

Item 3.**Development Application: 21C Billyard Avenue, Elizabeth Bay - D/2019/665**

File No.: D/2019/665

Summary

Date of Submission:	26 June 2019. Amended plans received on 23 October 2019, 15 January, 7 May and 15 July 2020
Applicant:	Cracknell & Lonergan Architects
Architect/Designer:	Cracknell & Lonergan Architects
Owner:	Patrick Lane
Cost of Works:	\$385,000
Zoning:	R1 General Residential. The proposed residential use is permissible with consent.
Proposal Summary:	<p>Approval is sought for alterations and additions to an existing residential flat building comprising an additional storey containing a new living space and outdoor terrace to Unit No. 11.</p> <p>The application is referred to the Local Planning Panel for determination as it is contentious development, being a development receiving 25 or more unique submissions by way of objection.</p> <p>The application was amended to address a number of issues identified by Council during assessment. These issues relate to owner's consent, solar access, floor to ceiling height, detailed design, materiality and provision of a 3D digital model.</p> <p>On 15 April 2020 the application was submitted to the Local Planning Panel for determination. The application was recommended for refusal as an adequate 3D digital model had not been received and a full and proper view sharing assessment could not be undertaken. The Panel resolved to defer consideration of the application until a subsequent meeting of the Local Planning Panel to enable the applicant to submit the necessary material to allow for assessment of the 3D model and the view loss impacts.</p>

The application was notified for a period of 14 days between 8 July and 23 July 2019. A total of 33 individual submissions were received following public exhibition of the application.

Following the submission of amended plans and the 3D model, the application was renotified for a period of 14 days between 25 May and 9 June 2020. A total of 13 submissions were received. Issues raised include view loss, height, detrimental impacts on the streetscape and character of the heritage conservation area, solar access, owner's consent, construction impacts, structural capacity of the existing building and reduced access to the roof top. These concerns are addressed within the report.

The proposal is generally consistent with the relevant planning controls contained in Sydney LEP 2012 and Sydney DCP 2012 and will not result in unacceptable impacts to adjoining properties, subject to conditions.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Shadow Study
- D. 3D Visualisations
- E. View Sharing Photomontages

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/665 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 proposal is generally consistent with the relevant objectives and controls of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal exhibits a suitable built form, design and materiality in the context of the heritage conservation area and is appropriate within the streetscape.
- (C) The proposal will not result in unacceptable amenity impacts on surrounding properties and does not detrimentally impact upon view corridors.
- (D) The proposal exhibits design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.

Background

The Site and Surrounding Development

1. Site visits were carried out by Council staff on 21 August 2019, 16 June, 25 June and 30 June 2020.
2. The site is rectangular, with area of approximately 1,464sqm. It has a primary street frontage to Billyard Avenue and a secondary street frontage to Onslow Avenue. The site has a substantial slope from Onslow Avenue to Billyard Avenue. Two brick residential flat buildings are contained within the site. One fronts Billyard Avenue, and the other Onslow Avenue.
3. The subject building is orientated towards Onslow Avenue and has an address of 10 Onslow Avenue. This building presents as five storeys to Onslow Avenue. Due to the slope of the site the subject building is seven storeys at its highest point.
4. Surrounding land uses are residential, primarily in the form of residential flat buildings in a diversity of styles. To the north west is the building known as 21 Billyard Avenue, which is on the same site as the subject building and is of the same construction. This building is separated from the subject building by approximately 4.5m and is orientated towards Billyard Avenue.
5. To the immediate north is a residential flat building known as 8 Onslow Avenue. This building is red brick and presents as three storeys to Onslow Avenue.
6. To the immediate south is a residential flat building at 12 Onslow Avenue known as Darnley Hall. This building presents as five storeys to Onslow Avenue.
7. To the west across Onslow Avenue is an eight-storey heritage listed building at 13 Onslow Avenue known as Meudon. To the south west at 15-19 Onslow Avenue is a 16-storey contemporary residential flat building known as Elizabeth Bay Gardens.
8. The site is within close proximity to a number of State and local heritage listed items, including Elizabeth Bay House, Onslow Place and Arthur McElhone Reserve located to the north and north-west of the site.
9. The site is not a heritage item but is located within the Elizabeth and Rushcutters Bay Conservation Area (C20).
10. Photos of the site and surrounds are provided below:

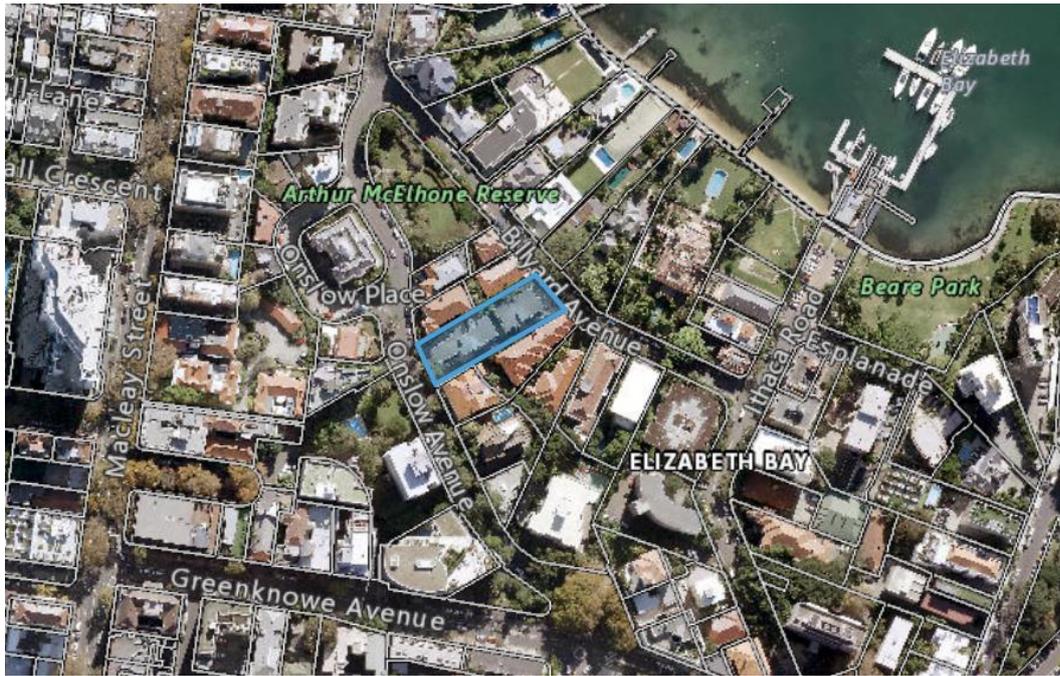


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Onslow Avenue looking north



Figure 3: Site viewed from Onslow Avenue



Figure 4: Site viewed from Onslow Avenue looking west



Figure 5: View looking south from top of Arthur McElhone Reserve towards the Meudon and Elizabeth Bay Gardens buildings



Figure 6: View looking south east from Elizabeth Bay House



Figure 7: View of subject site from Billyard Avenue

Proposal

11. Approval is sought for alterations and additions to Unit 11 consisting of:
 - (a) the construction of a new storey on the southern portion of the building containing a living space, bathroom and outdoor terrace area;
 - (b) installation of an internal circular stairwell connecting the new storey to the existing Unit 11; and
 - (c) enclosure of northern terrace on the existing level Unit 11 for a wintergarden.
12. The application was amended to delete a green roof that was originally proposed on the rooftop fronting Onslow Avenue. The amended plans and documents are the subject of this report.
13. Plans of the proposed development are provided below.

