

Item 8.**Development Application: 38 Princess Avenue, Rosebery - D/2019/1168**

File No.: D/2019/1168

Summary

Date of Submission: 22 October 2019 with amended plans and details received 11 February 2020

Applicant: Shaun Thodey

Designer: Shaun Thodey

Owner: Brett William Ebert

Cost of Works: \$930,875.00

Zoning: R1 General Residential. The proposal comprises two new dwellings which are permissible with consent within the R1 zone.

Proposal Summary: The proposal includes demolition of an existing two-storey residential dwelling on the site. This is to be replaced by two new dwellings fronting Princess Street. Both dwellings will be two storeys in height and include rear lane garages with attic bedrooms. The application is reported to the Local Planning Panel as the applicant has offered to enter into a planning agreement with Council in order to access bonus floor space available under Clause 6.14 of the Sydney Local Environmental Plan (LEP) 2012.

The allowable base floor space ratio (FSR) for the site is 1:1. Pursuant to Clause 6.14 - Community Infrastructure floor space at Green Square of the Sydney LEP 2012, the site is eligible for an additional 0.25:1 of floor space ratio (73.1sqm of floor space), subject to a contribution of community infrastructure as set out in the Sydney Development Control Plan 2012.

The applicant is seeking consent for an overall FSR of 1.16:1 (45.8sqm of bonus floor space). The applicant has proposed a monetary contribution of \$21,755.00 towards community infrastructure in Green Square. The contribution is currently being formalised through a Voluntary Planning Agreement (VPA) which is currently on exhibition.

**Proposal Summary
(continued):**

The proposed additional FSR is acceptable as the proposed dwellings are of a height and scale commensurate with adjoining dwellings and the additional FSR will not result in additional adverse impacts on adjoining properties. The proposed development is therefore considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.

The application was notified for a period of 14 days between 11 November 2019 and 26 November 2019. Two submissions were received.

Both submissions were in support of the application but one also raised concerns with the deteriorated guttering to the existing house at 38 Princess Avenue, the proposed demolition of the north-western side wall of the existing dwelling, impacts on the neighbouring frangipani tree and how dust and debris would be managed during demolition of the building. Conditions of consent have been recommended which require dilapidation reports to be undertaken prior to and post construction and to ensure procedures are adopted to minimise the emission of dust during demolition which are considered to address the concerns raised by the submitter.

Subject to the implementation of conditions, as detailed in the report and Attachment A, it is considered that the proposed development is generally compliant with the relevant planning controls for the site. Deferred commencement consent is recommended to enable execution of the associated VPA.

**Summary
Recommendation:**

The development application is recommended for deferred commencement approval.

Development Controls:

- (i) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Public Benefit Offer

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/1168 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 proposed development is consistent with the aims and objectives of the R1 - General Residential zone.
- (B) Subject to conditions, the proposed development will not adversely impact neighbouring residential amenity.
- (C) The proposal is considered to be suitable for the site.
- (D) The proposal will have no detrimental effect on the public interest, subject to appropriate conditions.
- (E) Subject to conditions, the proposed development is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
- (F) The proposal generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012.
- (G) The consent authority is satisfied that the proposed bonus floor space is in accordance with the requirements of Clause 6.14 of the Sydney LEP 2012 and is acceptable subject to Deferred Commencement awaiting the execution of the Voluntary Planning Agreement.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 6 December 2019
2. The subject site is rectangular and comprises two allotments (Lot 24 of DP 2269 and Lot 25 of DP 2269). It has a combined area of approximately 292.7sqm. The site has a primary street frontage to Princess Avenue of approximately 9.2m and a secondary street frontage to Salisbury Lane. A two storey detached dwelling is contained within the site.
3. Surrounding land uses are predominantly residential with commercial/light industrial located further to the north of the site along Epsom Road. The site is immediately adjoined to the north and south by one to two-storey residential terraces. A number of the dwellings on the eastern side of Princess Avenue include dormer windows to Princess Avenue. The land to the east, opposite Salisbury Lane, is occupied by recently constructed three-storey townhouses.
4. The site is not a heritage item and is not located within a heritage conservation area.
5. The site is located within the Green Square locality area.
6. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site (indicated in red) and the surrounding area.

