

**Item 5.****Development Application: 524 Bourke Street Surry Hills**

File No.: D/2017/1749

**Summary****Date of Submission:** 15 December 2017**Applicant:** Mr Andrew Hoyne and Mrs Senta Hoyne**Architect:** Chenchow Little Pty Ltd**Developer:** Mr Andrew Hoyne and Mrs Senta Hoyne**Owner:** Mr Andrew Hoyne and Mrs Senta Hoyne**Cost of Works:** \$1,853,500

**Proposal Summary:** Permission is sought for alterations and additions to a heritage listed terrace house, including ground and first floor rear extensions, a rear roof extension, a swimming pool and construction of a new garage facing Olivia Lane with a studio above and a new excavated basement/cellar in the rear yard and under the garage.

The works are generally consistent with those approved under development consent D/2010/2111 (as amended) with the exception of a new basement sought at the rear of the property. The works have commenced under D/2010/2111 (as amended) and as such that consent is active.

The height of the rear roof extension is 14.824 metres above existing ground level and exceeds the maximum nine metre building height by 5.842 metres or 65%. The application is accompanied by a statement seeking to vary the maximum height of buildings standard pursuant to Clause 4.6 of the Sydney LEP 2012. The rear roof extension does not project beyond the highest part of the existing house.

The application must be determined by the Local Planning Panel, in accordance with the delegations of the Department of Planning, as the works exceed the height of buildings standard by more than 25%.

**Proposal Summary:****(continued)**

The variation is acceptable as the works are contained at the rear of the property and set below the existing ridge line. The design is consistent with Council's controls for rear roof extensions under Section 4.1.5.5 of the Sydney DCP 2012 and will not adversely affect the heritage significance of the item or the amenity of neighbouring properties. The variation is the same as previously approved under D/2010/2111, as amended.

Conditions of consent are recommended to reduce the extent of the basement such that it is confined to the footprint of the garage to ensure the minimum required amount of deep soil planting is provided. A Construction Traffic Management Plan is to be provided to minimise impacts on neighbours during construction. Further geotechnical and structural engineers' reports are required to refine the construction methodology.

The development complies with the maximum permitted floor space ratio for the site and generally with other built form and amenity controls. Subject to conditions, the development will not adversely impact the heritage significance of the item.

Two submissions have been received raising the following objections to the original proposal:

- The basement excavation will adversely impact the structural integrity of neighbouring properties and is not suitable for the site.
- Visual privacy.

Subject to design modifications regarding the basement, the development is acceptable.

**Summary Recommendation:**

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

**Development Controls:**

- (i) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (ii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (iii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings

## Recommendation

It is resolved that

- (A) The Local Planning support the variation sought to Clause 4.3 "Height of Buildings" in accordance with Clause 4.6 "Exceptions to development standards" in Sydney Local Environmental Plan 2012 in this instance.
- (B) Consent be granted to Development Application No. D/2017/1749 subject to the conditions set out in Attachment A to this report.

## Reasons for Recommendation

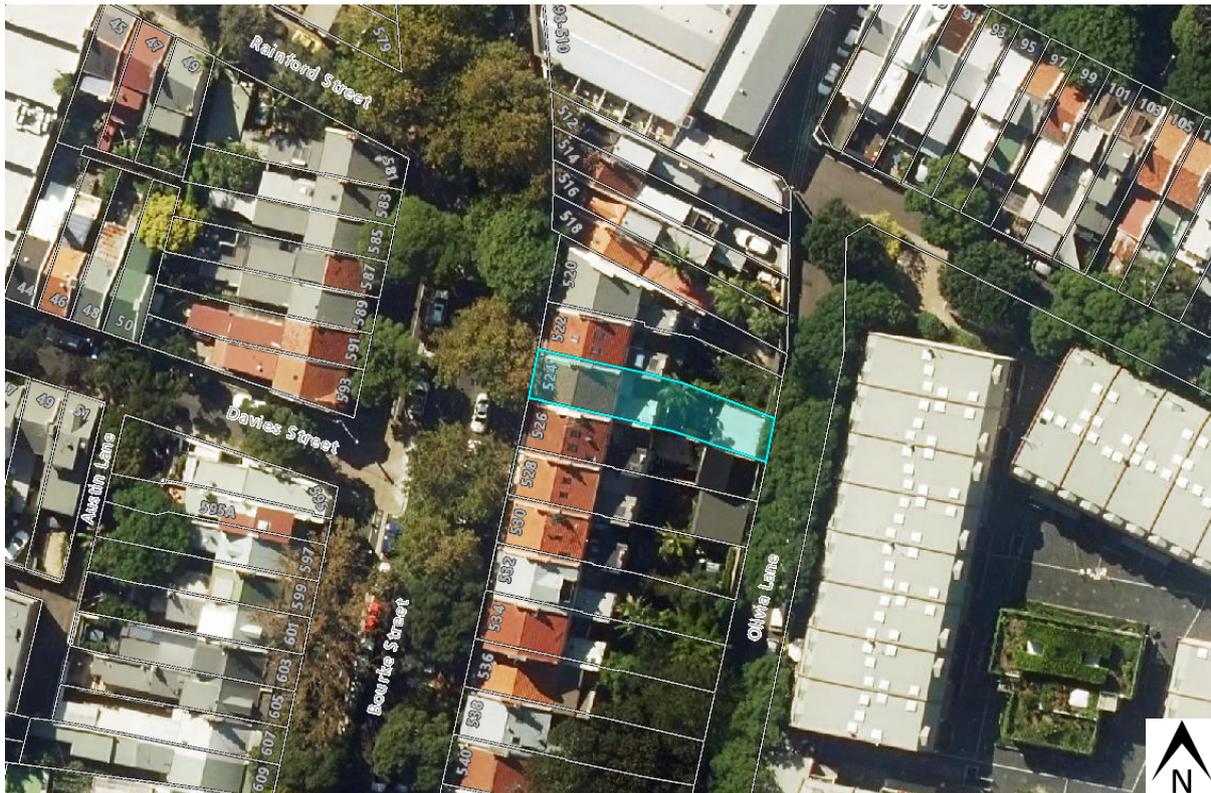
The reasons for the Recommendations are as follows:

- (A) The development the subject of this application is consistent with the objectives of the B4 - Mixed Use zone for the reasons set out in the report to the Local Planning Panel.
- (B) The variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 "Height of Buildings" is consistent with the provisions of Clause 4.6 "Exceptions to development standards" and is in the public interest.
- (C) The alterations and additions to the dwelling and the garage and studio addition to the rear are generally consistent with those approved under D/2010/2111, as amended and will not adversely impact the significance of the heritage item and its contribution to the Bourke Street South conservation area (C60).
- (D) The basement is to be reduced to increase the area of deep soil planting in accordance with Section 4.1.3.4 of the Sydney DCP 2012. Subject to further structural, geotechnical and construction information regarding the methodology of construction and shoring, the location of the basement in the rear yard will not adversely impact the structural integrity of the terrace.
- (E) As conditioned, it is generally consistent with the objectives of the relevant controls for the site and will not adversely impact the amenity of neighbouring properties.

## Background

### The Site and Surrounding Development

1. A site visit by staff was undertaken with Council's Heritage and Urban Design Manager on 1 June 2017.
2. The site is 184.4sqm in area. It has a primary frontage to Bourke Street and a secondary frontage to Olivia Lane at the rear. The site consists of a four storey heritage listed terrace dwelling constructed in 1879 with a single storey garage to the rear.



**Figure 1:** Aerial image of subject site and surrounding area

3. The dwelling forms part of a relatively intact row of eight heritage listed Victorian Filigree style terrace dwellings (520 to 534 Bourke Street, Surry Hills). The group features ground floor levels accessible from stairs down from Bourke Street, first floor levels with a balcony accessed by stairs up from the front gate, second floor levels with balcony, and third floor levels.
4. The subject site has retained the original iron palisade front fence, however the front first floor balcony has been enclosed (the application seeks to reinstate the first floor balcony by removing the enclosing walls and windows). The site also contains a three-storey skillion wing attached to the rear of the terrace, which is generally consistent along the row.
5. The subject site is located within the Bourke Street South Conservation Area (C60) and is located within the Bourke Street Heritage Streetscape. The surrounding area generally consists of residential development; however, the Carrington Hotel is located to the north-west and the Bourke Street Bakery to the south-west.