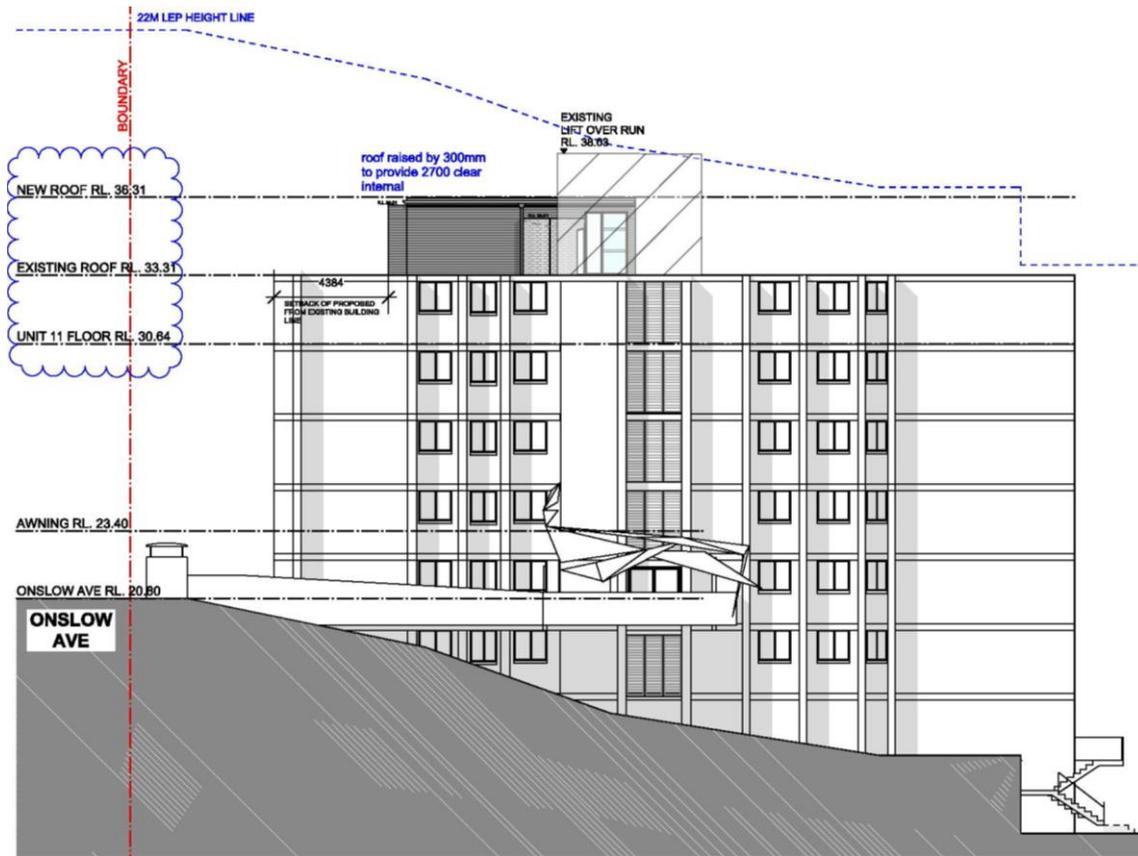


Figure 8: Proposed southern elevation

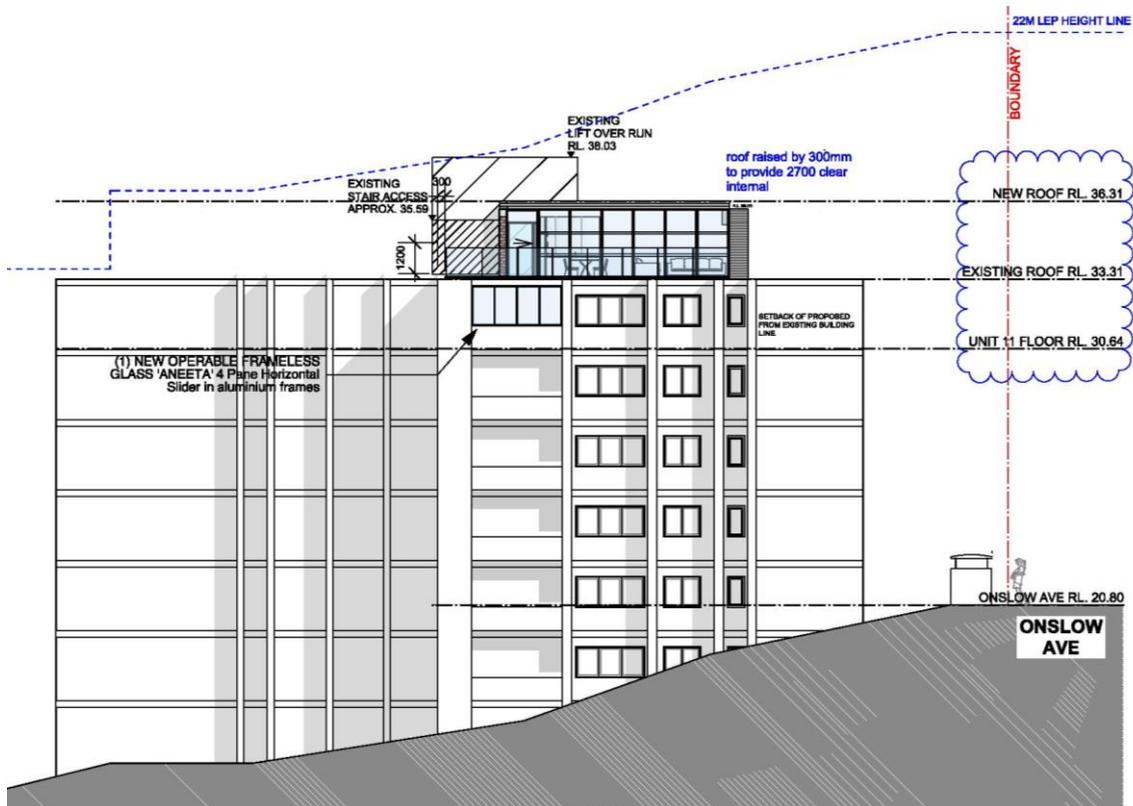


Figure 9: Proposed northern elevation

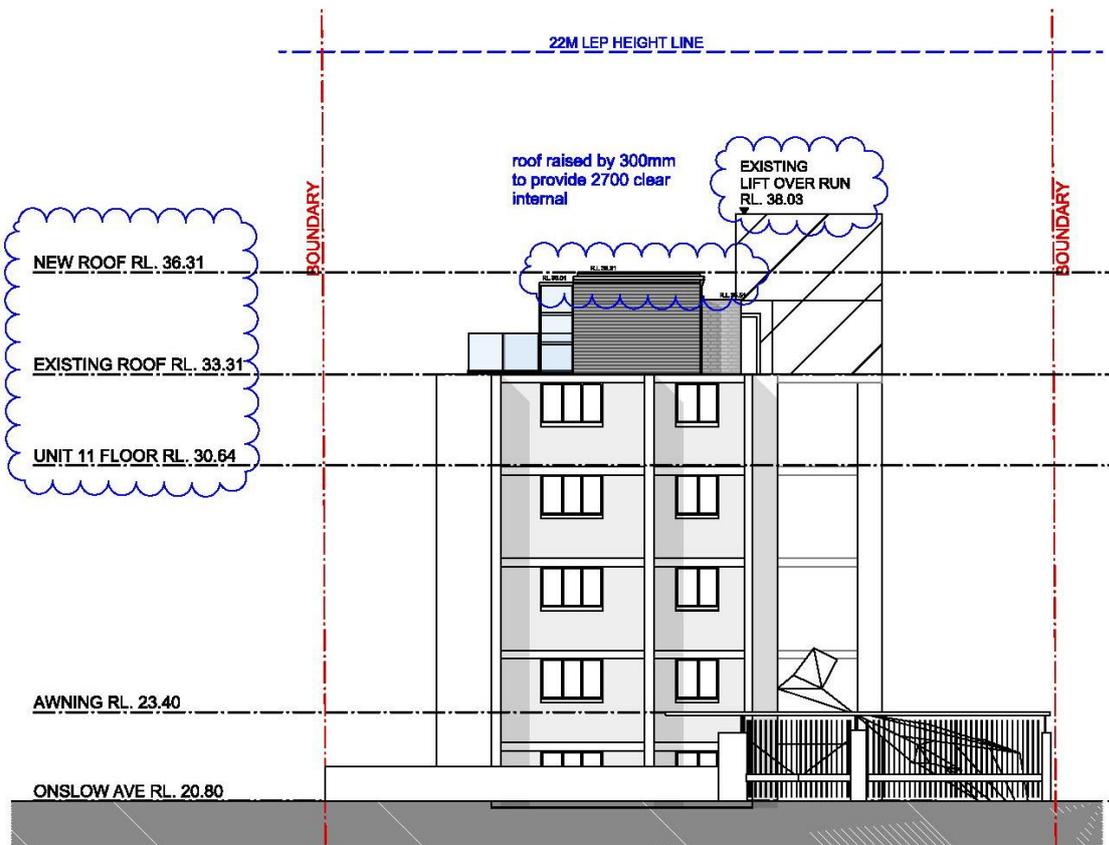


Figure 10: Proposed western elevation to Onslow Avenue

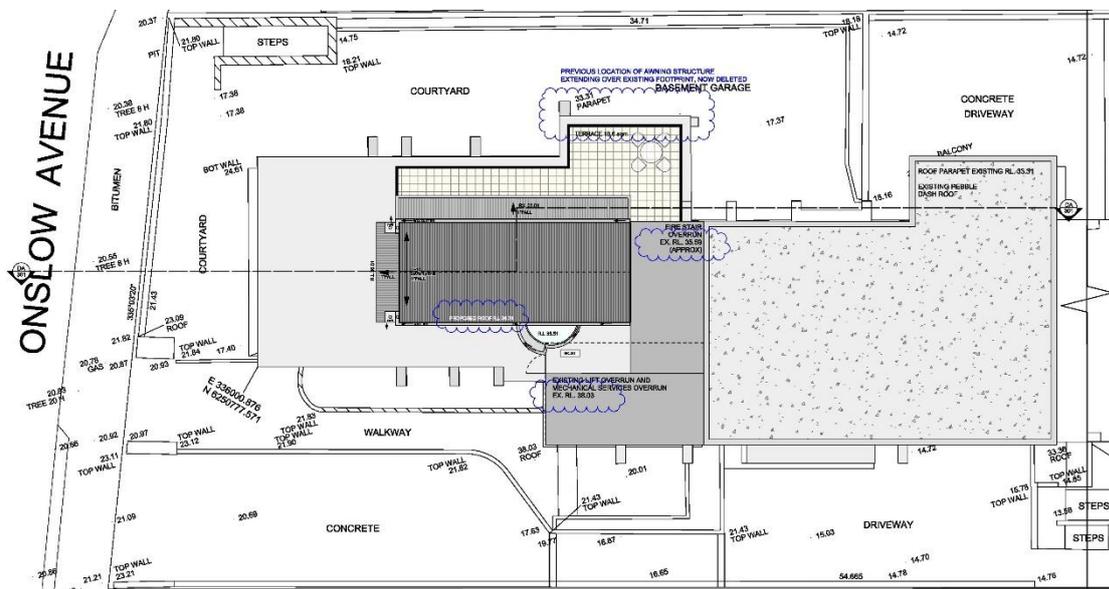


Figure 11: Proposed top roof plan

History Relevant to the Development Application

Amended documentation and additional information

14. The application was amended on five separate occasions to address a number of issues relating to floor to ceiling height, materials, colours and finishes, as well as details for the now deleted green roof. The amended plans submitted on 15 July 2020 address these items.
15. In addition to the above amendments, additional information was requested throughout the course of the assessment, including:
 - (a) Owners consent:
 - (i) On the 4 July 2019 strata owners consent, was sought.
 - (ii) On 6 September 2019, following submissions received from other unit owners within the building, Council requested further clarification for owners showing the relevant strata minutes permitting lodgement of the DA.
 - (iii) Additional information was submitted on 6 September 2019 satisfactorily addressing this issue.
 - (b) Shadow diagrams:
 - (i) On 10 September 2019 hourly solar elevations were requested demonstrating the amount of direct sunlight to the northern facing windows of Darnley Hall at 12 Onslow Avenue.
 - (ii) The required solar elevations were submitted on 24 October 2019. These elevations have since been updated to reflect further amendments to the height of the building. Shadow studies submitted on 15 July 2020 address this requirement.
 - (c) View impact assessment:
 - (i) The original application did not provide adequate information for a proper view sharing assessment of the potential impacts from adjoining properties.
 - (ii) On the 10 September 2019 a view impact assessment was requested that specifically shows the existing and proposed views from adjoining properties potentially impacted by the proposal.
 - (iii) On the 26 September 2019 the applicant was requested to submit a 3D digital model of the existing building to determine which properties would be potentially impacted by the proposal.
 - (iv) On 8 November 2019 a 3D digital model was submitted by the applicant. The City's model makers advised that the model did not meet the City's requirements and could not be used to assess potentially view impacted properties.

