the parapet to the building and still presents as a third storey, failing to comply with the LEP and DCP height controls. The proposal is considered to be unsympathetic to the character, scale and form of the existing building and surrounding buildings within the heritage conservation area. The site is adjoined by two storey terrace rows to the north, south and east.
63. The roof terrace will result in an unacceptable privacy impact, and the external stair and balustrade create additional bulk and overshadowing. As illustrated in Figure 13, the roof terrace overlooks the private open space of several neighbouring properties.
64. The proposal results in approximately an additional 17sqm to the living room of existing dwelling. The extent of non-compliance to the height standard for the purpose of additional living space and an additional roof terrace is considered unreasonable. The existing building already exceeds the height and FSR standards and contains a large area of private open space that is accommodated within the height plane.
65. In light of the above considerations, the application is not supported.



Figure 14: Photo supplied by the applicant looking from the roof towards the east

Other Impacts of the Development

66. The proposed development is capable of complying with the BCA.
67. It is considered that the proposal will have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is not supported.

Suitability of the site for the Development

68. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

Internal Referrals

69. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Transport and Access; and Tree Management.
70. The Heritage and Urban Design Specialists do not support the form of the new addition, roof terrace or external stair.
71. The other units have advised the proposal could be acceptable subject to the recommended conditions relating to the construction and operation of the proposal.

External Referrals

Notification, Advertising and Delegation

72. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 9 November 2018 and 24 November 2018. As a result of this notification there were two submissions received. The issues raised in the submissions are outlined below:

- (a) Excessive height, bulk and scale of additional storey, roof terrace and stair which is out of character with the streetscape.

Response - The form of the new addition, roof terrace and external stair is excessive in bulk and scale and is unsympathetic to the contributory building and wider conservation area. The application is not supported.

- (b) Overshadowing concerns

Response - The shadow diagrams submitted in support of the application show minor additional overshadowing to the neighbouring properties. The proposal satisfies the solar access requirements of the DCP, however the application is not supported

- (c) Privacy concerns from roof terrace

Response - The roof terrace would result in unacceptable privacy impacts to the neighbouring private open space. The application is not supported.

S7.11 Contribution

73. If the application was recommended for approval, the development would be subject to the following S7.11 contributions. The following calculation has been based on the proposed three bedrooms in the building with a credit of one bedroom applied.

(a) Open Space	\$2,382.12
(b) Community Facilities	\$473.55
(c) Traffic and Transport	\$604.30
(d) Stormwater Drainage	\$239.29
Total	\$3,699.25

Relevant Legislation

74. The Environmental Planning and Assessment Act 1979.

Conclusion

75. The application proposes alterations and additions to the existing mixed-use warehouse building to include a new commercial studio, courtyard and garage on the ground floor, internal reconfiguration of the first floor, and new third storey addition with roof terrace above.
76. Amended plans have been submitted in response to concerns raised by City staff during the assessment relating to height, bulk and scale.
77. The applicant has submitted Clause 4.6 variations to the height and floor space ratio development standards under the Sydney LEP 2012. The variations to the standards are not in the public interest and are not supported.
78. The form of the third storey addition, roof terrace and external stair are not supported as they exceed the height controls, are excessive in bulk and scale, result in unsympathetic additions to a contributory item and will result in adverse privacy impacts to the neighbouring properties.
79. The application is recommended for refusal.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Zeb McInnes, Planner

Item 4.**Development Application: 5040 Church Street, Newtown - D/2019/225**

File No.: D/2019/225

Summary**Date of Submission:** 8 March 2019**Applicant:** Rygate Surveyors**Owner:** Council of the City of Sydney**Cost of Works:** \$0**Zoning:** The site is zoned R1 - Residential. Subdivision is permissible with consent.

Proposal Summary: The subject application seeks consent for a Torrens title subdivision to facilitate a part road closure and the creation of a new certificate of title for a new lot on of Church Street, Newtown, in accordance with Sydney City Council resolution 1(b) dated 14 July 1986. The purpose of the subdivision would be to effectively reverse a component of redundant road widening and facilitate its future sale and consolidation into the adjacent to the property at, adjoining Nos. 180-182 Church Street, Newtown. The land is no longer required for road related purposes and the proposal creates an allotment that can be appropriately consolidated with the adjoining property at Nos. 180-182 Church Street, Newtown. The land is located adjacent to the front boundary of 180-182 Church Street.