6. Photos of the site and surrounds are provided below:



**Figure 2:** Site located behind the street tree, viewed from Bourke Street



**Figure 3:** Rear of the site on Olivia Lane



**Figure 4:** The rear of the dwelling

## **Proposal**

7. Permission is sought for alterations and additions to a heritage listed terrace dwelling.
  - (a) Basement
    - (i) Excavation within the rear yard to create a basement for storage and a cellar (the basement has been relocated from underneath the dwelling, which was a reason for refusal of D/2010/2111/C)
  - (b) (Lower) Ground Floor
    - (i) Remove the security gate and bars from the front verandah
    - (ii) Internal alterations
    - (iii) Demolition of single storey rear additions, outbuildings and the existing garage
    - (iv) Construction of an in-ground pool and landscaping

- (v) Construction of a single car garage
- (c) First Floor
  - (i) Rear alterations including partially infilling the breezeway with a green roof
  - (ii) Internal alterations including new stairs, voids and raising the floor level
  - (iii) Studio above the garage
- (d) Second Floor
  - (i) Addition above the rear wing
  - (ii) Reinstate the front balcony
  - (iii) Internal alterations including new stairs and removing the existing chimney
- (e) Third Floor
  - (i) Internal alterations
- (f) Attic
  - (i) Rear roof extension with skylight and solar panels above
  - (ii) Internal alterations