- (v) Additional requests for the submission of the 3D model were made on the 13 November, 13 December and 15 January. Given the ongoing delay, on 7 February Council requested the applicant withdraw the application and resubmit when the outstanding information was prepared.
- (vi) On 15 April 2020 the application was submitted to the Local Planning Panel (LPP) for determination. The application was recommended for refusal as an adequate 3D digital model had not been received. Due to lack of information, a full and proper view sharing assessment could not be undertaken, and the application could not be supported as it failed to demonstrate compliance with the objectives of Sydney Local Environmental Plan 2012, including Clause 4.3(c) Height of buildings and Clause 6.21(4)(c) Design excellence in relation to view sharing and potential detrimental impacts on view corridors.
- (vii) The resolution from the 15 April 2020 LPP meeting is as follows:

Resolution - *The Panel deferred consideration of Development Application No. D/2019/665 until a subsequent meeting of the Local Planning Panel to enable the applicant to submit the necessary material to allow for assessment of the 3D model and the view loss impacts.*

Reasons for Decision - *The Panel considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for the additional information required to finalise assessment of the application to be submitted shortly.*

- 16. On the 26 May 2020 the applicant submitted an adequate 3D Model, as well as amended architectural drawings and shadow diagrams to address inadequate floor to ceiling height of the new addition.
- 17. Following the submission of the adequate 3D Model, the City's Model Team and Surveyors were engaged to assist in the preparation of documentation to inform a detailed view sharing assessment.
- 18. A full view sharing assessment is provided in the Issues section of this report. Selected view impact documentation and site photos are the provided in Attachments D and E.

Final amended documentation

- 19. During the preparation of view impact documentation, RLs included on the drawings previously submitted by the applicant were found to be inaccurate. In this regard, the existing building was noted at a height of RL 33.52 on the submitted elevations, however based on the 3D Model information, which has since been verified onsite by Council Surveyors, the existing building was found to be lower at a height of RL 33.31.
- 20. On the 15 July 2020, amended architectural drawings and shadow diagrams were submitted to Council. These drawings show the height of the proposed addition at a maximum RL of 36.31, which is 210mm lower than the previous set of plans.
- 21. The revised drawings show an overall height that is 210mm less than that shown on previously re-notified plans, representing a reduction in potential impact to adjoining properties. As such, the revised drawings were not re-notified.
- 22. The revised drawings and shadow diagrams are included in Attachment B and C to this report and address all outstanding items raised by Council.

Economic/Social/Environmental Impacts

23. 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)

24. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

25. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

- (a) protecting and improving hydrological, ecological and geomorphologic processes;
- (b) considering cumulative impacts of development within the catchment;
- (c) improving water quality of urban runoff and reducing the quantity and frequency of urban run-off; and
- (d) protecting and rehabilitating riparian corridors and remnant vegetation.

26. 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

27. The BASIX Certificate has been submitted with the development application.

28. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.

Sydney Local Environmental Plan 2012

29. The site is located within the R1 General Residential zone. The proposed use is defined as residential and is permissible

30. The relevant matters 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 22m is permitted. A maximum height of 20.2m is proposed.
4.4 Floor Space Ratio	Yes	A maximum FSR of 4.5:1 is permitted. A FSR of 2.05:1 is proposed.
5.10 Heritage conservation	Yes	The subject site is located within a heritage conservation area. See discussion under the heading Issues.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	The proposed development satisfies the requirements of this provision. The proposal presents an acceptable built form that is not out of character with the existing streetscape. The proposed development does not detrimentally impact on view corridors. The proposal will not result in unacceptable amenity impacts on surrounding development including visual and acoustic privacy or overshadowing. See discussion under the heading Issues.

Sydney Development Control Plan 2012

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

2. Locality Statements – The Bays

The subject site is located in The Bays Locality. The proposed alterations and additions are in keeping with the unique character of the area and design principles in that it responds to the streetscape of the heritage conservation area and maintains important views to and from Elizabeth Bay House, Sydney Harbour and parks.

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	Yes	The existing building is a neutral building in a conservation area. See discussion under the heading Issues.
3.14 Waste	Yes	Standard conditions are recommended requiring the proposal comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed-use developments		
4.2.1 Building height 4.2.1.1 Height in storeys 4.2.1.2 Floor to ceiling height	Assessed as acceptable	The site is subject to a six storey height control. The proposed building currently presents as five storeys to Onslow Avenue. The proposal retains this appearance as the additional storey is setback 4.4m from the existing building and approximately 10m from the Onslow Avenue property boundary. The proposal increases the building height in the middle of the building from six to seven storeys. This is acceptable from a streetscape point of view. See discussion under heading Issues.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
		The additional storey proposes an internal floor to ceiling height of 2.7m, which complies with the minimum DCP requirement.
4.2.3 Amenity 4.2.3.1 Solar access 4.2.3.7 Private open space 4.2.3.8 Common open space	Yes	The proposal will not adversely overshadow adjoining properties. See discussion under heading Issues. The proposal complies with the private open space provision by providing a terrace area in excess of the 10sqm minimum requirement. The roof top is not currently accessible and is not formally utilised as common open space for the residential flat building.

Issues

View sharing - background

32. The application proposes alterations and additions in the form of an additional storey to the existing building. The allowable building height, as prescribed by Clause 4.3 of Sydney LEP 2012 is 22m. The proposal complies with this numerical requirement, with a maximum building height of 20.2m.
33. In addition to compliance with the numerical building height control, the proposal must satisfy the objectives of the building height control, including objective 4.3(1)(c) *to promote the sharing of views*. The proposal must also satisfy the design excellence provisions including Clause 6.21(4)(c) *whether the development detrimentally impacts on view corridors*.
34. The site is located in Elizabeth Bay where many properties enjoy views to the water. Some of these views are partial views from living areas, while others are from bedrooms across side boundaries. Due to the topography of the surrounding land and the density of the area, the proposal has the potential to impact many properties, to varying degrees.

35. The originally submitted application did not provide adequate information to make a proper view impact assessment of the potential impacts from adjoining properties. The submitted Assessment of View Sharing report identified 11 properties that would be potentially impacted by the proposal. Section 3.1 of the report acknowledges the limitations of the assessment, including that physical access to the properties was not achieved, and as a result, assessment material including floor plans and photographs were sourced from marketing material. The assessment notes that while effort was made to verify the source material, inaccuracies such as the distortion of perspectives in images may exist. This is why properly verified view loss information was sought from Council.
36. The applicant's Assessment of View Sharing report is not adequate to undertake a detailed view analysis of the proposal. As such, Council's Model Team and Surveyors were engaged to prepare view impact documentation that has been utilised to carry out a detailed view sharing assessment of the proposal.

View sharing - methodology

37. The 3D Model was used to generate a series of visualisations based on the abstract City Model. These 3D visualisations are included in Attachment D of this report.
38. Based on a review of these 3D visualisations, several surrounding properties were identified as having potential view loss as a result of the proposal. These properties are identified in Figures 12, 13 and 14 and are listed below:
 - (a) Unit 12/12 Onslow Avenue
 - (b) Unit 11/12 Onslow Avenue
 - (c) Unit 10/12 Onslow Avenue
 - (d) Unit 5D/15-19 Onslow Avenue.
39. On the 25 June 2020, a team of Council Officers visited the potentially affected properties. The team included Council's Assessment Planner, Surveyors and 3D Modellers. Photographs were taken from selected rooms of these properties using a 35mm lens. The photographs were used to create photomontages illustrating the location of the proposed addition on the existing building. The location of the existing building was verified by Council's Surveyors. The photomontages prepared by Council's Model Team are consistent with the requirements of the NSW Land and Environment Court practice note.
40. In addition to the team site visit undertaken on 25 June, additional site visits were undertaken by Council's Assessment Planner on 16 June and 30 June. These site visits were made to assess the potential view loss resulting from the proposal to a number of additional properties, which are identified in Figures 12, 15 and 16 and listed below:
 - (a) Unit 4D/15-19 Onslow Avenue
 - (b) Unit 2/13 Onslow Avenue
 - (c) Unit 4/13 Onslow Avenue
 - (d) Unit 5/13 Onslow Avenue

(e) Unit 8/13 Onslow Avenue



Figure 12: Location of buildings with potential view loss (yellow) in relation to the subject site (blue)



Figure 13: Northern elevation of Units 10, 11 and 12 of 12 Onslow Avenue, viewed from the location of the proposed addition



Figure 14: Eastern and northern elevation of Units 4D and 5D of 15-19 Onslow Avenue, viewed from the location of the proposed addition