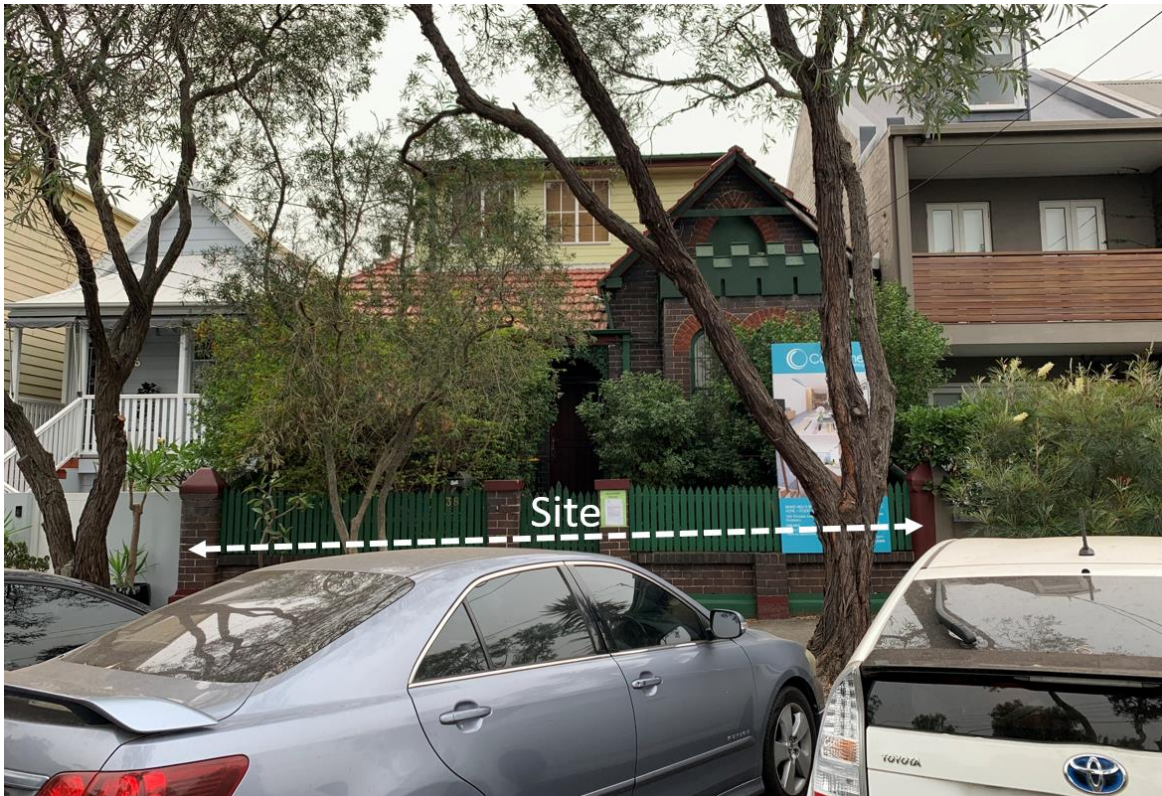


Figure 2: Site viewed from Princess Avenue.



Figure 3: Rear of site viewed from Salisbury Lane.



Figure 4: Adjoining two-storey terraces fronting Princess Avenue to the south of the site.



Figure 5: Adjoining terraces fronting Princess Avenue to the north of the site.



Figure 6: Three-storey townhouses to the east of the site across Salisbury Road.

Proposal

7. The application seeks consent for demolition of the existing two-storey residential dwelling and construction of 2 x two-storey rendered brick dwellings with corrugated metal roofs. The proposed dwellings include the following:
 - (a) Ground floor:
 - (i) Front deck and entrance foyer;
 - (ii) Bedroom 1;
 - (iii) Bathroom/laundry;
 - (iv) Open plan kitchen/ dining/ lounge room; and
 - (v) Rear deck.

- (b) First floor:
 - (i) Three bedrooms;
 - (ii) Ensuite to Bedroom 2;
 - (iii) Bathroom; and
 - (iv) Front and rear facing decks.
 - (c) Attic:
 - (i) Bedroom;
 - (ii) West (front) facing dormer window;
 - (iii) East (rear) facing dormer.
 - (d) A single car garage (access from Salisbury Lane) and small bathroom with first floor attic bedroom above is proposed to the rear of both lots. These structures are not self-contained, as they do not incorporate kitchenettes, and are intended to be used as an additional bedroom to the main dwellings.
 - (e) No subdivision is proposed for the application as the site encompasses two existing allotments (Lots 24 and 25 Section 2 DP 2269).
 - (f) The application seeks additional floor space pursuant to Clause 6.14 of the Sydney Local Environmental Plan (LEP) 2012. This is discussed further within the Issues section of this report.
8. Following requests for amendments by Council officers on 19 December 2019, the applicant submitted amended plans. The dwellings have been reduced in height, front dormers have been incorporated, the rear roof attic has been reduced in size and wholly located within the principle roof and the rear laneway structures have been amended to incorporate attic dormers.
9. Elevations of the proposed development are provided below.

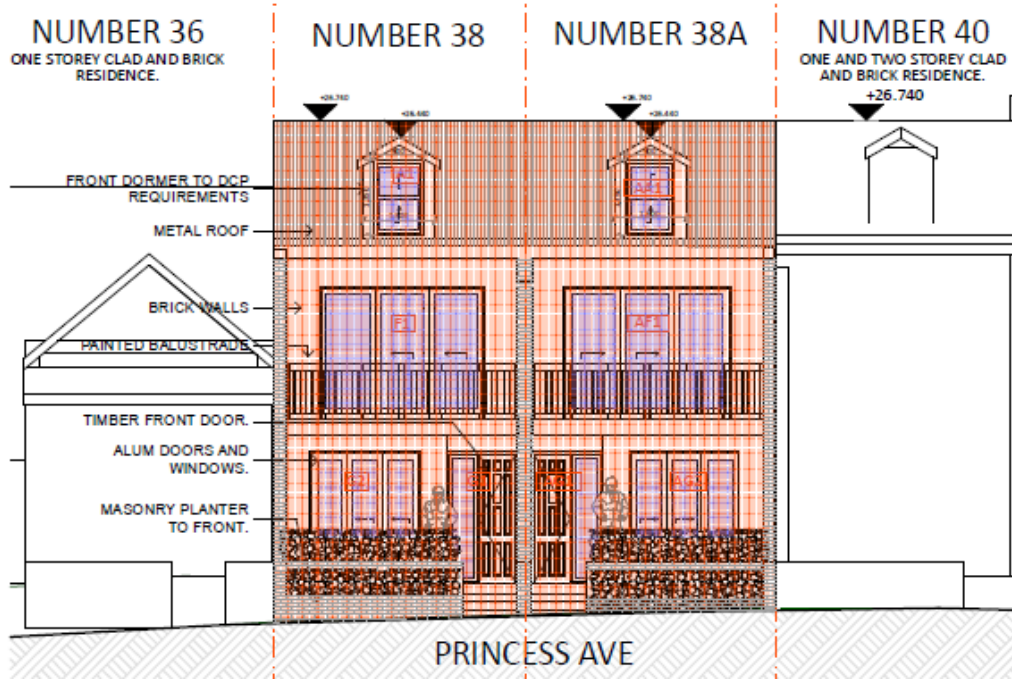


Figure 7: Proposed front elevation (Princess Avenue).