8. Plans of the proposed development are provided below and at Attachment B.



Figure 5: Basement level

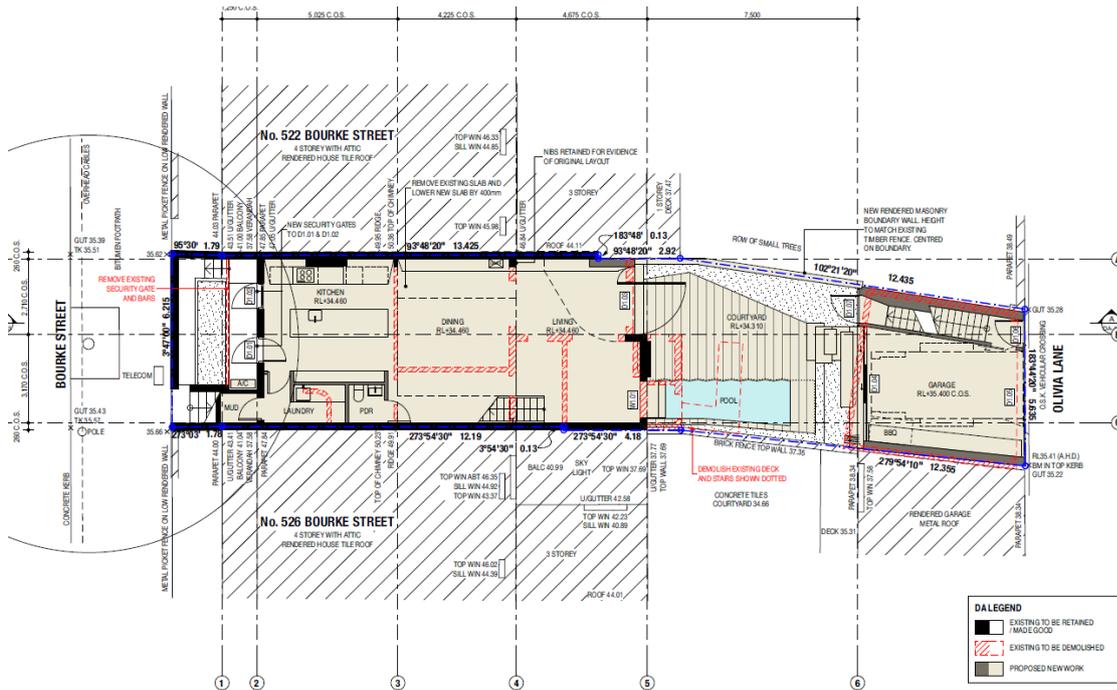


Figure 6: (Lower) ground floor

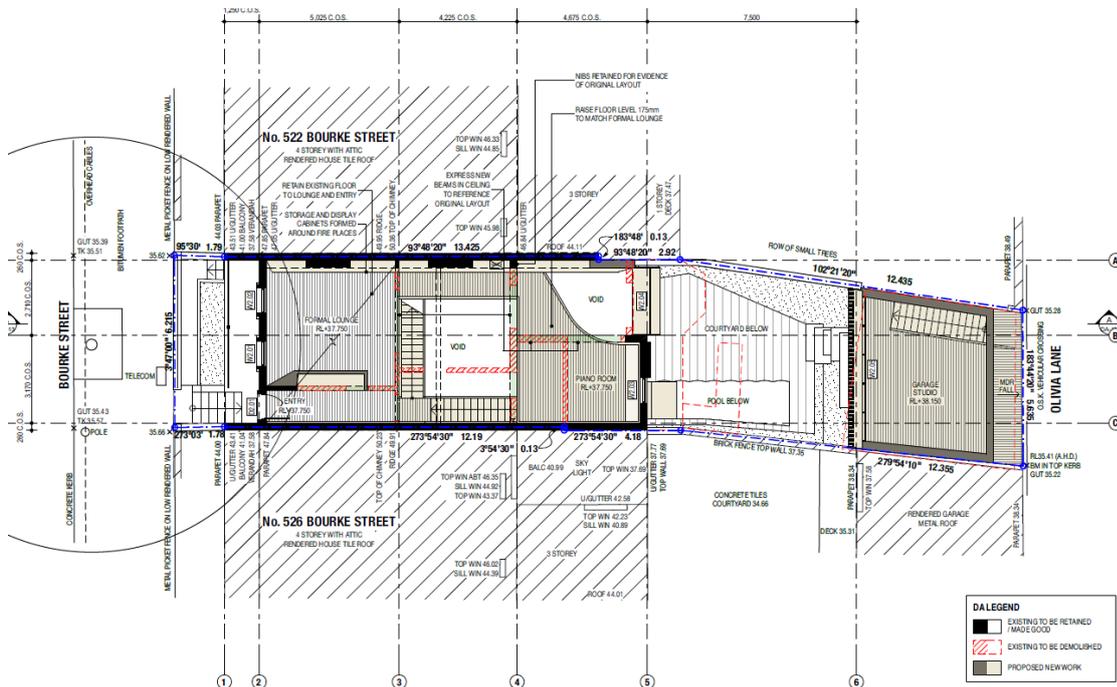


Figure 7: First floor

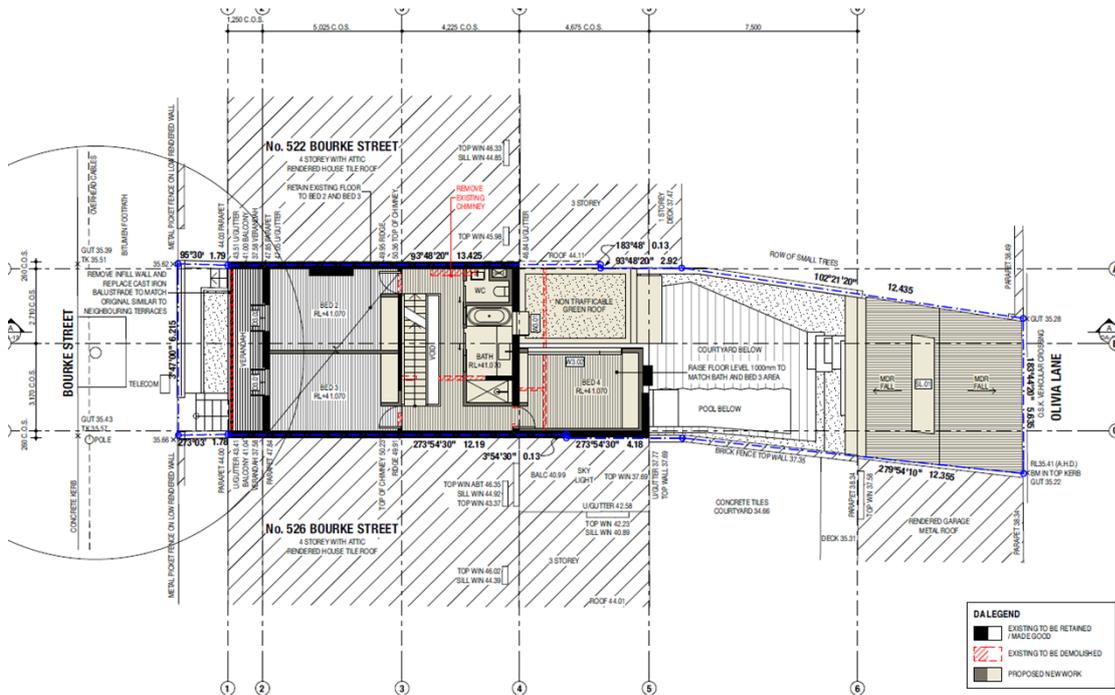


Figure 8: Second floor

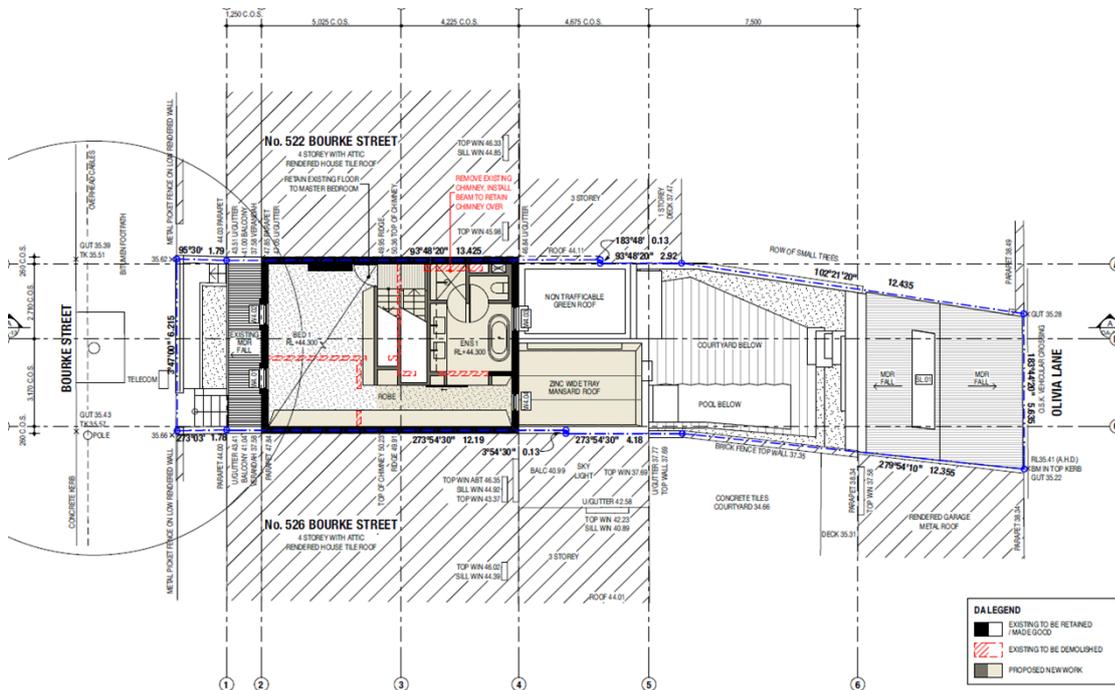