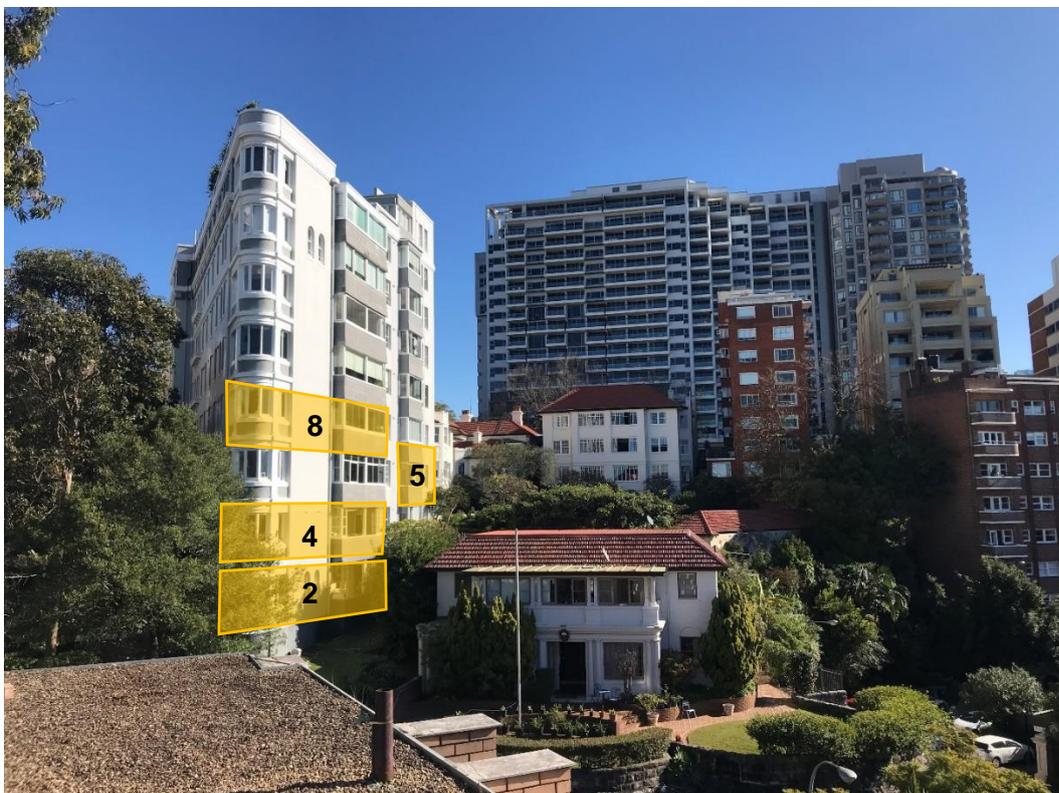


Figure 15: Northern and eastern elevations of Units 2, 4, 5 and 8 of 13 Onslow Avenue, viewed from the location of the proposal

41. As seen in Figures 14 and 15 above, a number of other buildings can be viewed from the location of the proposed addition. These include 36B Onslow Place, 40 Macleay Street, 42 Macleay Street, 6A Greenknowe Avenue and 11 Onslow Avenue. A detailed view sharing assessment has not been undertaken for these buildings for the following reasons:
- (i) 3D visualisations prepared for 6A Greenknowe Avenue show that while the addition would be visible from some kitchen and bedroom windows, the amount of view loss is negligible when compared to the overall views retained. See Attachment D for 3D Visualisations.
 - (ii) The proposed addition when observed from 36B Onslow Place, 40 Macleay Street and 42 Macleay Street would not be readily discernible as it would be viewed against the existing lift overrun and stairwell of the building.
 - (iii) While the building at 11 Onslow Avenue is located directly opposite the development site, the building sits below the level of the proposed addition.

View sharing - assessment

42. Assessment of view impact is undertaken based on the principles of view sharing established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. In the *Tenacity* case, Senior Commissioner Roseth notes that:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)

43. To decide whether view sharing is reasonable or not, Senior Commissioner Roseth developed a four step assessment, which is summarised in part below:
- (a) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.
 - (b) The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views is often unrealistic.
 - (c) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas.
 - (d) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.
44. Where views are partially obstructed by mature trees, 3D visualisations have been utilised to assess the existing view and potential view impacts without the vegetation present, in the event the trees are pruned or removed in the future.

Unit 12/12 Onslow Avenue

45. Unit 12/12 Onslow Avenue is the penthouse apartment located immediately to the south of the proposed addition. It is located on the top floor and attic portion of 12 Onslow Avenue and takes up the entire floorplate.
- (a) Views to be affected: Views north across the rooftop of the development site towards Sydney Harbour, including Fort Denison, as well as the headland of Garden Island.
 - (b) Part of property viewed from: Views are obtained over the side (northern) boundary from a dressing room, master bathroom and laundry on the main floor and a bedroom/study on the attic floor. Views from this property are also obtained over the rear (eastern) property boundary from the kitchen, living/dining room and balcony. Views over the rear (eastern) boundary would not be impacted by the proposed addition.
 - (c) Extent of impact: As demonstrated in Figures 16, 17 and 18 the proposed addition will have a severe impact on views from the master bathroom. The proposal will completely obscure existing views from this room to Sydney Harbour, including Fort Denison. A similar extent of impact is expected from the dressing room (Figure 19 and 20). Notwithstanding this impact, views to the harbour, including Fort Denison are retained from the attic bedroom (Figure 21), as well as the kitchen (Figure 22), living/dining room (Figure 23) and balcony (Figures 24 and 25).
 - (d) Reasonableness: The protection of views from the side windows of Unit 12 is not considered reasonable in this instance. The proposal complies with the relevant planning controls that control height, bulk and scale, including height in metres, solar access and height in storeys at Onslow Avenue. Opportunities for a more skilful design to reduce the view impact are limited as the addition is positioned directly above Unit 11, is setback from the northern, southern and western property boundaries and is provided with the minimum height to meet BCA standards. Further, while relocating the addition to the west to sit closer to Onslow Avenue may protect some views towards Sydney Harbour, protection of views to Fort Denison cannot be achieved.



Figure 16: Existing view from master bathroom of Unit 12/12 Onslow Avenue

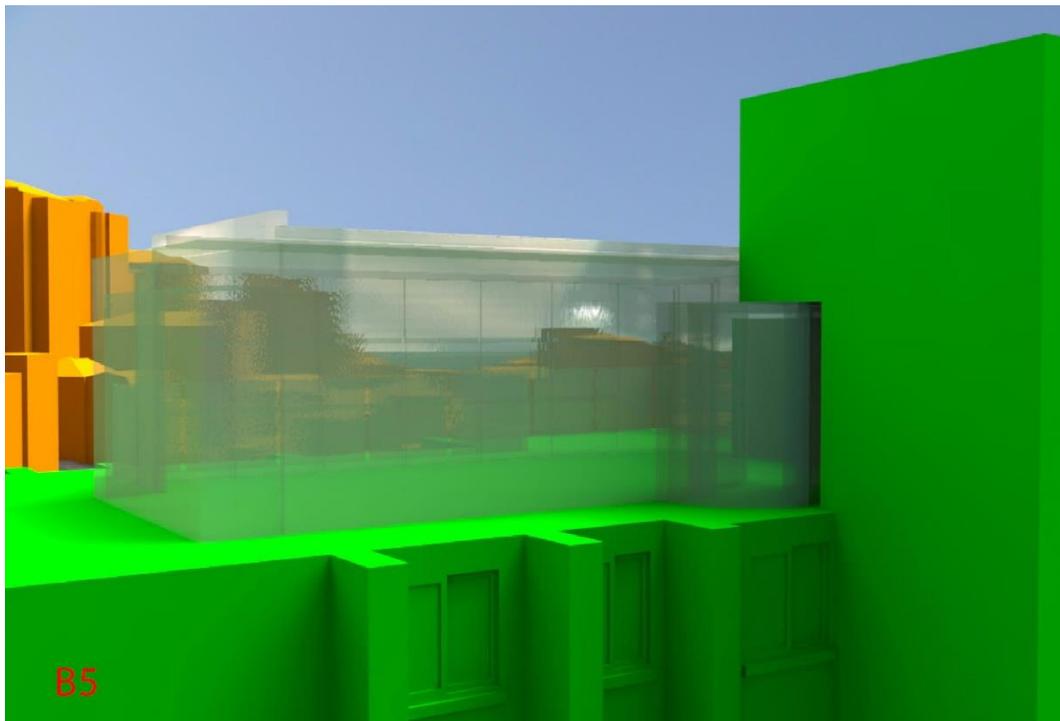


Figure 17: 3D visualisation of proposal from master bathroom of Unit 12/12 Onslow Avenue



Figure 18: View of proposal from master bathroom of Unit 12/12 Onslow Avenue



Figure 19: Existing view from dressing room of Unit 12/12 Onslow Avenue

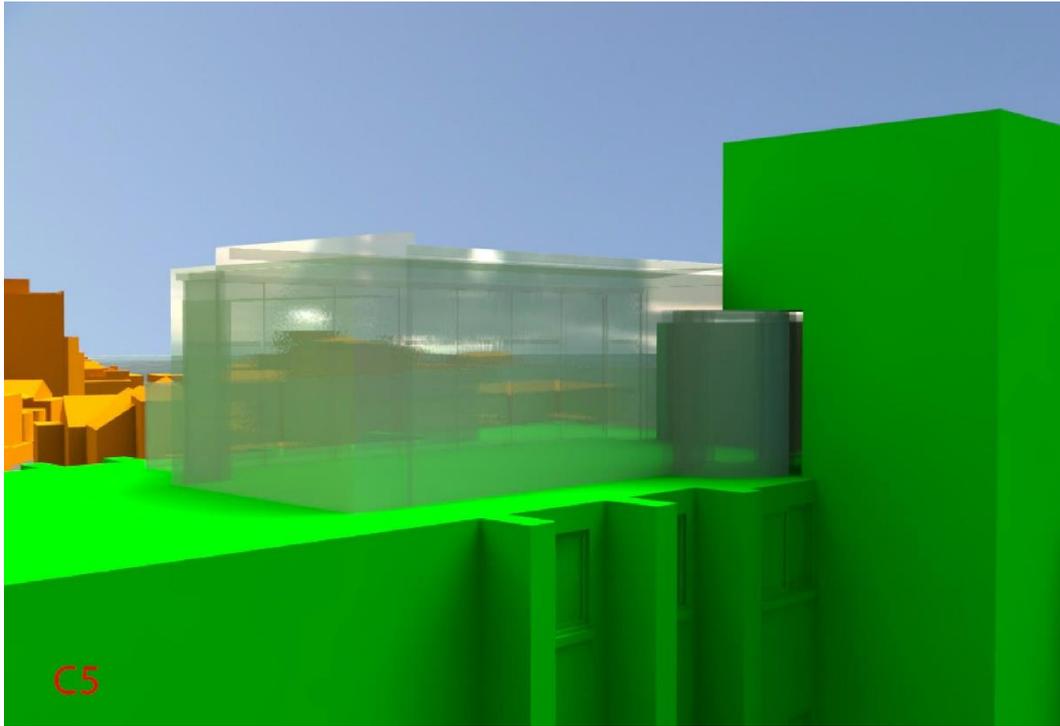


Figure 20: 3D visualisation from dressing room of Unit 12/12 Onslow Avenue



Figure 21: View of proposal from attic bedroom/study of Unit 12/12 Onslow Avenue



Figure 22: Existing view to be retained from kitchen of Unit 12/12 Onslow Avenue



Figure 23: Existing view to be retained from living/dining room of Unit 12/12 Onslow Avenue