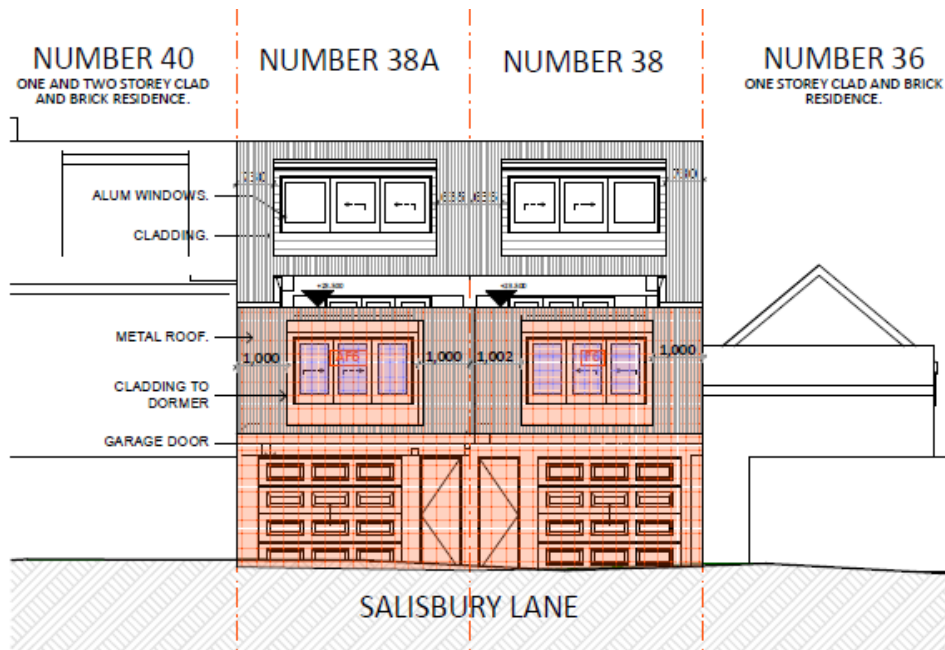


Figure 8: Proposed rear elevation (Salisbury Lane).

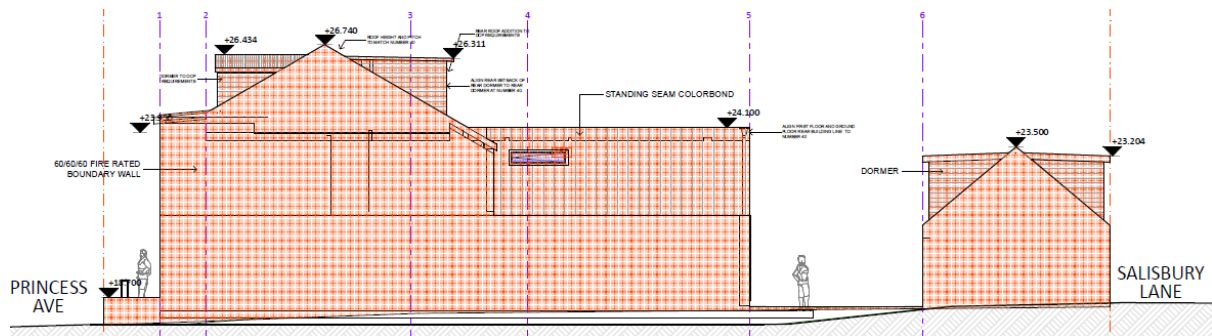


Figure 9: Proposed southern elevation.

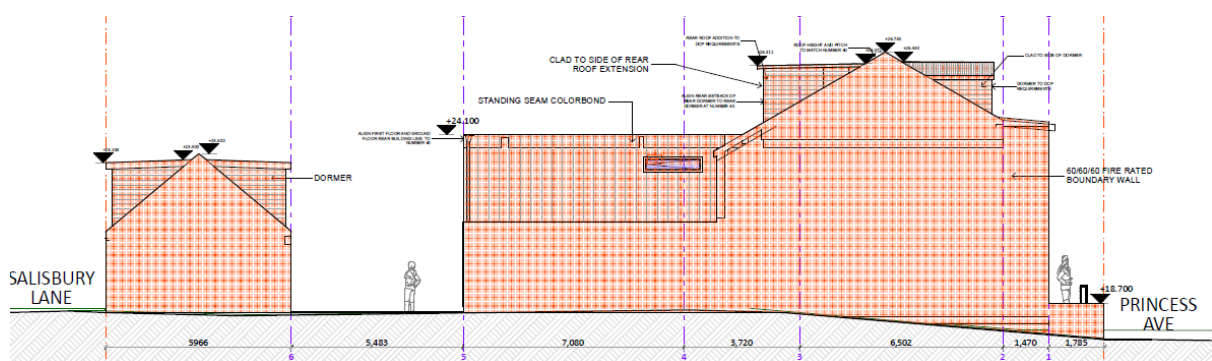


Figure 10: Proposed northern elevation.

History Relevant to the Development Application

10. The following application history is relevant to the subject application:

- (a) D/2016/648 - On 21 December 2016, deferred commencement development consent was granted for demolition of all existing structures and construction of 2 dwellings including rear garages and first floor studios. The Notice of Determination advised that the deferred commencement condition Part A in relation to the Voluntary Planning Agreement was to be satisfied within 24 months of the date of the determination.
- (b) D/2016/648/A - On 14 June 2018 a modification approval was granted to remove references to the rear studios which were to be identified as bedrooms.
- (c) D/2016/648/A lapsed on 21 December 2018 as the Voluntary Planning Agreement was not executed within 24 months from the original determination date.