Figure 9: Third floor

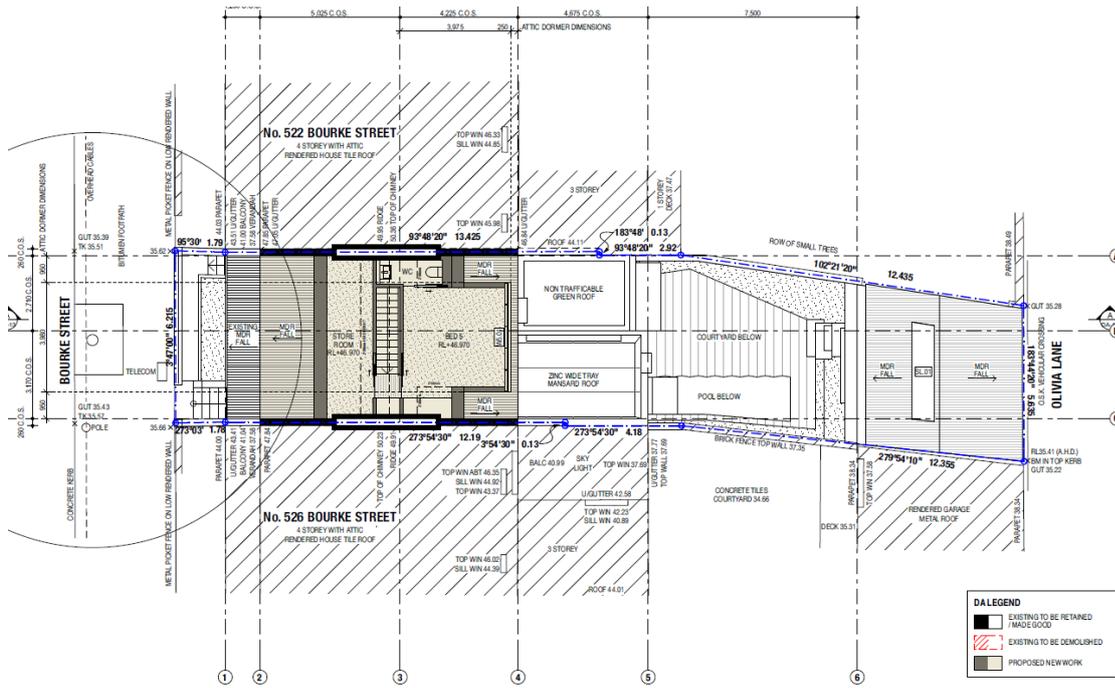


Figure 10: Attic

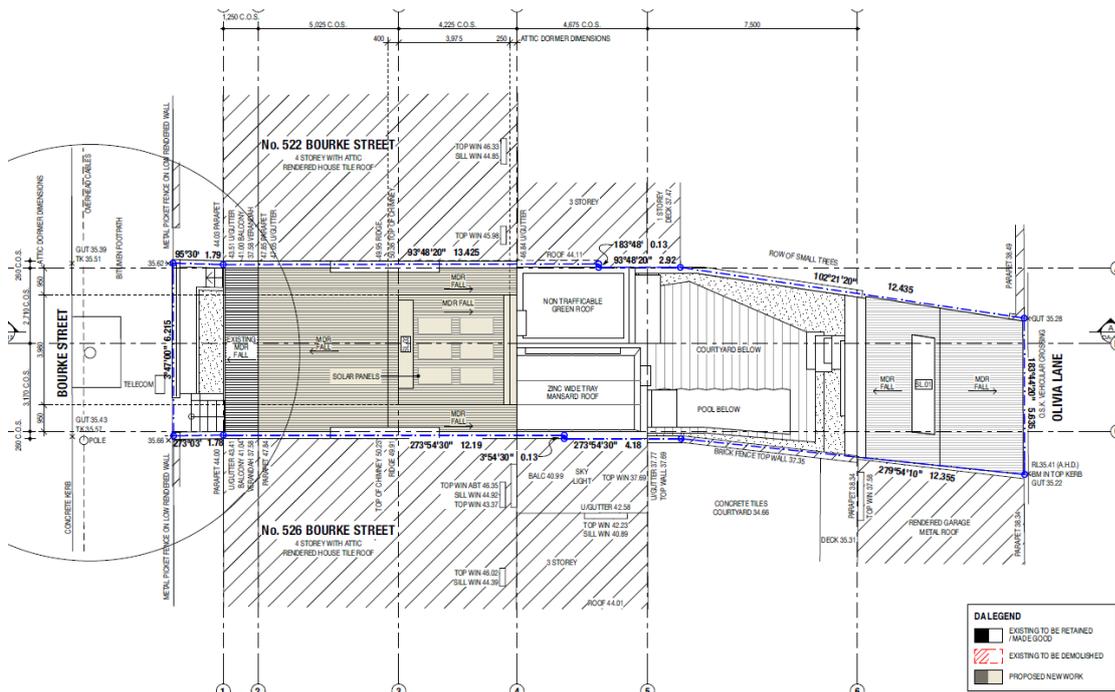


Figure 11: Roof

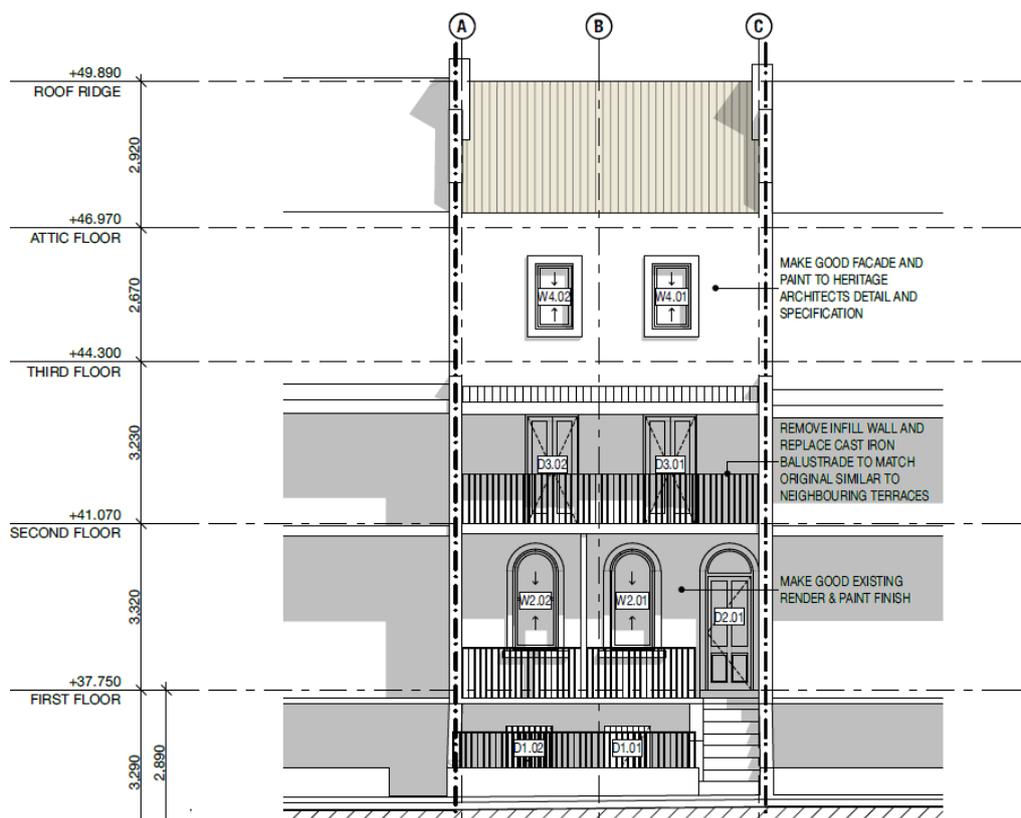


Figure 12: Front elevation (Bourke Street)

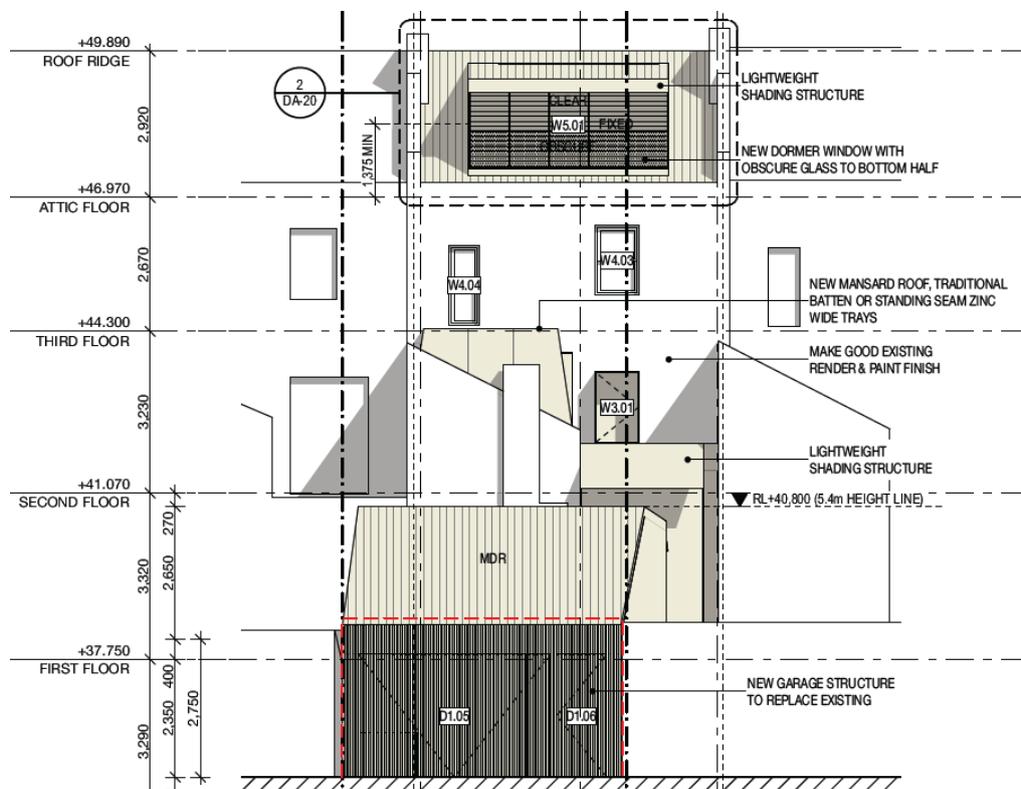


Figure 13: Rear elevation (Olivia Lane)