Figure 24: Existing view to be retained from balcony of Unit 12/12 Onslow Avenue



Figure 25: Existing view to be retained from balcony of Unit 12/12 Onslow Avenue

Unit 11/12 Onslow Avenue

46. Unit 11/12 Onslow Avenue is located on the 5th floor of the building immediately to the south of the proposed addition. It is contained within the eastern portion of the floorplate and shares the floor with Unit 10.
- (a) Views to be affected: Views northwest across the rooftop of the development site towards buildings of Potts Point and the sky.
 - (b) Part of property viewed from: Views are obtained over the side (northern) boundary from a study and laundry. Views from this property are also obtained over the rear (eastern) property boundary from the balcony, kitchen and second study. Views over the rear boundary would not be impacted by the proposed addition.
 - (c) Extent of impact: As demonstrated in Figure 26 and 27 the proposed addition will be highly visible from the study and completely obscure existing views from the study to the buildings of Potts Point however views to the sky are retained. While the proposed addition will be highly visible from the property, the extent of impact is minor due to the nature of the views being obscured and the rooms from which they are viewed. A similar extent of impact is expected from the laundry. Views to the harbour over the eastern property boundary are retained from the balcony (Figure 28), kitchen (Figure 29) and second study (Figure 30).
 - (d) Reasonableness: The protection of views from the side windows of Unit 11 is not considered reasonable in this instance as the proposal complies with the relevant planning controls and opportunities for a more skilful design to reduce the view impact are limited. For instance, relocation of the addition towards Onslow Avenue would not result in the retention of a meaningful portion of the existing view to Potts Point.

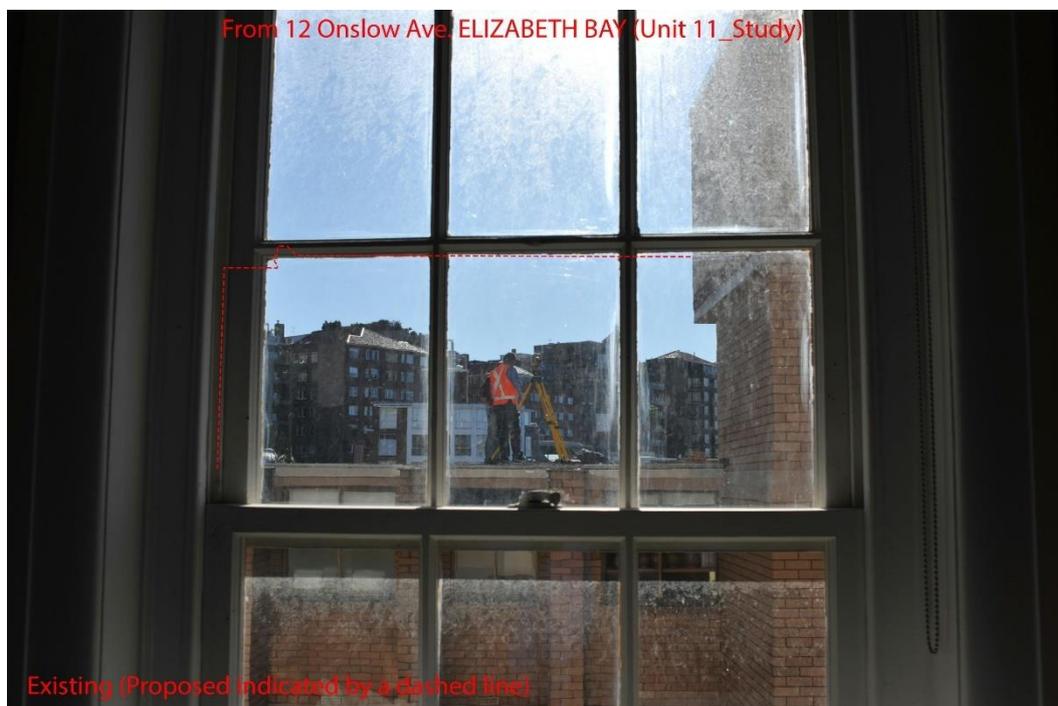


Figure 26: Existing view from study of Unit 11/12 Onslow Avenue



Figure 27: View of proposal from study of Unit 11/12 Onslow Avenue



Figure 28: Existing view to be retained from balcony of Unit 11/12 Onslow Avenue



Figure 29: Existing view to be retained from kitchen of Unit 11/12 Onslow Avenue



Figure 30: Existing view to be retained from second study of Unit 11/12 Onslow Avenue

Unit 10/12 Onslow Avenue

47. Unit 10/12 Onslow Avenue is located on the 5th floor of the building immediately to the south of the proposed addition. It is contained within the western portion of the floorplate and shares the floor with Unit 11.
- (a) Views to be affected: Views north across the rooftop of the development site. A small portion of tops of buildings located north of Sydney Harbour, with most of views being of the sky.
 - (b) Part of property viewed from: Views are obtained over the side (northern) boundary from the dining room, kitchen and laundry. Due to the height and orientation of the unit, views to Sydney Harbour are not obtained from this unit from these or other rooms.
 - (c) Extent of impact: Figures 31 and 32 shows that the proposed addition will obscure a small portion of distant buildings located north of Sydney Harbour, with the remainder of view to be obscured being to the sky. While the proposed addition will be highly visible from the property, the extent of impact is minor due to the nature of the views being obscured and the rooms from which they are viewed. A similar extent of impact is expected from the kitchen and laundry.
 - (d) Reasonableness: The protection of views from the side windows of Unit 10 is not considered reasonable in this instance as the proposal complies with the relevant planning controls and relocating the addition towards Onslow Avenue would not improve the view impact.



Figure 31: Existing view from dining room of Unit 10/12 Onslow Avenue



Figure 32: View of proposal from dining room of Unit 10/12 Onslow Avenue

Unit 5D/15-19 Onslow Avenue

48. Unit 5D/15-19 Onslow Avenue is located on the opposite side of Onslow Avenue to the south of the proposed addition. It is a corner unit and is located in the northern corner of the floorplate.
- (a) Views to be affected: Partial views north across the rooftop of the development site towards Sydney Harbour and the headland of Garden Island.
 - (b) Part of property viewed from: Views are obtained over the front (eastern) boundary from the balcony and the side (northern) boundary from the living room. A large street tree partially obscures views towards the development site and beyond. Views obscured by trees are also obtained over the front (eastern) property boundary from the balcony, kitchen and master bedroom.
 - (c) Extent of impact: As demonstrated in Figure 33, 34 and 35 the proposed addition will obscure a portion of Sydney Harbour and some of the Garden Island headland from the balcony. Figure 37 and 38 also show that views to the water and a small portion of Garden View will be obscured from the living room. Views towards portions of Sydney Harbour are retained above and to the side of the proposed addition from both of these rooms. While the proposed addition would be visible from the property, the extent of impact is moderate. This is due to the partial views that are both obscured and retained. Further, as shown in Figures 39 and 40 below, partial views to Sydney Harbour are retained from this property across the front (eastern) boundary from the balcony and master bedroom.
 - (d) Reasonableness: The protection of views from the side windows of Unit 5D is not considered reasonable in this instance as the proposal complies with the relevant planning controls relocating the addition towards Onslow Avenue would not improve the view impact.

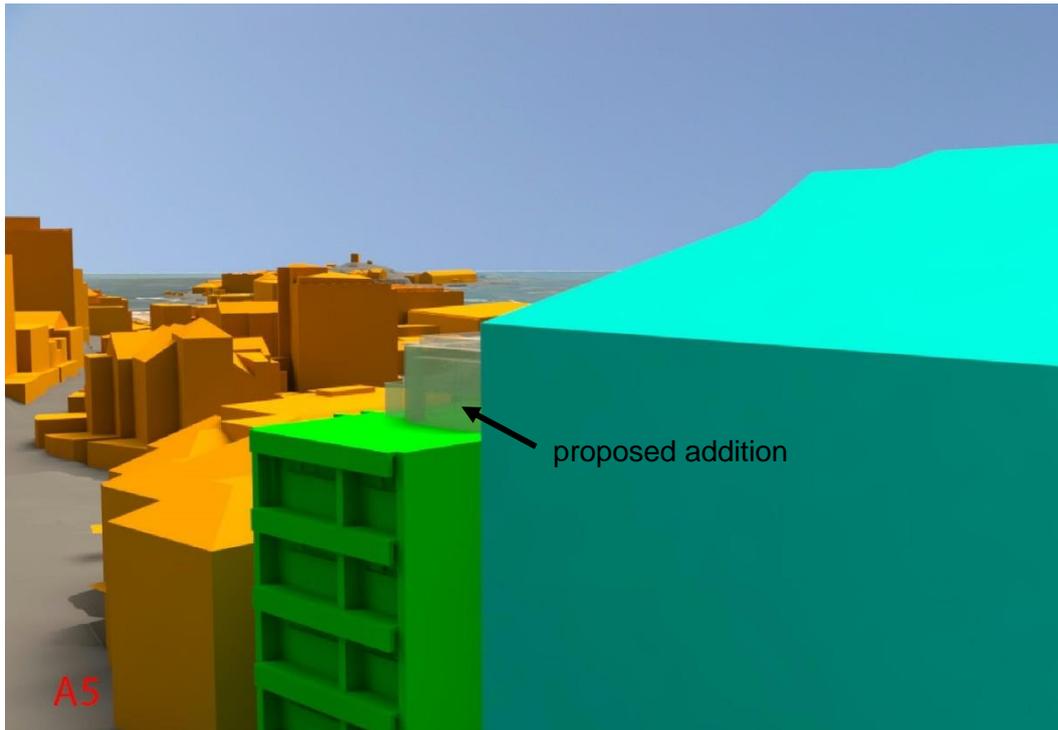


Figure 33: 3D visualisation of proposal from balcony of Unit 5D/15-19 Onslow Avenue