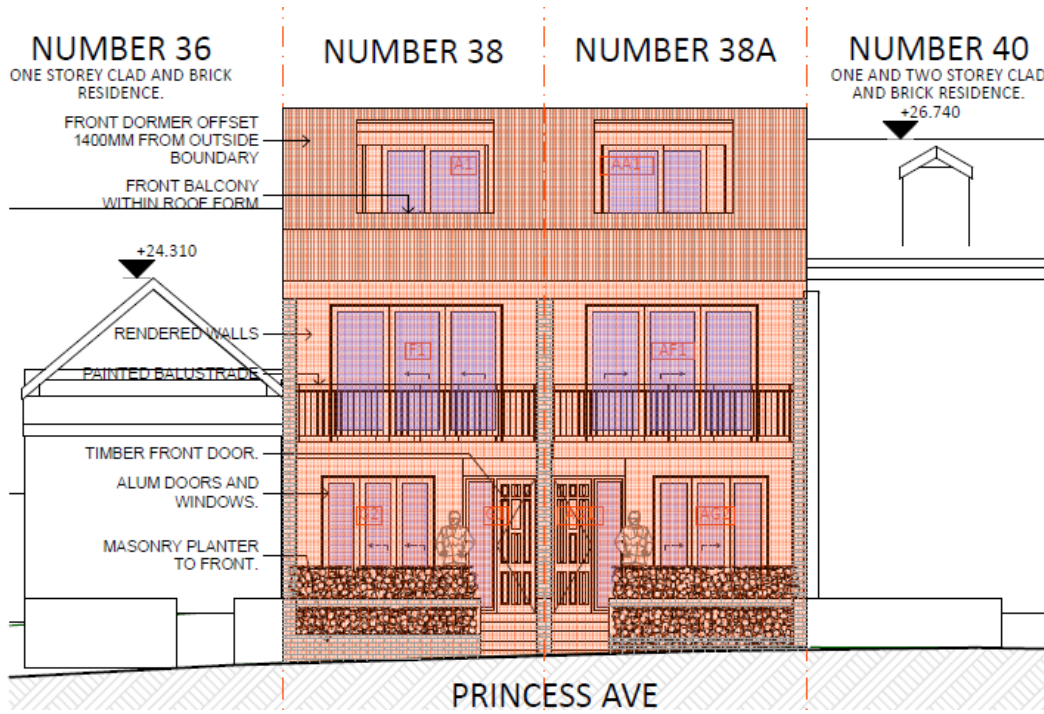


Figure 11: Previously approved front elevation under D/2016/648/A.

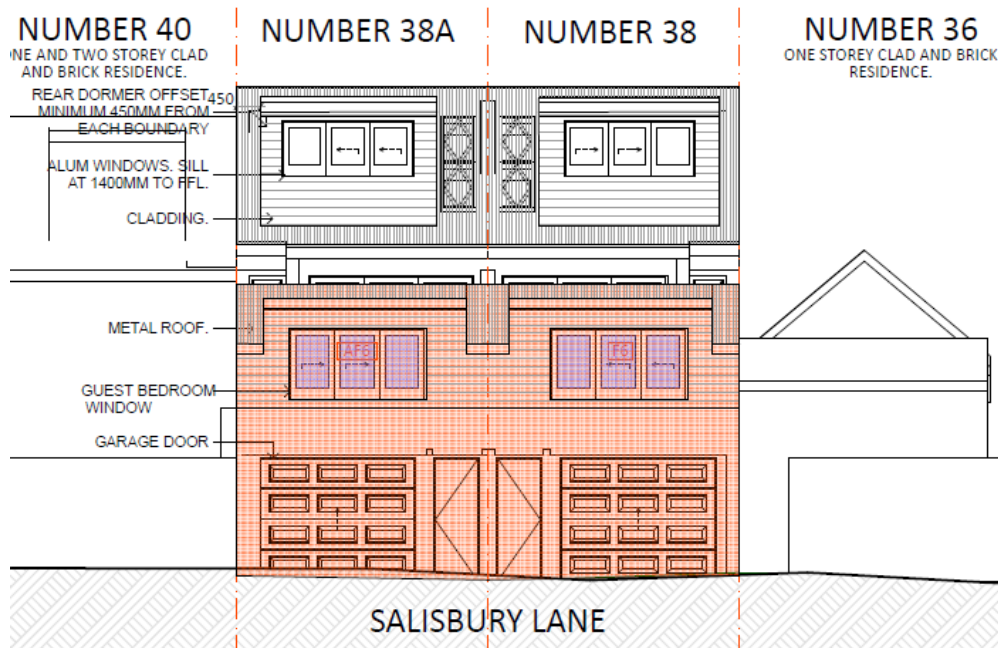


Figure 12: Previously approved rear elevation under D/2016/648/A.

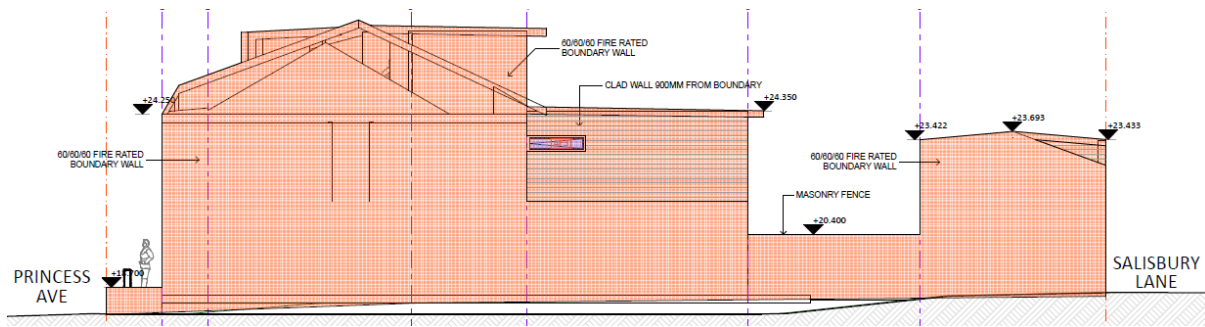


Figure 13: Previously approved southern elevation under D/2016/648/A.

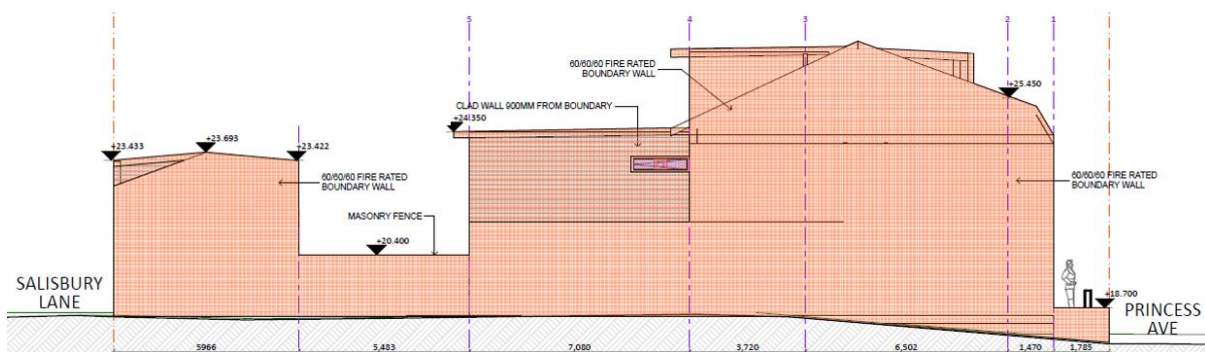


Figure 14: Previously approved northern elevation under D/2016/648/A.