The subject land is not Crown land. It was private property until it was resumed in 1965 under a road widening action by the City of Sydney. The recent Crown land legislation made amendments to the Roads Act 1993 (Division 3, clauses 38A - 38F) which now permits Councils to close council owned unutilised roads without having to seek the consent of the Minister of Lands.

In the case of a closure of a "formed road" the closed road vests in, that is becomes the responsibility of Council. In the case of a closure of "unformed road" the closed road vests in the Crown. The subject land has been maintained by the City, and available for public access since the late 1960's.

**Proposal Summary
(continued):**

Council's legal unit are satisfied that this aligns with the definition of a formed road, and so on closure the land will become the responsibility of Council and is classified as operational land.

The application was notified for a 21 day period between 25 March 2019 and 16 April 2019. Two submissions were received. One of the submissions was in the form of an inquiry, seeking clarification as to why such a long length of Church Street was being closed on the extent of road closure and for what time period. Upon advice that it involved the small section of widening fronting the property at 180-182 Church St, the submitter responded that they had no further concerns. The remaining submission was in support of the application from the adjacent property by the owner of Nos. 180-182 Church Street, who has been in negotiations with the City to purchase the land.

The application is reported to the Local Planning Panel as the City of Sydney is the applicant and owner of the land.

The application has been assessed as being generally consistent with the relevant provisions of the Sydney LEP 2012 and the Sydney DCP 2012.

Summary Recommendation:

The development application is recommended for approval, subject to conditions.

Development Controls:

Environmental Planning and Assessment Act, 1979

Roads Act, 1993

Sydney Local Environmental Plan 2012 (Gazetted ## December 2012, as amended)

Sydney Development Control Plan 2012 (in force on ## December 2012, as amended)The development application is recommended for approval, subject to conditions.

Attachments:

Attachment A. Recommended Conditions of Consent

Attachment B. Plan of Proposed Subdivision

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/225 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development satisfies the relevant strategy, objectives and provisions of both the Sydney LEP 2012 and Sydney DCP 2012.
- (B) The land is no longer required for road related purposes and the proposal creates an allotment that can be appropriately consolidated with the adjoining property at Nos. 180-182 Church Street, Newtown.
- (C) The proposal implements a Sydney City Council resolution dated 14 July 1986.



Figure 2: Site as viewed from Church Street, looking north, with proposed road closure area outlined in red



Figure 3: View of the site looking east from Church Street



Figure 4: Aerial photo of the subject site with locality context

Proposal

6. The application seeks consent for a Torrens title subdivision of part of the Church Street road reserve for title issue and to facilitate a road closure under the Roads Act 1993.
7. The purpose of the subdivision would be to effectively reverse a redundant road widening and facilitate its future sale and consolidation into the adjacent to the property at Nos. 180-182 Church Street, Newtown.
8. A copy of part of the proposed subdivision plan is provided below.