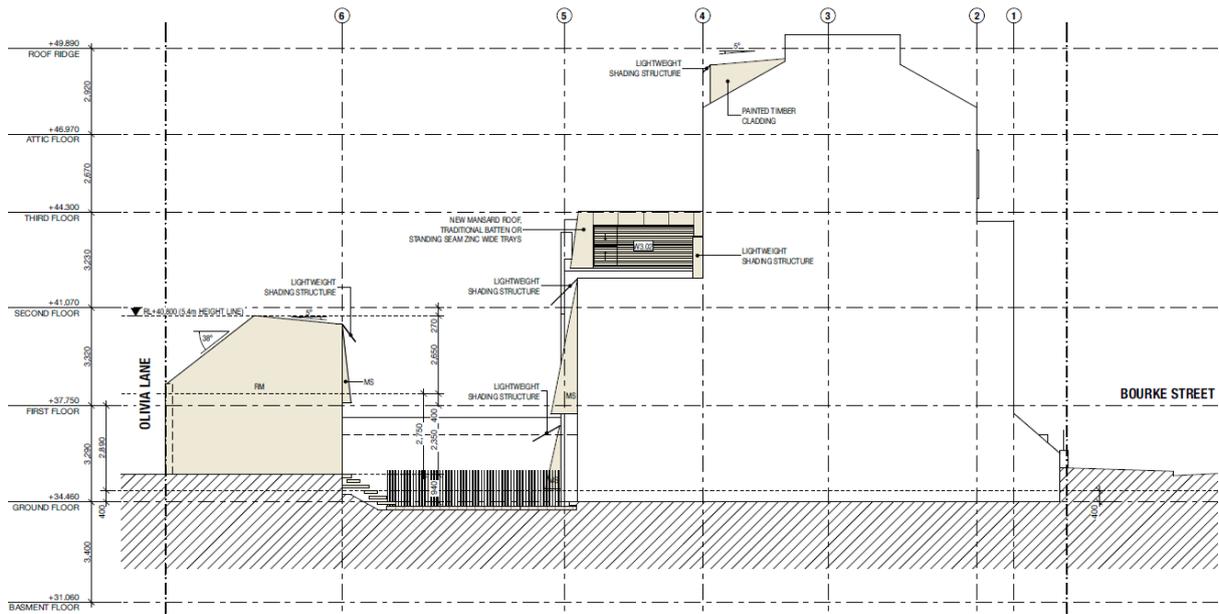


Figure 14: North (side) elevation

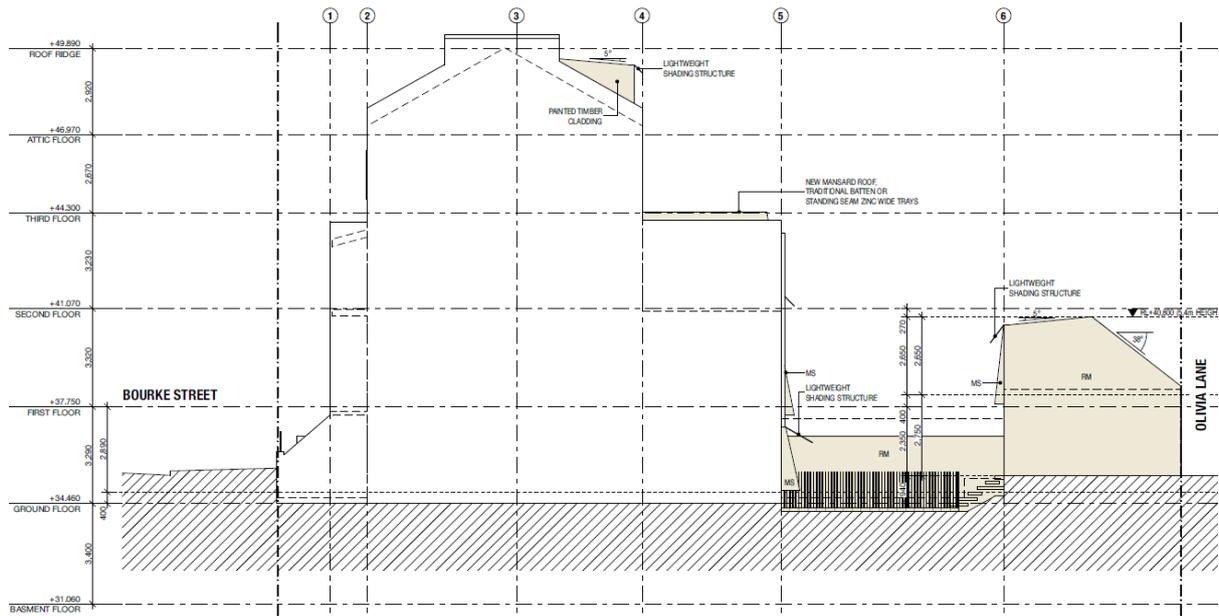


Figure 15: South (side) elevation



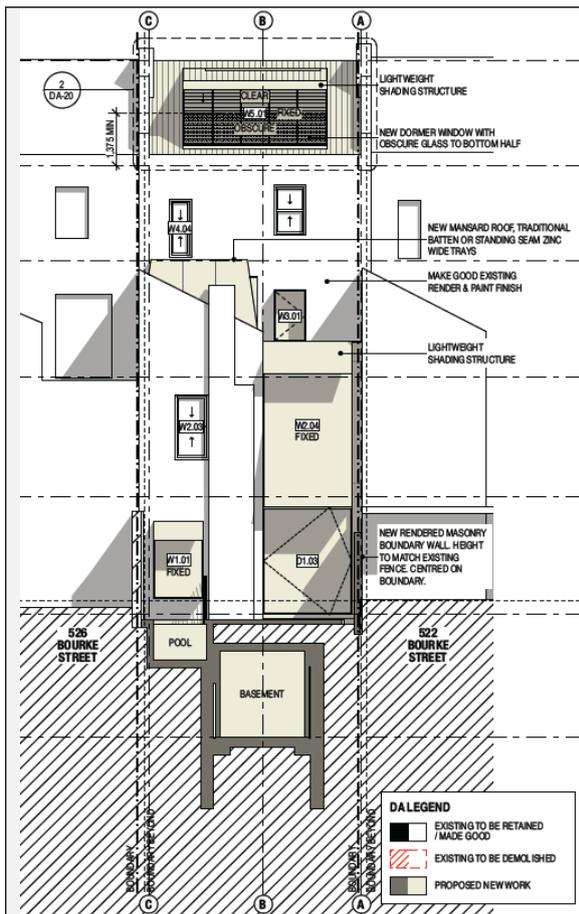


Figure 17: Rear elevation of the dwelling

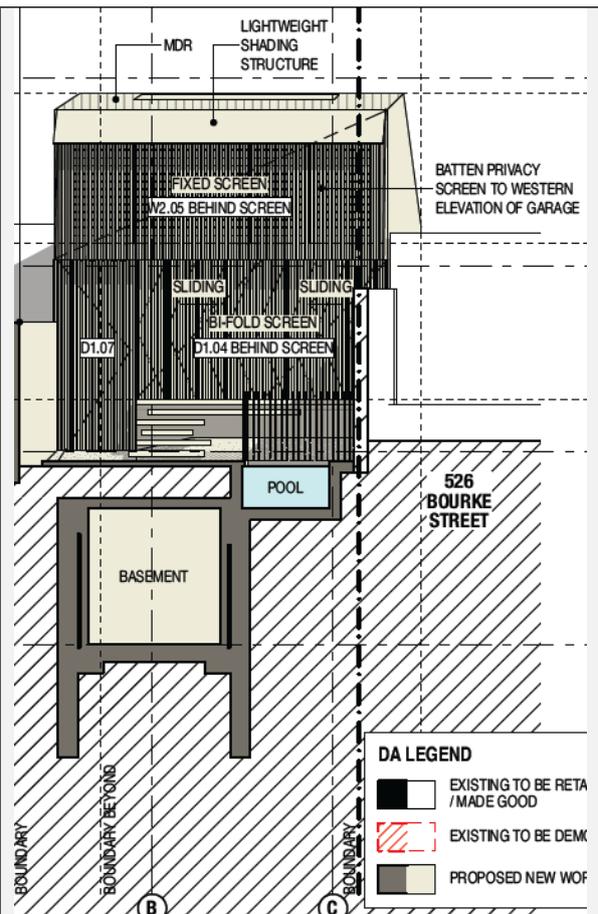


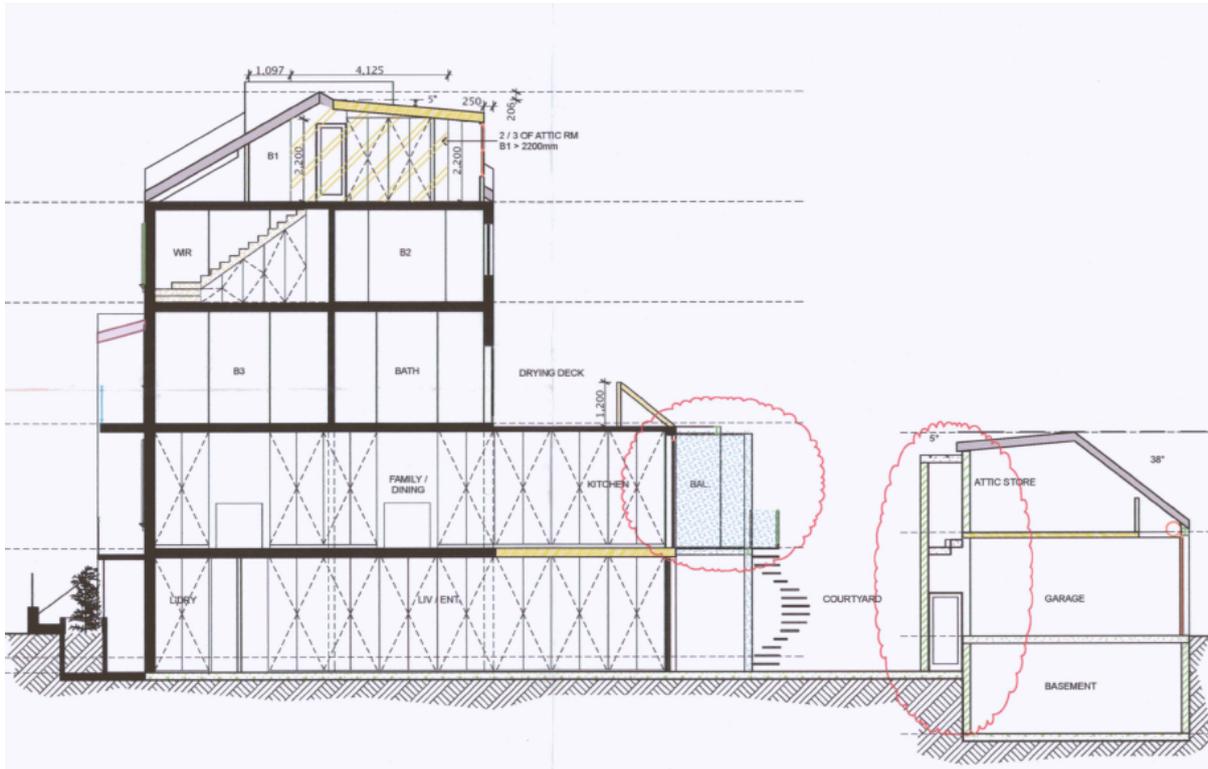
Figure 18: Internal elevation of the garage