Economic/Social/Environmental Impacts

11. 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

- 12. A BASIX Certificate has been submitted with the development application.
- 13. 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

- 14. The site is located within the R1 General Residential zone. The proposed use is defined as two dwellings which are permissible.
- 15. 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	Yes	A maximum height of 9m is permitted. The proposed dwellings have a maximum height of 8.4m.
4.4 Floor Space Ratio	Yes	A maximum FSR of 1.25:1 is permitted under the community infrastructure provisions within the LEP. A FSR of 1.16:1 is proposed. See the discussion under the heading Issues below in this report.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 2 Additional floor space outside Central Sydney	Yes	The applicant is seeking to access additional floor space under Clause 6.14 of the Sydney LEP 2012. This is discussed further within the Issues section of this report.
Division 4 Design excellence	Yes	The proposed development satisfies the requirements of this provision. Subject to the inclusion of recommended conditions, the proposed development is generally consistent with the objectives, standards and guidelines of the relevant planning controls. The proposal will provide two new dwellings which are of a height and scale commensurate with adjoining dwellings to the south of the site and which will not significantly impact on adjoining dwellings in relation to bulk, scale or overshadowing. The proposed development is therefore considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	A maximum of 4 car parking spaces are permitted across the two allotments. 2 car parking spaces are proposed (1 per dwelling).
Division 3 Affordable housing	Yes	The site is located within the Green Square affordable contribution area. This is discussed further under the heading Financial Implications of this report.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil. As the proposal does not include excavation within 500m of any Class 1-4 soils, no further action is required.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposal involves demolition of the existing building and construction of two new dwellings on the site. It is therefore considered that the site will be comprehensively redeveloped in accordance with the requirements of Clause 7.19 (ii).

Sydney Development Control Plan 2012

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

2. Locality Statements – 2.5.2 - Beaconsfield

The subject site is located in the Beaconsfield Locality (2.5.2). The proposed two-storey dwellings are considered to be in keeping with the unique character of the area and design principles in that they will complement the existing fine-grain and low scale residential development along Princess Avenue and will contribute to existing built form patterns.

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development involves the removal of a Cocos Palm to the south-east corner of the site. As this tree species is not native and is able to be removed without development consent or a tree permit, the proposal is not considered to adversely impact on the local urban ecology in accordance with the requirements of Section 3.5.3 of the DCP 2012.
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.
3.9 Heritage	Not applicable	As the existing building, proposed to be demolished, is not a Heritage Item and is not located within a Heritage Conservation Area, the heritage provisions of Section 3.9 of the DCP are not applicable in this instance and a Heritage Impact Statement was not required to be submitted with the application.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance to Princess Avenue and Salisbury Lane and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	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.

4. Development Types 4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
4.1.1 Building height	Yes	<p>A maximum of 2 storeys is permitted.</p> <p>The proposed are 2 storeys in height with an attic level.</p>
4.1.2 Building setbacks	Yes	<p>The proposed dwellings are setback approximately 1.7m from the front boundary of the site. This setback matches the setback of the adjoining two-storey terraces to the south of the site.</p> <p>Both dwellings include a 900mm first floor side boundary setback to adjoining sites. This is consistent with the setbacks of existing two storey dwellings along Princess Avenue, which generally incorporate a side setback to one side of first floor additions.</p> <p>The proposed first floor rear wings do not extend beyond the existing first floor rear wall of No. 40, 42A and 42B to the south of the subject site (approximately 11.4m from Salisbury Lane). The proposal is therefore considered to respect the predominant rear building line of dwellings in the street in accordance with Section 4.1.2 (4).</p> <p>The proposed setbacks are considered consistent with existing setbacks along the street in accordance with the requirements of Section 4.1.2 of the DCP.</p>
4.1.3 Residential amenity	No	<p>4.1.3.1 Solar Access - Solar diagrams were submitted with the application which show that the proposed dwellings do not achieve the recommended 2 hours of solar access to 8sqm of private open space. This is due to shadows cast from the existing dwelling to the north of the site and the new first floor rear wings.</p>

4. Development Types 4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
		The proposal, however, does not have detrimental impacts on adjoining properties as they maintain compliant levels of sunlight access to adjoining dwellings to the south at No. 40 and No. 40A Princess Avenue in accordance with the requirements of Section 4.1.3.1 of the DCP. Solar access is discussed further in this report under the heading Issues.
		4.1.3.2 Solar Collectors - The proposed development does not incorporate photovoltaic solar panels and there are no existing solar panels on adjoining dwellings that are likely to be impacted by the proposed development. The proposal is therefore in accordance with Section 4.1.3.2 of the DCP.
		4.1.3.3 Landscaping - As the proposed development is not a heritage item, a landscape plan was not required to be submitted with the application.
		4.1.3.4 Deep Soil Planting - As the existing lots are not greater than 150sqm, there is not a minimum requirement for deep soil on the site, however, 10% of each allotment has been dedicated as deep soil. The proposal is considered in incorporate adequate deep soil areas on each allotment.
		4.1.3.5 Private Open Space - The proposed development incorporates approximately 21sqm of private open space with a minimum dimension of 4m for each dwelling. The open space areas are directly accessible from the living areas of the dwellings. The proposed development therefore achieves the private open space requirements of Section 4.1.3.5 of the DCP.

4. Development Types 4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
		<p>4.1.3.6 Visual Privacy - Subject to conditions, the proposal is considered to achieve visual privacy in accordance with Section 4.1.3.6 of the DCP 2012. Visual privacy is discussed further under the heading Issues in this report.</p>
		<p>As demonstrated above, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.</p>
4.1.4 Alterations and additions	Yes	<p>The proposal includes demolition of the existing building and construction of two new two-storey dwellings with a rear two storey wing.</p> <p>The proposed rear wings are set approximately 11.4m from Salisbury Lane and are in line with the rear wall setback of No. 40 Princess Avenue. The proposal is therefore in accordance with the requirements of Section 4.1.4.1 of the DCP 2012.</p>
4.1.5 Roof alterations and additions	Yes	<p>The proposal incorporates a front and rear dormer to the main roof form of each dwelling.</p> <p>The proposed rear dormers are set below the ridge line of the main roof of the dwellings, set in 500mm from the side boundaries and are set 400mm from the rear wall in accordance with the requirements of Section 4.1.5 of the DCP.</p> <p>The proposed front dormer windows are proportioned at a height to width ratio of 1.5 to 1 which meets the requirements of Section 4.1.5.4 of the DCP.</p>