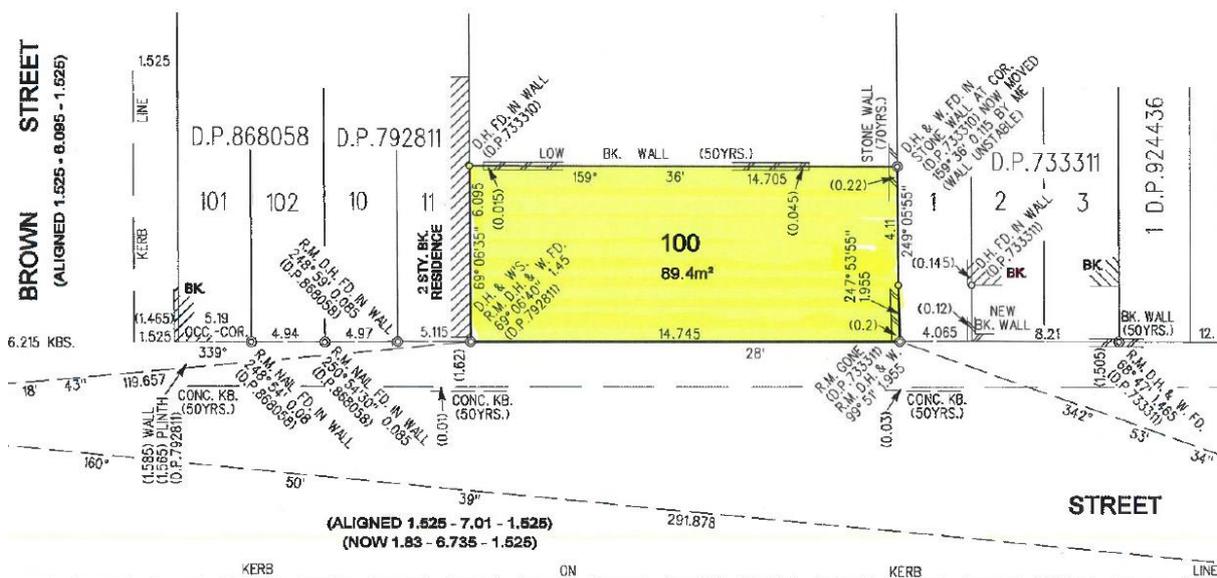


Figure 5: Proposed plan of subdivision to create New Lot 100

History Relevant to the Development Application

9. On 25 March 1927 a Notice of Realignment of Streets was gazetted as Gazette No. 40 Folio 1580, realigning Layton Street (which is what Church Street was known as at the time). A Crown plan catalogued as S. 295.907 showed the extent of the realignment.
10. In a resolution of Council, dated 14 July 1986, the following was resolved by Sydney City Council:

That arising from consideration of the report by the City Engineer dated 16th June 1986, approval is given to:

 - 1 (a) The reaffirming of the intention to proceed with the widening by realignment of Church Street on the north eastern side as proclaimed in Government Gazette dated 25th March, 1927, Folio 15890 as shown on plans No. S289.907 and S295.907 at the Department of Lands, between Parramatta Road, and Rochester Street and such widening to be noted in the draft Local Environmental Plan No. 66.
 - (b) The rescinding of the above realignment only in so far as it affects the north eastern side of Church Street from Rochester Street to the south eastern boundary of No. 182.
 2. Subject to the approval of 1(b) above, all necessary steps, including road closures if applicable, being taken to offer for sale to the adjoining owners that land in front of Nos. 180-182 Church Street which as vested in Council and for which compensation was paid and to return the land vested in Council in front of Nos. 164-166 Church Street to the adjoining owners.
 3. All relevant documents and plans being executed under the Common Seal of Council or by Council's Attorney.
11. The widening of Church Street was rescinded by government gazette No. 114 Folio 3684 dated 8 July 1988.
12. In August 2016, the City received a submission from a neighbouring owner seeking to purchase the land and consolidate with the land into the neighbouring private land holding.
13. In early 2017, the City entered into a Deed for the purchase of the land. The Deed provides for the land to be revalued prior to transfer, and if the new valuation is lower, the prior valuation prevails.
14. On 9 October, 2018 a public notice of road closure was advertised in the Sydney Morning Herald and letters issued to the neighbouring property owners. No submissions were received.
15. Relevant authorities, including utilities such as Ausgrid, Jemena, Telstra and authorities including RMS and Transport NSW were also notified of the proposal. No objections were received.
16. The subject subdivision has been lodged to facilitate this sale.

Economic/Social/Environmental Impacts

17. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

- (a) Environmental Planning Instruments and DCPs.

Roads Act 1993

Sydney Local Environmental Plan 2012

18. The site is located within the R1 Residential zone. The proposal is defined as subdivision, which is permissible with consent in the zone.
19. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
2.6 Subdivision - consent requirements		
5.10 Heritage conservation	Yes	The subject site is located within a heritage conservation area. No works are proposed, and it is considered that the subdivision and road closure will not impact on the heritage fabric or on any significant subdivision pattern in the locality.

Sydney Development Control Plan 2012

20. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Camperdown
The subject site is located in the Camperdown. The proposed subdivision is considered to be in keeping with the unique character of the area and design principles in that it will restore the road alignment to its original location.

3. General Provisions	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The subdivision is required to facilitate the partial road closure in accordance with the 1986 resolution by Council.

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	The proposal will facilitate the reinstatement of the original fine grain form of the cadastral boundaries

21. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

22. The proposal is of a nature in keeping with the overall function of the site.

External Referrals

Notification, Advertising and Delegation

23. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 21 days between 25 March 2019 and 16 April 2019.

24. A total of 242 properties were notified and two submissions were received.

- (a) One submission requested clarification on why Church Street is being closed for this application, why such a long length of Church Street was being closed, and for what time period.

Response - The submitter was advised that only the portion set back from the main road alignment adjoining 180-182 Church Street was being closed, that Church Street would remain open, and that no physical works were proposed for the application. The submitter had no further questions once this was clarified.