9. The works are substantially the same as that approved under D/2010/2111 (as amended), with the exception of a basement in the rear yard. The subject application has been submitted as the basement excavation proposed under D/2010/2111/C was not considered substantially the same development as originally approved under D/2010/2111 and could not be supported as a modification application.
10. A preliminary Construction Traffic Management Plan has been prepared to address the removal of groundwater from the site during excavation. Approximately two trucks per day, six days per week for a five week period during standard construction hours will be required for dewatering the site.

### History Relevant to the Development Application

11. On 25 July 2011, development application D/2010/2111 for alterations and additions to the existing terrace house including, ground and 1st floor rear extensions with decks, a rear roof extension, a swimming pool, and construction of a new garage facing Olivia Lane with basement and attic storage was refused.
12. On 2 April 2012, Section 82A review RD/2010/2111/A for alterations and additions to the terrace dwelling was approved. Significant design modifications were required by conditions of consent. The consent was to lapse on 2 April 2017 unless commenced.

13. On 28 September 2012, Section 96 modification D/2010/2111/A for the deletion of a range of design modification and general heritage conditions 2(a), (d), (e), (f), (g), (h), (i), (j) and 4(e) and amend of Conditions 2(b), (c) and 4(d) was refused.
14. On 7 May 2013, the NSW Land and Environment Court upheld an appeal against the refusal of Section 96 modification D/2010/2111/A and approved the deletion of design modification conditions imposed under RD/2010/2111/A.



**Figure 19:** Approved section under D/2010/2111/A

15. On 22 February 2017, Section 96 modification D/2010/2111/B for the internal reconfiguration of the terrace and garage, new basement addition, masonry side fence and rainwater tank, and deletion of the approved internal lift, first floor deck and stairs, garage stairs and cellar was partially approved.
  - (a) The new basement and alterations to the rear roof extension were not approved.
  - (b) A wall nib at the southeast corner of the dwelling at first floor level was required to be retained.
  - (c) A shade awning over a rear window was not approved.
  - (d) The original timber floors, with the exception of those affected by the new stairs and void, were to be retained in situ.

16. On 8 September 2017, Section 96 application D/2010/2111/C was refused. The application sought the deletion of Condition 2A(a) so as to permit construction of a basement; deletion of Condition 2A(c) to remove an internal wall nib; delete Condition 2A(d) to permit an external awning to the rear wing; amend Condition 2A(e) to reuse existing timber floorboards; and amend Condition 2A(f) to permit external louvres and metal frame windows to the rear dormer. The reasons for refusal are summarised below:
- (a) The development as modified, with regard to basement excavation, was not substantially the same as originally approved, contrary to the provisions of the then Section 96 of the Act.
  - (b) Basement excavation under the dwelling was likely to have an adverse structural impact on the heritage listed terrace row.
  - (c) Insufficient information was provided regarding whether dewatering required the approval of the Office of Water pursuant to Section 91 of the Water Management Act 2000.
  - (d) Insufficient information was provided to assess the impact of dewatering on the surrounding area.
  - (e) Insufficient information was provided to prove the consent had not lapsed and such that the consent was still valid (the applicant has since stated that works commenced before the consent lapsed with the installation of flashings to boundary walls. Notwithstanding, no concerns are raised with the previously approved works). A Construction Certificate has not been issued for these works.

### **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.

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

18. A BASIX Certificate has been submitted with the development application.
19. 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 LEP 2012**

20. The site is located within the R1 - General Residential zone. The works are permissible with consent.
21. 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>The site is permitted a maximum building height of 9 metres.</p> <p>The rear roof extension is 14.842 metres above existing ground level and exceeds the maximum building height by 5.824 metres (65%).</p> <p>Further discussion is provided under the Issues heading.</p>
4.4 Floor Space Ratio	Yes	<p>The site is permitted a maximum floor space ratio of 1.5:1.</p> <p>A floor space ratio of 1.49:1 is proposed.</p> <p>Note: As the basement is to be used for storage, it does not contribute to gross floor area in accordance with the definition under the Sydney LEP 2012.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the maximum height standard under clause 4.3.</p> <p>The variation to the standard is acceptable in the circumstances.</p> <p>Further discussion is provided under the Issues heading.</p>
5.10 Heritage conservation	Yes	<p>The site forms part of a local heritage item and is located within the Bourke Street South conservation area (C60).</p> <p>The development is substantially the same as that approved under D/2010/2111 (as amended) and is compatible with Council's controls regarding heritage conservation.</p> <p>Further discussion is provided under the Issues heading.</p>

<b>Part 6 Local Provisions - Height and Floor Space</b>	<b>Compliance</b>	<b>Comment</b>
6.21 Design excellence	Yes	The development is compatible with the heritage significance of the site and surrounding area and exhibits design excellence.

<b>Part 7 Local Provisions - General</b>	<b>Compliance</b>	<b>Comment</b>
7.4 Car parking ancillary to dwelling houses	Yes	The development is permitted a maximum of two parking spaces.  One car space is proposed.
7.14 Acid Sulphate Soils	Yes	The site is located within Acid Sulfate Soil class 5. The site is not located within 500 metres of land identified as Acid Sulfate Soil classes 1-4 and as such the development is unlikely to disturb, expose or drain acid sulfate soils.
7.15 Flood planning	Partial compliance	The subject site is affected by flooding.  The development retains existing floor levels and does not substantially intensify the use of the land.  The entrance to the basement is adjacent to the identified overland flow path during flood events. A condition of consent is recommended requiring the entrance to the basement to be 0.5 metres above the 1% flood level.

### Sydney DCP 2012

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

#### 2.11.5 Surry Hills East Locality

The subject site is located in the Surry Hills East locality. The proposed works are consistent with the principles of the locality statement.

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	<p>A condition is recommended requiring a tree to be planted in the rear yard in accordance with the City's controls to increase canopy cover.</p> <p>Street trees are located on Bourke Street and Olivia Lane. A condition of consent is recommended requiring the protection of street trees during construction.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and environmental requirements.</p> <p>Solar panels are proposed to the rear roof extension, being flush with the roof line, and will not be visible from the public domain. The amenity of neighbouring properties will not be adversely affected.</p>
3.7 Water and Flood Management	Partial compliance	<p>The site is subject to flooding.</p> <p>The matter is discussed with regard to clause 7.15 of the Sydney LEP 2012.</p>
3.9 Heritage	Yes	<p>The site forms part of a local heritage item and is located within the Bourke Street South conservation area (C60).</p> <p>The development is substantially the same as that approved under D/2010/2111 (as amended) and is compatible with Council's controls regarding heritage conservation.</p> <p>Further discussion is provided under the Issues heading.</p>

4. Development Types  4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
4.1.1 Building height	Partial compliance	<p>The site is permitted a maximum two storeys.</p> <p>The application proposes a partial third storey addition at the rear.</p> <p>The existing building is four storeys at the rear. The addition above the second storey is discretely located above the rear wing, maintaining its roof profile. The addition is appropriately sited and designed such that it is distinct from the original heritage fabric without detracting from the character of the heritage item.</p> <p>Furthermore the addition will be concealed by garages fronting Olivia Lane and as such not visible from the public domain.</p> <p>Non-compliance with the height in storeys control is therefore acceptable.</p> <p>Note: The definition of a storey excludes attic.</p>
4.1.2 Building setbacks	Yes	The development maintains the predominant rear setback and rhythm of rear wings within the terrace.
4.1.3 Residential amenity	Yes	<p>The form and scale of the additions are compatible with those previously approved under D/2010/2111 as amended.</p> <p>The development will not cause additional adverse shadows to neighbouring properties, accounting for existing structures and fences, as shown in the attached shadow diagrams.</p>