4. Development Types 4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
		Although the proposed development is not located within a Heritage Conservation Area, the proposed height of the principal roof, roof design and dormer additions are considered to be in keeping with the character of the streetscape and are considered to be acceptable.
4.1.6 Secondary and laneway dwellings	Yes	<p>The proposal includes a building on the rear lane incorporating a garage and bathroom on the ground floor and an attic bedroom above.</p> <p>The rear lane structures have a total height of 5.2m and have dormer windows facing to the east (Salisbury Lane) and west (towards the main house) which are set in 1000mm from each property boundary. The dormers are set down 200mm from the ridge line of the structure and set back approximately 300mm from the rear wall. The proposed laneway structures therefore present as single storey (with attic) structures in accordance with the requirements of Section 4.1.6 of the DCP 2012.</p> <p>The proposed rear laneway structures will not result in unacceptable loss of amenity or solar access to neighbouring properties and are considered acceptable.</p>
4.1.7 Fences	Partial compliance	Two tiered masonry planters, at a height of approximately 0.5m and 1.1m, are proposed to the Princess Avenue frontage of the dwellings. Although this exceeds the maximum 0.9m height for masonry front fences, the proposal is considered to maintain passive surveillance and are in keeping with the character of existing masonry fences in the area. The proposal is therefore considered acceptable in this instance.

4. Development Types 4.1 Single dwellings, terraces and dual occupancies	Compliance	Comment
4.1.8 Balconies, verandahs and decks	Yes	<p>The application proposes first floor front and rear decks to each dwelling.</p> <p>The first floor front balconies are in keeping with the modern terrace forms proposed and the existing buildings within the existing streetscape to the immediate south of the site.</p> <p>The proposed first floor rear decks are considered to cause a privacy issue for neighbouring dwellings and their private open space and do not comply with the requirements of Section 4.1.8.1 of the DCP, which states that decks should be avoided at the rear.</p> <p>A condition which requires the removal of the proposed first floor decks has been recommended within the Notice of Determination.</p> <p>Visual privacy is discussed further under the heading Issues in this report.</p>
4.1.9 Car parking	Yes	<p>The proposed single car garages are accessed from the rear lane with driveway widths of 2.7m in accordance with the requirements of Section 4.1.9 of the DCP 2012.</p>

5. Specific Areas - Green Square	Compliance	Comment
5.2.3 Community infrastructure	Yes	The applicant has lodged a public benefit offer in order to access bonus floor space referred to in Section 5.2.3 and available under Clause 6.14 - Community Infrastructure floor space at Green Square of the Sydney LEP 2012. The proposal is considered to meet the requirements of Section 5.2.3 of the DCP and Clause 6.14 of the LEP. This is discussed further under the heading Issues below.
5.2.9 Building design	Yes	The proposed two-storey modern terraces, which incorporate pitched roofs and balcony elements to the frontage, are considered to be compatible in scale with surrounding development in this part of Princess Avenue, particularly the adjoining two-storey modern terraces to the south of the site. The proposed development is therefore considered to enhance the existing and desired neighbourhood character of the neighbourhood in accordance with Section 5.2.9 of the DCP 2012.
5.2.10 Setbacks	Yes	A design modification condition has been included to ensure that the ground floor deck is set back in line with the first floor deck to allow for adequate landscaping and deep soil to the Princess Avenue frontage. The conditioned front setback which will incorporate tiered landscape planters to the Princess Avenue frontage is considered to enhance the setting and appearance of the proposed buildings and the streetscape in accordance with the requirements of Section 5.2.10 of the DCP 2012.

Issues

Floor Space Ratio - Community Infrastructure Floor Space

- Clause 4.4 of the Sydney Local Environmental Plan (LEP) 2012 stipulates a base floor space ratio (FSR) of 1.1 for the site.

18. Pursuant to Clause 6.14 - Community Infrastructure floor space at Green Square of the Sydney LEP 2012, the site (which is located in Area 5) is eligible for an additional 0.25:1 of FSR (73.1sqm of floor space), subject the provision of suitable community infrastructure.
19. The applicant has submitted a public benefit offer to enter into a planning agreement with Council in order to access the bonus floor space available under Clause 6.14 of the Sydney LEP 2012.
20. The applicant is seeking consent for an overall FSR of 1.16:1 (45.8sqm of bonus floor space). The applicant has proposed a monetary contribution of \$21,755.00 towards community infrastructure in Green Square in lieu of physical works.
21. A draft Voluntary Planning Agreement (VPA) has been prepared and was publicly exhibited for a 28 day period from 17 March 2020.
22. The submitted plans demonstrate that the proposed development is able to achieve compliance with the proposed floor space ratio of 1.16:1.
23. The proposed additional FSR is acceptable as it will not result in additional adverse impacts on adjoining properties in accordance with the requirements of Clause 6.14 and Section 5.2.3 of the DCP in relation to Community Infrastructure.
24. As a result, it is recommended that the application be approved under Deferred Commencement awaiting the execution of the VPA.

Solar Access

Subject Site

25. Solar diagrams were submitted with the application which show that the proposed dwellings (No. 38 and 38A Princess Avenue) will not achieve the recommended 2 hours of solar access to 8sqm of private open space at June 21 under the Sydney DCP. This is due to shadows cast from the existing adjoining dwelling to the north of the site and the proposed new two-storey wings.
26. The solar diagrams demonstrate that, due to the east-west position of the site, the existing adjoining dwelling to the north at No.36 (which extends to the rear of the site), largely overshadows the private open space and living room windows of the proposed northern dwelling at No. 38 Princess Avenue at June 21 (see Figure 11 below).



Figure 11: Aerial photograph of the site and the adjoining dwelling at No. 36.