Figure 34: Existing view from balcony of Unit 5D/15-19 Onslow Avenue



Figure 35: View of proposal from balcony of Unit 5D/15-19 Onslow Avenue

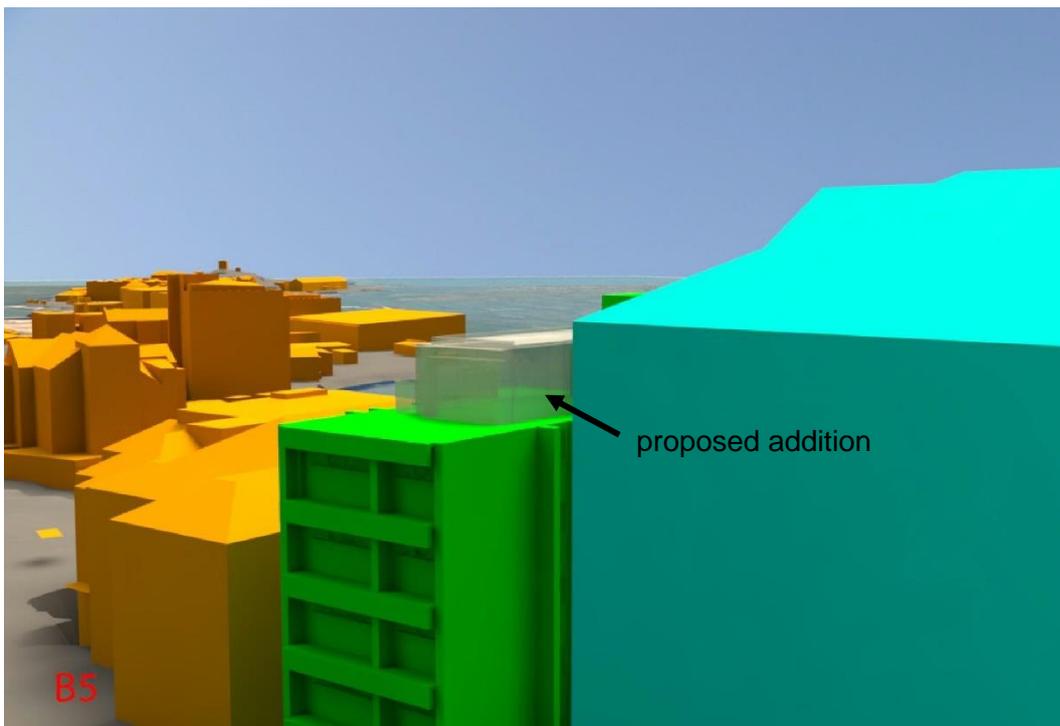


Figure 36: 3D visualisation of proposal from living room of Unit 5D/15-19 Onslow Avenue



Figure 37: Existing view from living room of Unit 5D/15-19 Onslow Avenue



Figure 38: View of proposal from living room of Unit 5D/15-19 Onslow Avenue



Figure 39: View to be retained from balcony of Unit 5D/15-19 Onslow Avenue



Figure 40: View of to be retained from master bedroom of Unit 5D/15-19 Onslow Avenue

Unit 4D/15-19 Onslow Avenue

49. Unit 4D/15-19 Onslow Avenue is located on the opposite side of Onslow Avenue to the south of the proposed addition. It is a corner unit and is located in the northern corner of the floorplate.
- (a) Views to be affected: Partial views north across the rooftop of the development site towards Sydney Harbour and the headland of Garden Island.
 - (b) Part of property viewed from: Views are obtained over the front (eastern) boundary from the balcony and the side (northern) boundary from the living room. A large street tree partially obscures views towards the development site and beyond. Views obscured by trees are also obtained over the front (eastern) property boundary from the balcony, kitchen and master bedroom.
 - (c) Extent of impact: As demonstrated in Figure 41 and 42 the proposed addition will obscure a portion of the Garden Island headland and the water from the balcony. Figure 43 and 44 also show that views to the water and a small portion of Garden View will be obscured from the living room. Views towards portions of Sydney Harbour are retained above and to the side of the proposed addition from both of these rooms. While the proposed addition would be visible from the property, the extent of impact is moderate. This is due to the partial views that are both obscured and retained. Further, as shown in Figures 45 and 46 below, partial views to Sydney Harbour are retained from this property across the front (eastern) boundary from the balcony and master bedroom.
 - (d) Reasonableness: The protection of views from the side windows of Unit 4D is not considered reasonable in this instance as the proposal complies with the relevant planning controls and relocating the addition towards Onslow Avenue would not improve the view impact.

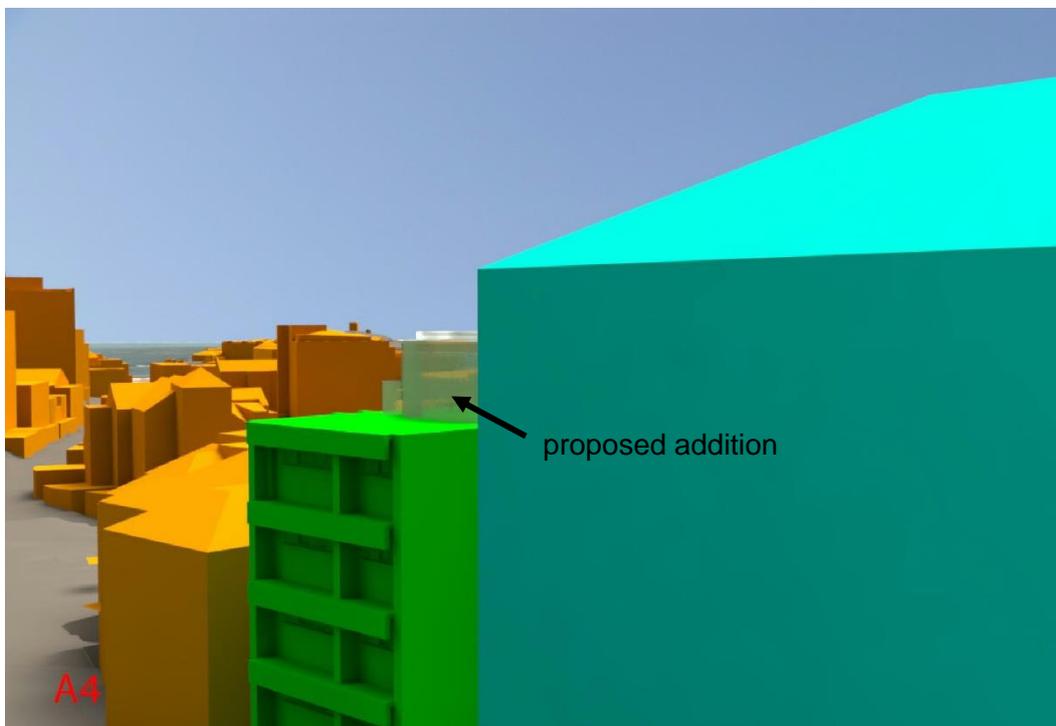


Figure 41: 3D visualisation of proposal from balcony of Unit 4D/15-19 Onslow Avenue



Figure 42: Existing view from balcony of Unit 4D/15-19 Onslow Avenue.

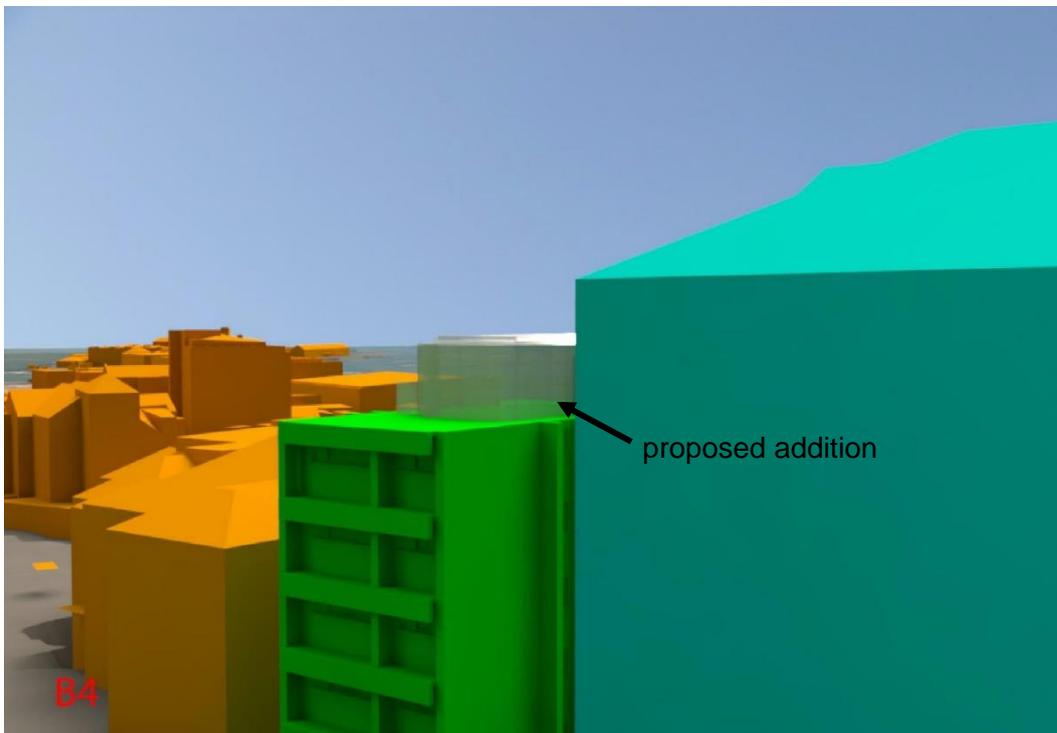


Figure 43: 3D visualisation of proposal from living room of Unit 4D/15-19 Onslow Avenue