4. Development Types  4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
		<p>A fixed screen is proposed to the first floor windows of the laneway addition and a retractable screen and partially obscure glazing are proposed to the rear roof extension, providing sufficient privacy to neighbouring properties.</p> <p>The development maintains an area of open space between the dwelling and the garage for the amenity of occupants.</p>
4.1.3.4 Deep soil planting	No	<p>The development is required to provide an area of deep soil planting equal to 15% of the site area, or 27.7sqm.</p> <p>The development proposes 3.6sqm of deep soil to the front of the site and 5.1sqm within the rear yard. As such the development does not provide the minimum area of deep soil required by the control.</p> <p>It is recommended that the area of the basement is reduced such that a consolidated area greater than 15% of the site area is provided in the rear yard. Further discussion is provided under the Issues heading.</p>
4.1.4 Alterations and additions	Yes	<p>The proposed alterations and additions are of a form and scale that retains significant features of the heritage item and is compatible with the character of the surrounding area.</p> <p>In comparison to the proposal under D/2010/2111/C which located the basement under the dwelling, the basement excavation in the rear yard can be undertaken without adverse impact to the structural integrity of the dwelling and adjoining buildings. A condition of consent is recommended requiring a dilapidation report to monitor the impacts of excavation on neighbouring properties.</p>

4. Development Types	Compliance	Comment
4.1 Single dwellings, terraces and dual occupancies		Further information is provided under the Issues heading regarding excavation.
4.1.5 Roof alterations and additions	Yes	The rear roof extension is generally consistent with the provisions under section 4.1.5.5.
4.1.6 Secondary and laneway dwellings	Yes	The laneway addition is consistent with the form and scale approved under D/2010/2111 as amended. The structure is 5.4 metres tall and will not adversely impact the amenity of neighbouring properties.
4.1.8 Balconies, verandahs and decks	Yes	The development will reinstate the original front balcony to details matching neighbouring properties.
4.1.9 Car parking	Yes	The car space is designed for a car to manoeuvre into and out of the site safely.

## Issues

### Height

23. The applicant has submitted a request to vary the maximum nine metre building height pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012. The rear roof extension exceeds the maximum height standard under Clause 4.3 by 5.824 metres or 65%.

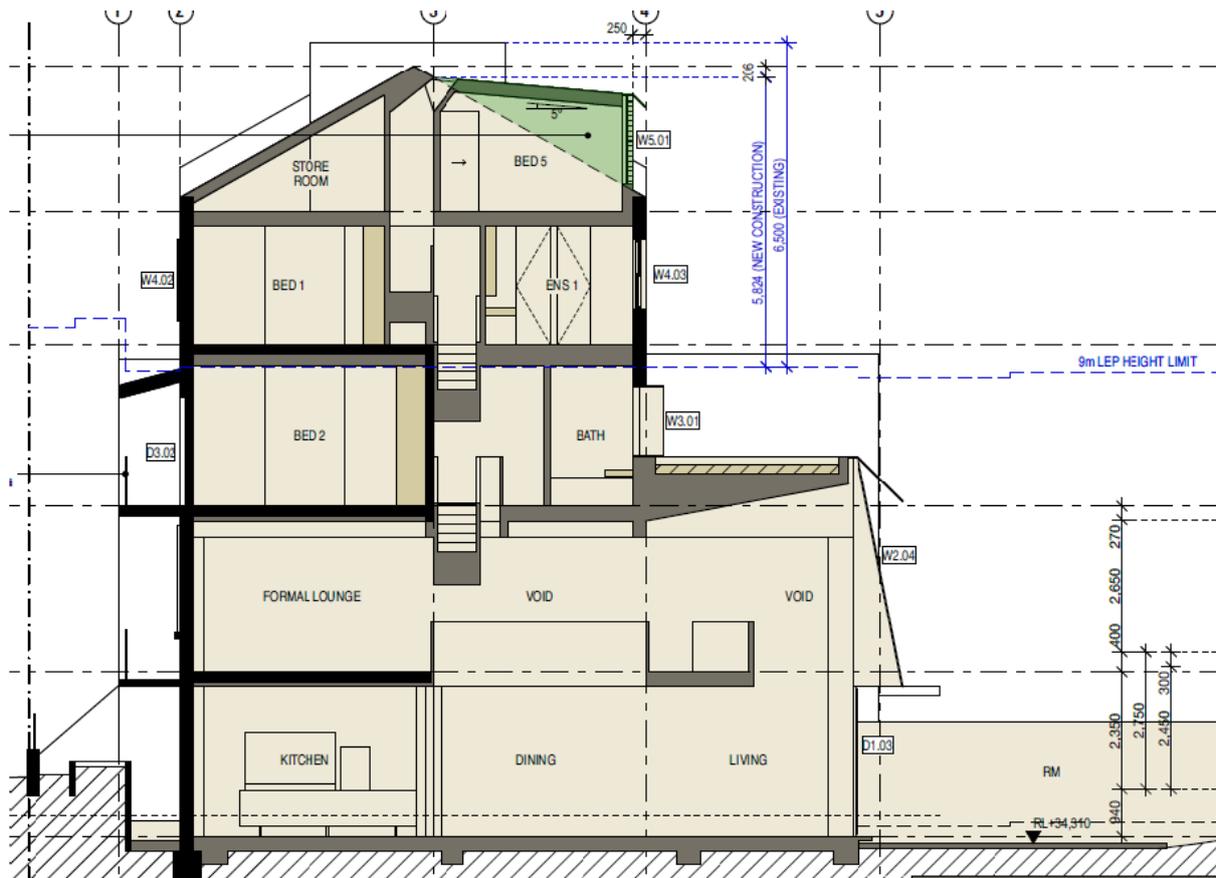


Figure 20: Section with 9 metre height standard in blue

24. As the extent of the variation exceeds 25% and is recommended for approval, the Local Planning Panel must determine the application in accordance with the delegations to determine variations to development standards issued by the Director General of the Department of Planning and Environment.
25. A revised statement in support of the variation to the height standard pursuant to Clause 4.6 of the Sydney LEP 2012 has addressed the relevant matters for consideration under subsection (3), being that compliance with the standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant stated the following specifically to address subsection (3):
- The development meets the objectives of the height standard and the R1 – General Residential zone.
  - The existing building exceeds the maximum height in metres and the maximum height in storeys controls.
  - The works above the height standard are consistent with the controls for rear roof extensions under the Sydney DCP 2012.
  - Non-compliance with the height standard will not adversely impact the character and appearance of the conversation area.

- The development will not adversely impact the amenity of neighbouring properties.
  - The works above the height standard are within the existing building envelope and will not detract from the character of the item.
26. In accordance with subsection (4), development consent cannot be granted where the applicant's submission has not adequately addressed the matters for consideration under subsection (3) and where the proposal is not in the public interest because it is inconsistent with the objectives of the height standard and the objectives of the zone.
27. The objectives of the R1 - General Residential zone are as follows:
- To provide for the housing needs of the community.
  - To provide for a variety of housing types and densities.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To maintain the existing land use pattern of predominantly residential uses.
28. The relevant objectives of the height standard 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
29. The works above the height standard are consistent with those previously approved under D/2010/2111 as amended and generally consistent with Council's controls for rear roof extensions to terrace dwellings. While the planning controls at the time the previous application were originally assessed were different, the principle and design guidelines for rear roof extensions to terrace houses are essentially the same. Furthermore the works will not adversely overshadow and reduce privacy to neighbours. Compliance with the numerical standard is therefore both unreasonable and unnecessary in these circumstances. Sufficient environmental planning grounds exist for the variation as the building already exceeds the height standard, and the proposed works will not substantially alter the built form and heritage significance of the item and conservation area.
30. The development is compatible with the objectives of the R1 - General Residential zone.
31. The variation is consistent with the relevant objectives of the height standard, in particular that the works are consistent with Council's controls for additions to heritage items and terrace dwellings and will not adversely impact the amenity of neighbouring properties.
32. The variation to the standard is consistent with the provisions of Clause 4.6(4) of the Sydney LEP 2012 and is therefore in the public interest. The variation to the standard is recommended for approval.