27. The solar diagrams show that No. 38 will not receive any solar access to the proposed private open space area on June 21 between 9am and 3pm. Given the existing context of the site, the compliant building envelope proposed, a lack of solar access to the proposed northern dwelling is considered inevitable and acceptable in this instance.
28. The shadow diagrams show that the proposed dwelling at No. 38A will achieve 6sqm of solar access to the private open space area at 10am, 10sqm at 11am and 8sqm at 12pm. Although this does not meet the required 8sqm of solar access for two hours, the shortfall of 2sqm of direct sunlight is considered acceptable in this instance as the overshadowing is a result of a compliant scheme in relation to height, building setbacks and the provision of private open space. Despite this non-compliance, the proposed dwelling at No. 38A is considered to achieve adequate amenity to its private open space due to the size and configuration of the space (21sqm with minimum width of 4m) and the amount of sunlight that it will receive.

Adjoining Properties

29. The shadow diagrams demonstrate that the proposal will maintain adequate solar access at June 21 to the adjoining dwelling to the south (No. 40 Princess Avenue). The diagrams show that the private open space to No. 40 will receive 19.4sqm of solar access at 10am, 19sqm at 11am, 11sqm at 12pm and 11sqm at 1pm on June 21. The proposal therefore ensures that the neighbouring dwelling achieves at least 8sqm of solar access for two hours to their private open space area on June 21, which is in accordance with the requirements of Section 4.1.3.1 of the DCP 2012. The proposal is therefore considered to maintain adequate amenity to adjoining dwellings and is acceptable.

Privacy

30. The proposed development includes a rear first floor decks for both dwellings measuring 1.2m x 3.2m.

31. The proposed rear decks will overlook the private open space of the subject dwellings and the private open space of the neighbouring dwelling to the south (No. 40 Princess Avenue) and are not in accordance with the visual privacy requirements of Section 4.1.8.1 of the Sydney DCP 2012.

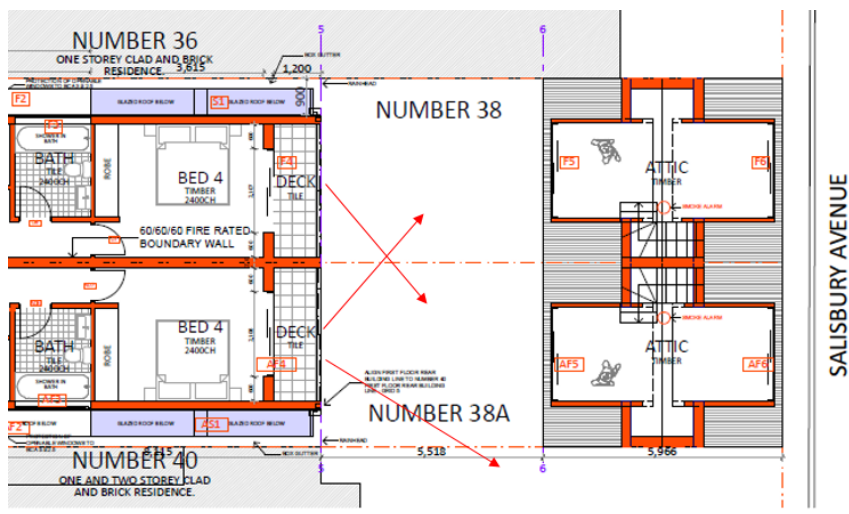


Figure 12: Proposed first floor rear decks and potential overlooking.

32. A design modification condition requiring the deletion of the first floor rear decks and replacement with small inset Juliette balconies has therefore been recommended within the Notice of Determination. This will reduce the potential for overlooking and ensure that the proposal achieves the visual privacy requirements of Section 4.1.8.1 of the Sydney DCP 2012.
33. The application also proposes operable windows to the attic level bedroom with a sill height of 900mm (see Figure 13 below). These windows are setback approximately 9.6 metres from the rear of the dwelling and the adjoining areas of private open space. The windows are to the attic bedroom which is not anticipated to be a heavily trafficked room. It is recommended that these windows be amended to have a sill height of 1.4m in accordance with the requirements of Sydney DCP 2012.
34. Operable windows with a sill height of 900mm are also proposed to the rear of the first-floor attic bedroom to the laneway structure (see Figure 13 below). It is recommended that these windows be amended to have a sill height of 1.4m in accordance with the requirements of Sydney DCP 2012 to reduce the potential for overlooking to neighbouring rear yards.

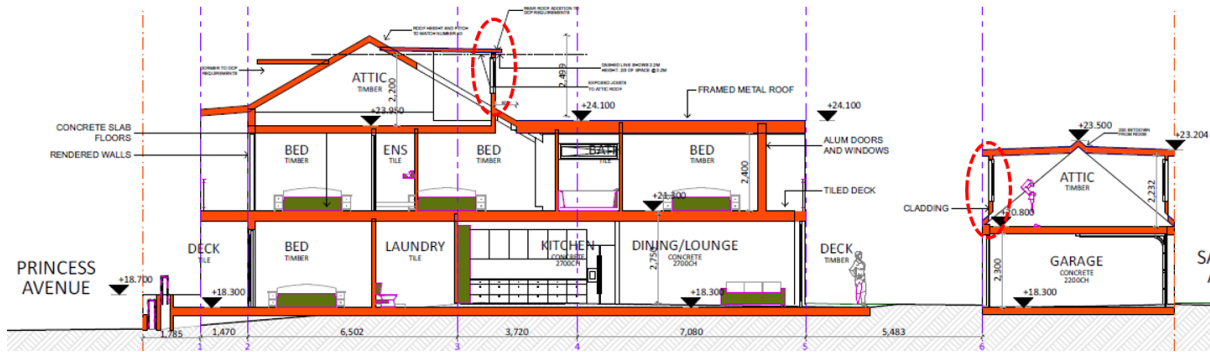


Figure 13: Proposed attic window and window to the attic level of the rear lane structure highlighted in red.

35. High level windows are proposed along the northern and southern side walls of the dwellings to the proposed first floor bathrooms. Full length hinged windows are also proposed to Bedrooms 3 on the first floor. These windows are not considered to cause a privacy impact to adjoining properties due to their positioning. A design modification condition has been recommended to ensure that the hinged windows to Bedrooms 3 are double hung, with a fixed bottom sash for safety purposes.
36. Subject to conditions, the application is considered to comply with the visual privacy controls under Section 4.1.3.6 of Sydney DCP 2012.

Other Impacts of the Development

37. The proposed development is capable of complying with the BCA.
38. 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

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

Internal Referrals

40. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.