Figure 44: Existing view from living room of Unit 4D/15-19 Onslow Avenue



Figure 45: Existing view to be retained from balcony of Unit 4D/15-19 Onslow Avenue



Figure 46: Existing view to be retained from master bedroom of Unit 4D/15-19 Onslow Avenue

Unit 8/13 Onslow Avenue

50. Unit 8/13 Onslow Avenue is located on the opposite side of Onslow Avenue to the west of the proposed addition. It is located at the point of the floorplate.
- (a) Views to be affected: Views east across the rooftop of the development site towards Sydney Harbour including Clarke Island and the headlands of Elizabeth Bay, Darling Point and South Head beyond, as well as headlands north of Sydney Harbour.
 - (b) Part of property viewed from: Views are obtained over the front (eastern) boundary from the living/dining room. Views are also obtained towards Sydney Harbour and Potts Point across the side (northern) boundary from an enclosed balcony.
 - (c) Extent of impact: As demonstrated in Figure 47 the proposed addition will be visible from the living/dining room window. Due to the height of the unit above the proposed addition and the existing lift overrun and stairwell, the proposed addition will obscure a very small portion of water from the living/dining room. The impact is negligible. Further, as shown in Figures 48, 49 and 50 below, views to Sydney Harbour and headlands beyond are retained from this property across the front (eastern) and side (northern) boundaries from the enclosed balcony.
 - (d) Reasonableness: The proposal would have a negligible impact on views from this property and as such, is considered reasonable.

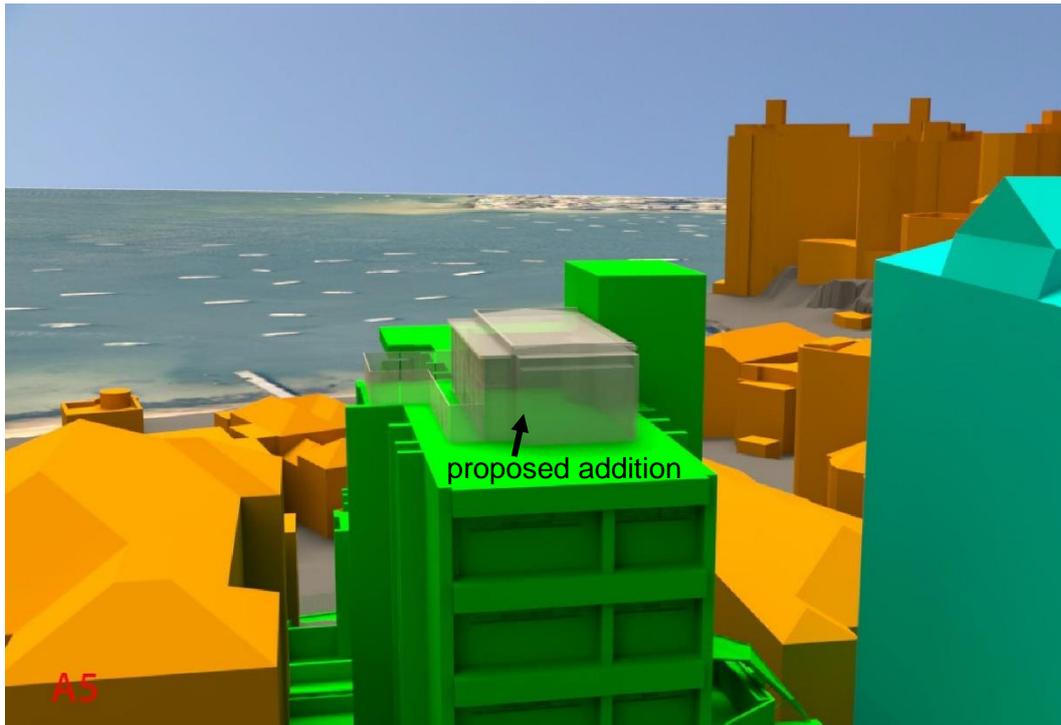


Figure 47: 3D visualisation from living/dining room of Unit 8/13 Onslow Avenue



Figure 48: Existing view (vast majority to be retained) from living/dining room of Unit 8/13 Onslow Avenue



Figure 49: Existing view to be retained from living/dining room of Unit 8/13 Onslow Avenue



Figure 50: Existing view to be retained from enclosed balcony of Unit 8/13 Onslow Avenue

Unit 5/13 Onslow Avenue

51. Unit 5/13 Onslow Avenue is located on the opposite side of Onslow Avenue to the west of the proposed addition. It is located at the rear of the floorplate.
- (a) Views to be affected: Views east across the rooftop of the development site towards Sydney Harbour including Clarke Island and the headlands of Elizabeth Bay, Darling Point and South Head beyond, as well as headlands north of Sydney Harbour.
 - (b) Part of property viewed from: Views are obtained over the side (northern) boundary from the enclosed balcony that is connected to the living/dining room.
 - (c) Extent of impact: As demonstrated in Figure 51 the proposed addition will be visible from the window of the enclosed balcony. Due to the height of the unit relative to the proposed addition and the existing lift overrun and stairwell, the proposed addition will obscure a very small portion of buildings in Darling Point and all water views would be retained. The impact is negligible. Further, as shown in Figures 51 and 52 below, views to Sydney Harbour are retained from this property across the side (northern) boundary from the enclosed balcony.
 - (d) Reasonableness: The proposal would have a negligible impact on views from this property and as such, is considered reasonable.



Figure 51: Existing water view to be retained from enclosed balcony of Unit 5/13 Onslow Avenue



Figure 52: Existing view to be retained from enclosed balcony of Unit 5/13 Onslow Avenue

Unit 4/13 Onslow Avenue

52. Unit 4/13 Onslow Avenue is located on the opposite side of Onslow Avenue to the west of the proposed addition. It is located at the point of the floorplate.
- (a) Views to be affected: Views east across the rooftop of the development site towards Sydney Harbour including Clarke Island and the headlands of Elizabeth Bay, Darling Point and South Head beyond, as well as headlands north of Sydney Harbour.
 - (b) Part of property viewed from: Views are obtained over the front (eastern) boundary from the living/dining room. Views are also obtained towards Sydney Harbour and Potts Point across the side (northern) boundary from a balcony.
 - (c) Extent of impact: As demonstrated in Figure 53, 54 and 55 the proposed addition will be visible from the living/dining room and balcony. Due to the height of the unit relative to the addition and the existing lift overrun and stairwell, the proposed addition will obscure a very small portion of Darling Point buildings from the balcony and sky from the living/dining room. No water will be obscured and the impact is negligible. Figures 54 and 55 also show that views to Sydney Harbour are retained from this property across the front (eastern) and side (northern) boundaries from the living room and balcony.
 - (d) Reasonableness: The proposal would have a negligible impact on views from this property and as such, is considered reasonable.

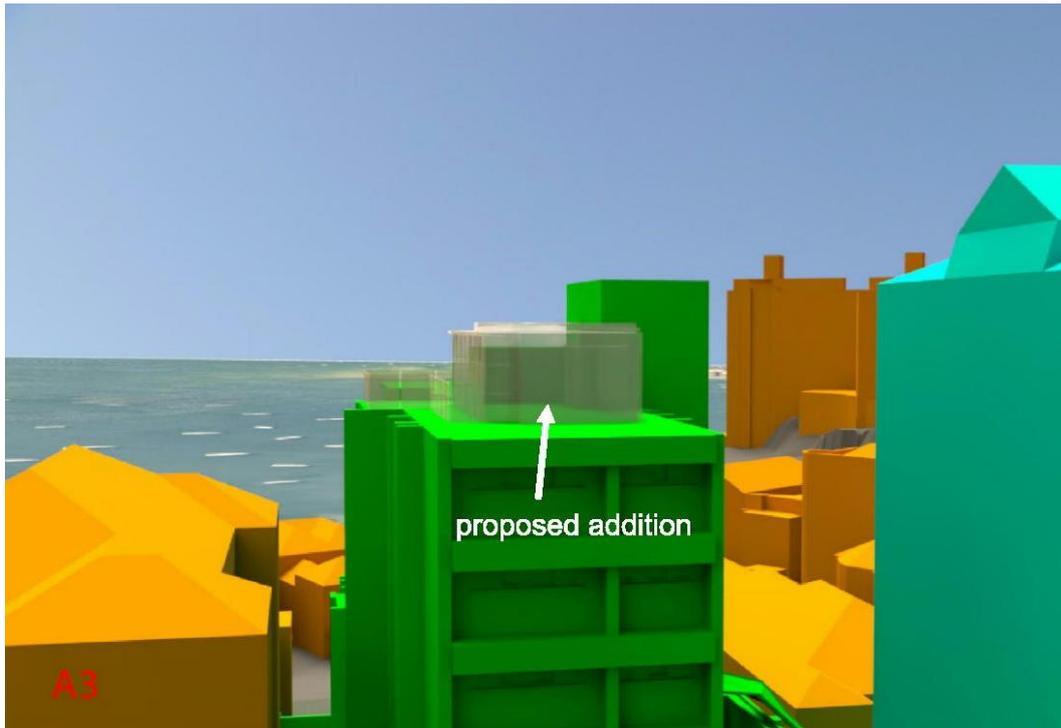


Figure 53: 3D visualisation from living/dining room of Unit 4/13 Onslow Avenue



Figure 54: View towards proposed addition from living/dining room of Unit 4/13 Onslow Avenue



Figure 55: Existing water views to be retained from enclosed balcony of Unit 4, 13 Onslow Avenue

Unit 2/13 Onslow Avenue

53. Unit 2/13 Onslow Avenue is located on the opposite side of Onslow Avenue to the west of the proposed addition. It is located at the point of the floorplate.
- (a) Views to be affected: Views above the rooftop of the development site of the sky.
 - (b) Part of property viewed from: Views are obtained over the front (eastern) boundary from the living/dining room. Views are also obtained towards Sydney Harbour across the side (northern) boundary from a balcony.
 - (c) Extent of impact: As demonstrated in Figure 56 the proposed addition will be visible from the living/dining room window, however largely obscured by a mature tree (Figure 57). The proposed addition would be more readily visible from the balcony (Figure 58). Due to the height of the unit relative to the addition and the existing lift overrun and stairwell, much of the addition will be viewed against the backdrop of the existing lift overrun and stairs, with a small portion of the sky being obscured. The impact is minor. As shown in Figure 59 and 57, water views from the living/dining room and balcony are retained.
 - (d) Reasonableness: The proposal would have a minor impact on views from this property and as such, is considered reasonable.