**Heritage**

33. The proposed alterations and additions to the terrace dwelling are generally consistent with those previously approved under D/2010/2111 as amended and are compatible with Clause 5.10 of the Sydney LEP 2012 and the relevant provisions of Section 3.9 of the Sydney DCP 2012.
34. The following design modifications were required under Condition 2A of that consent and are addressed below:
- (a) The basement storage / cellar, basement rumpus room, basement stairwell and basement window to the pool are not approved and must be deleted.
  - (b) The pool surrounds to the southern side boundary must be shown on the east and west elevations drawings as being located wholly within the boundaries of the site.
  - (c) The first floor level wall nib at the south-east corner of the principal dwelling house must be shown to be retained.
  - (d) The shade awning over window W3.02 is not approved and must be deleted.
  - (e) The existing original timber floors within the principal dwelling house, except for the areas proposed for new stairs and void, must be shown to be retained.
  - (f) The reconfiguration of the rear attic dormer window openings, external adjustable louvres, sun shade and painted fibre cement cladding to window W5.01 are not approved and must be deleted.
35. Condition (a) with regards to basement excavation is discussed below under a separate heading.

## Condition (b)

36. Condition (b) has been addressed with the pool located within the property boundaries.

## Condition (c)

37. Condition (c) is addressed by way of a steel post at the location of the wall nib recommended to be retained. The column will support the new girder which bears the weight of the upper level walls. See plan no. DA-22.

## Condition (d)

38. The awning to window W3.02 has been deleted from the plans and satisfies (d).

## Condition (e)

39. The architectural and structural plans specify that the reconstructed floors at the rear of the dwelling are of timber. A condition is recommended requiring any timber flooring removed to be reused in accordance with the architectural and structural plans.

## Condition (f)

40. The rear roof extension is generally consistent with Council's controls and is compatible with the architecture of the building. The operable screen will provide solar protection and is supported. Steel frames are proposed to the windows contrary to Section 4.1.5.5(4) of the Sydney DCP 2012 and are recommended to be timber framed. The control is recommended to be enforced to ensure consistency of materials in the fenestration at the upper levels of the building and to set an appropriate precedent in the event that rear roof extensions are added to neighbouring dwellings within the heritage row in the future. An appropriate condition is recommended.
41. The alterations and additions to the terrace dwellings are generally consistent with those previously approved and will not adversely impact the character and appearance of the heritage item and its contribution to the conservation area.

**Basement excavation and deep soil planting**

42. Condition (a) has been addressed by relocating the basement excavation from under the heritage dwelling to the rear of the site, with the entrance located within the garage as approved under D/2010/2111/A. Geotechnical and structural engineers' reports have been submitted with the application demonstrating that the works can be undertaken without adverse impact to the structural integrity of the terrace row and amenity of neighbouring properties. A condition is recommended requiring a dilapidation report to monitor the impact of excavation on neighbouring properties, subject to their consent.
43. However, a concern is raised that the extent of the basement precludes the provision of deep soil planting as required under Section 4.1.3.4 of the Sydney DCP 2012 and will be difficult to construct without adverse impact on neighbouring properties.
44. While the rear yard is currently paved, the substantial redevelopment of the site is an opportunity to provide deep soil, increase the landscape component on the site and improve the permeability for stormwater. By reducing the extent of the basement to the footprint of the garage, the development can better accommodate the minimum 27.7sqm of deep soil and a new tree required under Sections 3.5.2 (2) and 4.1.3.4 of the Sydney DCP 2012. The site is also affected by overland flows during storm events and as such increasing deep soil planting will improve the saturation capacity of the site. A tree is required to be provided in the rear yard to increase canopy cover in the area with regard to Section 3.5.2 of the Sydney DCP 2012.
45. A further concern is raised that the depth of excavation adjoining the side boundaries will adversely impact the structural integrity of the boundary conditions and neighbouring properties. To address this concern, a condition is recommended requiring the extent of the basement to be confined to the footprint of the garage, with the basement component setback from the side boundaries by 500mm.
46. An addendum to the geotechnical report submitted with D/2010/2111/C accompanies the application and states that, subject to the construction methodology being undertaken in accordance with the advice previously given, the location and extent of the basement will not adversely impact the structural integrity of the terrace. A condition of consent is recommended requiring updated geotechnical and structural engineering reports and plans to be submitted prior to the issue of a Construction Certificate to confirm the appropriate methodology of excavation, shoring and dewatering.

47. The original extent of the proposed basement excavation (modified by condition) was estimated to require dewatering of up to an estimated 400,000 litres. A preliminary Construction Traffic Management Plan has been prepared stating that dewatering will occur during standard construction hours, requiring two water trucks per day over a five week period. The trucks will be located on Olivia Lane and are small rigid vehicles that would not obstruct traffic flow. It is anticipated that the extent of dewatering, truck movements and timeframe for excavation will lessen as a result of the reduced extent of the basement. In addition, a condition of consent is recommended requiring a final Construction Traffic Management Plan to be submitted prior to the issue of any Construction Certificate, and limiting dewatering and truck movements to standard construction hours.
48. The applicant advises that the development does not require approval under the Water Management Act 2000, as the development results in less than three megalitres of water being removed from the site. A condition of consent is recommended requiring the applicant to contact the Office of Water to determine if an aquifer interference license is required.
49. 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**

50. 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**

51. Council's Heritage officer has reviewed the proposed application and supports the development, subject to a condition requiring timber framed windows to the rear roof extension.

## External Referrals

### Notification and Delegation

52. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development was notified for a period of 14 days between 19 December 2018 and 10 January 2018 (the notification period provided additional time for the Christmas/New Years holidays). As a result of this notification there were two submissions received raising the following objections:

- (a) Basement excavation will adversely impact the structural integrity of neighbouring properties.

**Response** - Conditions of consent are recommended requiring the extent of the basement to be confined to the garage, similar to that approved under D/2010/2111. The excavation is to be setback 500mm from side boundaries, with updated geotechnical and structural engineers' reports and a Construction Traffic Management Plan to be submitted prior to the issue of a Construction Certificate. A condition is also recommended requiring dilapidation reports to be undertaken with the consent of neighbouring property owners.

- (b) The development will adversely impact the visual privacy of neighbouring properties.

**Response** - Screening is proposed to the west facing elevation of the garage-top studio and is acceptable. Fixed screening is proposed to the studio above the garage, and operable screening and partially obscure glazing are proposed to the rear roof extension. The works are not anticipated to adversely impact the visual privacy of neighbours.

### Public Interest

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

### S7.11 Contribution

54. Alterations and additions to dwellings are exempt from the provisions of the City of Sydney Development Contributions Plan 2015.

## Conclusion

55. The application proposes alterations and additions to a heritage listed terrace dwelling including additions to the rear, a garage and studio addition, basement and pool. The works are generally consistent with those approved under D/2010/2111 as amended, with the exception of the basement excavation to the rear.
56. The applicant has submitted a request to vary the maximum nine metre height standard, equal to 14.824 metres or 65% over the maximum. The works include a rear roof extension with photovoltaic cells to the roof. The works are generally consistent with those under D/2010/2111 as amended and the relevant controls under the Sydney DCP 2012. The applicant has demonstrated that compliance with the standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to support the variation. The variation is consistent with the objectives of the zone and the height standard, is in the public interest and is therefore supported.
57. The basement excavation has been relocated from under the dwelling as proposed under D/2010/2111/C to the rear of the site. Conditions of consent are recommended to:
  - (a) Reduce the extent of the basement such that it is confined to the footprint of the garage and excavation is setback 500mm from the side boundaries.
  - (b) Ensure at least 27sqm of deep soil planting is provided in the rear yard with a new tree planted.
  - (c) Submit updated geotechnical, structural engineers' and Construction Traffic Management reports.
58. The character and appearance of the heritage listed dwelling, its contribution to the conservation area and the amenity of neighbouring properties have been considered in the design of the development and are acceptable.
59. Two submissions were received, raising concerns regarding basement excavation and visual privacy. These matters have been addressed within the body of the report and are acceptable.
60. The development is therefore recommended for approval.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

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