Urban Design Team

41. The City's Urban Design specialist originally raised concerns with the bulk and scale of the proposed buildings, the form of the rear attic dormer and the form of the proposed rear laneway structures.
42. Following a request for amendments by Council officers, the applicant submitted amended plans which reduced the overall height of the dwellings to a scale commensurate with neighbouring dwellings, set the attic dormer back wholly within the principle roof form and reduced the rear laneway dwellings to single storey structures with attic dormers. The amended proposal was reviewed by the City's Urban Design specialist and was considered acceptable from an urban design perspective.

Voluntary Planning Agreement Team

43. The City's Voluntary Agreement Team reviewed the application and advised that the proposed public benefit offer is adequate and that the proposed contribution is currently being formalised through a Voluntary Planning Agreement (VPA) which has recently begun exhibition.

Transport and Traffic

44. The City's Transport and Traffic specialist reviewed the proposed two new garages and driveways to Salisbury Lane and advised that the proposal was acceptable, subject to the inclusion of standard public domain conditions. Conditions to this effect have been recommended within the Notice of Determination.

Health Team

45. The City's Health specialist reviewed the application and advised that the site is suitable for the proposed new residential dwellings as the existing residential premises has had no history of industrial use and is in a Class 5 Acid Sulphate Soil zone. They advised that the proposed development is acceptable from a health perspective subject to a condition restricting the hours of use of high noise emission appliances. A condition to this effect have been recommended within the Notice of Determination.

Surveyor

46. The City's Specialist Surveyor reviewed the application and advised that as the site currently comprises two lots and each dwelling is located within one lot, there is no requirement for lot consolidation or subdivision. They advised that the proposal is acceptable subject to conditions to ensure easements for support are created over the common wall between the two houses and garages. Conditions to the effect have been included within the Notice of Determination.

Notification, Advertising and Delegation

47. 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 11 November 2019 and 26 November 2019. As a result of this notification a total of 43 properties were notified and there were two (2) submissions received. Both submissions were in support of the application but one also raised the following concerns:

- (a) The existing guttering along the No. 38 is missing in places which has caused water to flow onto the southern wall of No.36 Princess Avenue, causing dampness to the wall of No. 36. The owners of No. 38 should fix up the southern wall of No. 36 as part of the proposed development.

Response - This is a civil matter and is not a relevant consideration for the assessment of the current application, which involves demolition of the existing dwelling and construction of two new dwellings.

- (b) The garden wall to the interior front courtyard of No. 36 is shared with No.38 Princess Avenue. How will the demolition of this wall be managed during demolition and construction and how will this impact on the adjoining frangipani tree?

Response - Conditions of consent have been recommended to require dilapidation reports be undertaken prior to and post construction and that no works be done to party walls that are within the boundaries of No. 36 Princess Avenue and 40 Princess Avenue. Conditions requiring further confirmation to be provided by a structural engineer regarding any party walls prior to issue of the construction certificate have also been recommended. Due to the small size of the existing neighbouring frangipani tree, the proposal is unlikely to impact on the structural root zone of this tree.

- (c) There is concern that there will be dust and debris during demolition of the existing dwelling.

Response - Conditions of consent have been recommended which ensure that a Demolition Work Method Statement prepared by a licensed demolisher is submitted to and approved by the Principal Certifier. The statement is required to comply with the Australian Standard 2601 - 2001 in relation to Demolition of Structures. Additional conditions have been recommended to ensure procedures are adopted to minimise the emission of dust during demolition and construction and ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site.

Public Interest

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

S7.11 Contribution

49. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.
50. Credits have been applied for the most recent past use(s) of the site. The existing use of the site is one residential dwelling. The proposal, involves the demolition of the existing dwelling and construction of two new residential dwellings. A contribution is therefore required for the additional dwelling, which will increase the net resident populations on the site. As the proposed rear laneway structures do not include kitchenettes and are not self-contained, no contribution has been calculated for these structures.
51. The following monetary contribution is required towards the cost of public amenities:
- | | |
|---------------------------|-------------|
| (a) Open Space | \$12,875.00 |
| (b) Community Facilities | \$2,563.00 |
| (c) Traffic and Transport | \$3,269.00 |
| (d) Stormwater Drainage | \$1,293.00 |
| Total | \$20,000.00 |

Affordable Housing Contribution

The site is located within the Green Square affordable housing contribution area. As the proposal includes additional residential floor space, a contribution is required at a rate of \$312.35 per square metre of total residential floor area (368.8sqm) totalling \$115,194.60. A condition of consent requiring payment prior to construction certificate has been imposed.

Relevant Legislation

52. Environmental Planning and Assessment Act 1979.

Conclusion

53. The application proposes demolition of the existing two-storey residential dwelling and construction of two new two-storey dwellings including garages and first floor attic bedrooms to the rear.
54. The allowable base floor space ratio (FSR) for the site is 1:1. Pursuant to Clause 6.14 - Community Infrastructure floor space at Green Square of the Sydney LEP 2012, the site (which is located in Area 5) is eligible for an additional 0.25:1 of floor space ratio (73.1sqm of floor space), subject the provision of suitable community infrastructure.

55. The proposal is reliant on the provisions of the community infrastructure floor space of the Sydney LEP 2012. The applicant has made a public benefit offer in order to enter into a planning agreement with Council to access bonus floor space available under Clause 6.14 of the Sydney Local Environmental Plan (LEP) 2012.
56. The applicant is seeking consent for an overall FSR of 1.16:1 (45.8sqm of bonus floor space). The applicant has proposed a monetary contribution of \$21,755.00 in lieu of physical works. The contribution is currently being formalised through a Voluntary Planning Agreement (VPA) which is currently on exhibition.
57. The proposed additional FSR is acceptable as it will not result in additional adverse impacts on adjoining properties.
58. Subject to the inclusion of recommended conditions, the proposed development is generally consistent with the objectives, standards and guidelines of the relevant planning controls. The proposal will provide two new dwellings which are of a height and scale commensurate with adjoining dwellings to the south of the site and which will not significantly impact on adjoining dwellings in relation to bulk, scale or overshadowing. For the aforementioned reasons, the proposed development is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
59. Accordingly, the Development Application is recommended for Deferred Commencement approval, awaiting the execution of the Voluntary Planning Agreement.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Julia Errington, Specialist Planner