- (b) One submission was received in support of the proposal.

Public Interest

25. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Relevant Legislation

26. The Environmental Planning and Assessment Act 1979.
27. The Roads Act 1993.
28. The Crown Lands Management Act 2016.

Conclusion

29. The proposed development application seeks consent for the subdivision of part of Church Street adjacent to Nos. 180-182 Church Street for the purpose of road closure and issue of the first title.
30. The proposal has been assessed as being generally consistent with the objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012.
31. The subdivision of this land is consistent with the 1986 resolution of the Council to close this part of the road, and as detailed in the relevant history section of this report, the proposal is consistent with the road closure process under the Roads Act being undertaken as a separate process by Council.
32. Subject to the imposition of conditions, the proposal has been assessed as being acceptable and is recommended for approval.
33. The next step in the process is that, after determination, a Subdivision Application under S. 109J of the Environmental Planning & Assessment Act, 1979 will be lodged with Sydney City Council.
34. After the subdivision certificate is executed by the City's authorised delegate, the subdivision will be lodged with NSW Land Registry Services (formerly LPI-NSW), redefining the land and assigning a lot and DP number.
35. It will then be registered and a title will issue to the City. The land will be classified as Operational Land.
36. It will then be gazetted by the City as being closed as public road
37. In accordance with the Deed of Road Closure and Sale with the adjoining landowner, the land will be subject to an updated valuation and then transferred for that amount to the adjoining landowner.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Michael Parkinson, Specialist Surveyor

Attachment A

Recommended Conditions of Consent
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DRAFT CONDITIONS OF CONSENT

SCHEDULE 1

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/225 dated 8 March 2019, and the draft subdivision plan prepared by registered surveyor Michael Alexander Brown of Rygate Surveyors dated 22nd November 2017, consisting of 1 sheet, reference 78348,

and as amended by the conditions of this consent.

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

(2) LAND SUBDIVISION – SUBDIVISION CERTIFICATE

A separate application must be made to Council to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 109J of the *Environmental Planning and Assessment Act 1979*, for the subdivision approved under this consent.

(3) SYDNEY WATER CERTIFICATE - SUBDIVISION

Prior to the issue of a Subdivision/Strata Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council prior to a Subdivision Certificate being issued. It should be noted that a Section 73 certificate is not required for the second stage of the subdivision as it will involve dedication of a road only.

(4) SURVEY INFRASTRUCTURE

Prior to the issue of the subdivision certificate, sufficient survey infrastructure, including reference marks and permanent marks, must remain in place in order to satisfy the requirements of the Surveying and Spatial Information Regulation 2017, and to the satisfaction of Council.

(5) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

(6) EASEMENT FOR SERVICES

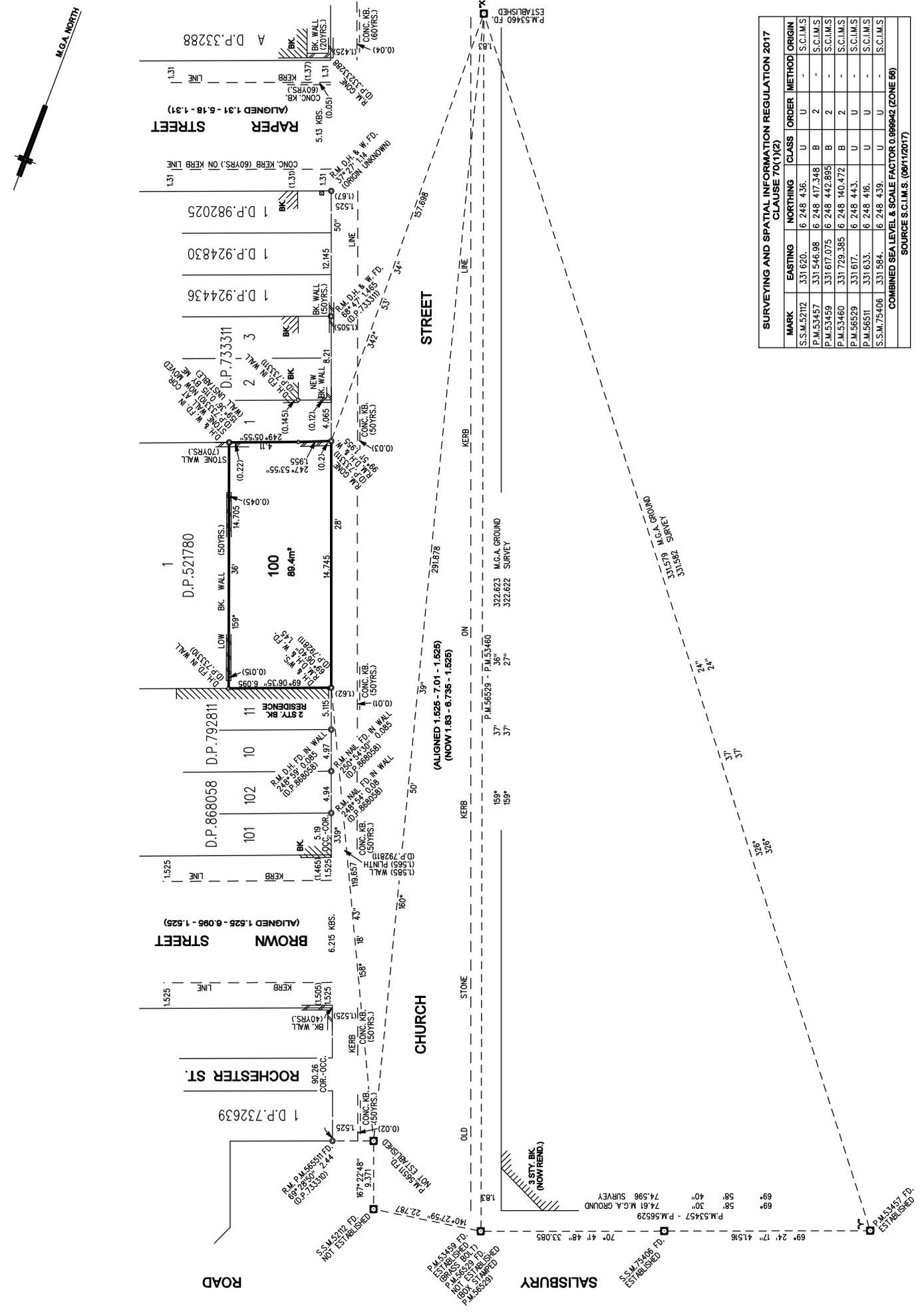
An easement for services 0.1 metres wide, or of appropriate width as determined by the registered surveyor shall be created pursuant to Section 88B of the *Conveyancing Act 1919*, in terms to the satisfaction of Council, over the encroaching water pipes and other services attached to the south-eastern face of the terrace erected upon Lot 11 in DP 779220, known as No. 178 Church Street. The easement shall burden the proposed Lot 100 and benefit Lot 11 in DP 779220.

(7) LAND TO BE CONSOLIDATED WITH LOT 1 IN DP 521780

The proposed Lot 100 must be consolidated with Lot 1 in DP 521780 within 12 months of the date of the title being transferred from the City of Sydney.

Attachment B

Plan of Proposed Subdivision



**SURVEYING AND SPATIAL INFORMATION REGULATION 2017
CLAUSE 70(1)(2)**

MARK	EASTING	NORTHING	CLASS	ORDER	METHOD	ORIGIN
S.S.M.5212	331 620.	6 248 436.	U	2	-	S.C.I.M.S
P.M.53457	331 546.98	6 248 417.348	B	2	-	S.C.I.M.S
P.M.53459	331 617.075	6 248 442.895	B	2	-	S.C.I.M.S
P.M.53460	331 729.385	6 248 140.472	B	2	-	S.C.I.M.S
P.M.56529	331 617.	6 248 443.	U	U	-	S.C.I.M.S
P.M.56511	331 633.	6 248 416.	U	U	-	S.C.I.M.S
S.S.M.75406	331 584.	6 248 439.	U	U	-	S.C.I.M.S

COMBINED SEA LEVEL & SCALE FACTOR 0.999942 (ZONE 68)
SOURCE S.C.I.M.S. (08/11/2017)

SURVEYOR Name : MICHAEL ALEXANDER BROWN Date : 22nd NOVEMBER, 2017 Reference : 78348	PLAN HEADING PLAN OF PART OF CHURCH STREET FOR TITLE ISSUE AND ROAD CLOSING UNDER THE ROADS ACT 1993	LGA: SYDNEY Locality : NEWTOWN Reduction Ratio 1:150 Lengths are in metres	REGISTERED	(DP NUMBER)
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