Figure 56: 3D visualisation from living/dining of Unit 2/13 Onslow Avenue



Figure 57: Existing water views to be retained from living/dining of Unit 2/13 Onslow Avenue



Figure 58: Existing view towards development site from balcony of Unit 2/13 Onslow Avenue



Figure 59: Existing water views to be retained from balcony of Unit 2/13 Onslow Avenue

View sharing - conclusion

54. The proposed addition will be visible from a number of units within adjoining buildings, to varying degrees.
55. The view sharing assessment found that the protection of views from adjoining properties is not considered reasonable in this instance. This is due to several reasons outlined below and for some properties, more than one reason applies:
 - (a) despite the proposal obscuring views from some units, the value of views (including to water) that would be retained from these properties from other vantage points in the units remains high;
 - (b) the location of existing views to be obstructed, being over side boundaries and/or from rooms that are not readily afforded protection such as bathrooms and bedrooms;
 - (c) views that would be obstructed, being largely of sky are less valuable;
 - (d) when significant views would be obstructed, these are partial views; and
 - (e) opportunities for a more skilful design to reduce the view impact are limited to relocating the addition closer to Onslow Avenue. However, in all cases, this redesign would not result in a meaningful reduction of view impact from affected rooms.
56. While it is acknowledged that the proposal is not without view sharing impacts, the results of the Tenacity assessment conclude that view loss from adjoining properties as a result of the proposed addition are reasonable for the reasons described above.

Heritage

57. The site is located within a Conservation Area and is therefore subject to the heritage provisions of Sydney DCP 2012. The subject building is defined as neutral and is within close proximity to a number of heritage listed items, including Elizabeth Bay House and Arthur McElhone Reserve.
58. Section 3.9.8 of Sydney DCP 2012 requires that alterations and additions to neutral buildings respect the original building in terms of bulk, form, scale and height and use appropriate materials, finishes and colours that do not reduce the significance of the conservation area. The potential impacts of the proposed addition on the existing building and conservation area are discussed below.

Height in storeys and streetscape

59. The proposed addition is setback 4.4m from the front of the existing building and approximately 10m from the Onslow Avenue property boundary. This setback allows the proposal to retain the existing buildings five storey presentation to Onslow Avenue.
60. The proposal increases the building height in the middle of the building from six to seven storeys. This is acceptable from a streetscape point of view as the proposal would not be overly visible from Onslow Avenue or Billyard Avenue, and the increased height in this location is adjacent to the existing lift overrun (Figure 60).

61. It is noted that the no objectives with regard to protection of views are outlined in the height in storeys DCP objectives or provisions. The objectives and provisions, outlined in 4.2.1.1 of Sydney DCP 2012 relate to streetscape and neighbourhood character. The considerable setback of the addition from Onslow Avenue results in a building that is not inconsistent with the streetscape and will not detract from the heritage conservation area. The proposal satisfies the objectives and provisions of the DCP with regard to height bulk and scale and streetscape.

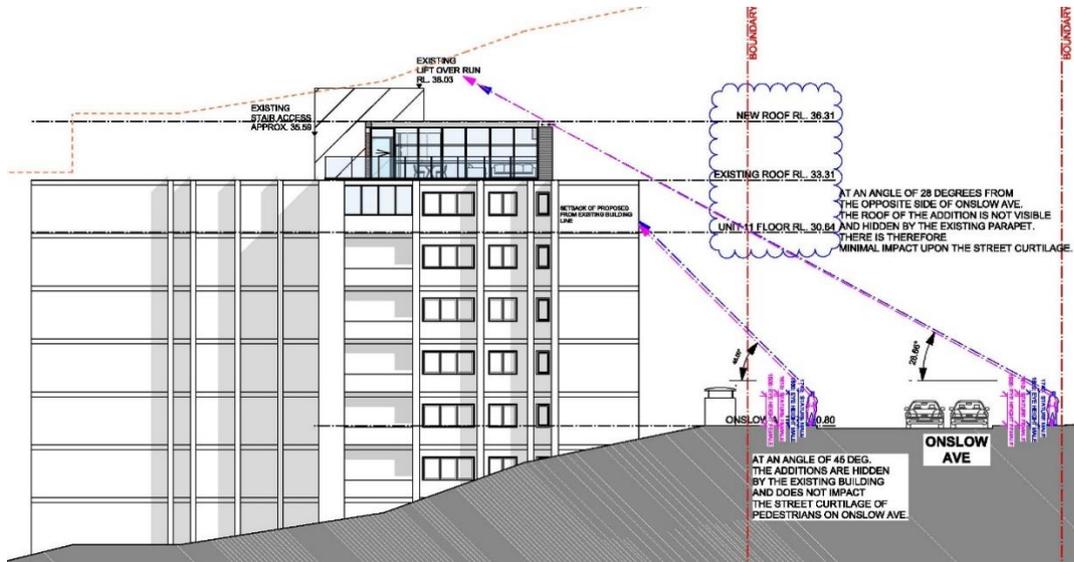


Figure 60: North elevation of existing building and proposed addition showing setback from Onslow Avenue and additional height in storey

Materials and finishes

62. Following a review of the original proposal by the City's Heritage Specialist and Urban Designer, a number of concerns were raised with regard to materiality. The originally proposed materials, which included marble cladding, tile cladding and zinc, were out of character with the existing building, which is primarily constructed of brick and render. The application also lacked detail regarding materials, colours and finishes.
63. The application was amended to simplify the proposed material palette to better align with the materials of the existing building and surrounding conservation area, as well as provide addition details on proposed colours and finishes.
64. Revised materials include the use of metal cladding in a neutral, recessive colour (Colorbond Windspray) for the southern and western elevations and aluminium framed clear glazing to the northern elevation to match (Figure 61).

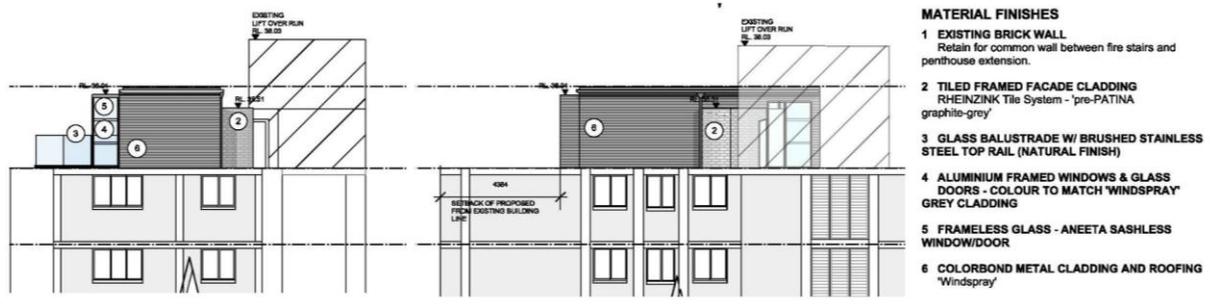


Figure 61: Proposed materials and finished, eastern (L) and southern (R) elevation

65. The refinement of materials results in a building that is not inconsistent with the streetscape and will not detract from the heritage conservation area.

Solar access

66. Sydney DCP 2012 requires that neighbouring developments achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June to at least 1sqm of living room windows and 50% of the required private open space area. The DCP does not allow for the protection of rooms other than living rooms, such as kitchens, dining rooms, bathrooms, laundries or bedrooms.
67. Immediately to the south of the subject site is 12 Onslow Avenue. As demonstrated in Figure 62, which was taken at 3pm on 25 June, the northern elevation of 12 Onslow Avenue already experiences overshadowing from the existing building at 10 Onslow Avenue. The proposed addition has the potential to create additional solar access impacts to the northern windows of 12 Onslow Avenue, particularly during mid-winter.
68. The applicant has submitted a shadow study that includes elevational shadow diagrams indicating the extent of additional overshadowing on adjoining windows on the northern elevation of 12 Onslow Avenue as a result of the proposal. The shadow study was updated on the 15 July to reflect the RLs of the existing building and proposed addition, following verification by Councils Land Surveyors.



Figure 62: Northern elevation of 12 Onslow Avenue, located immediately to the south of the site

69. A review of floor plans as well as site visits demonstrate that living room windows and private open space areas are either orientated to the east towards the harbour, or to the west towards Onslow Avenue. Windows located along the northern elevation are to bedrooms/studies, dining rooms, kitchens, laundries and bathrooms. Figure 63 shows the northern elevation of 12 Onslow, with corresponding unit and floor numbers.
70. The shadow study demonstrates the proposal does not result in any increased overshadowing to the northern elevation:
- (a) to any windows on any floor between 9.00am and 11.00am at mid-winter
 - (b) to any windows on the ground floor, first floor and second floor at any time between 9.00am and 3.00pm at mid-winter
 - (c) to any windows on the fifth or sixth floors at any time between 9.00am and 3.00pm at mid-winter.
71. The shadow study demonstrates the proposal will have increased overshadowing to:
- (a) windows of Unit 6, located on the third floor, between 11.30am and 2.00pm
 - (b) windows of Unit 7, located on the third floor between 1.00pm and 2.00pm
 - (c) windows of Unit 9, located on the fourth floor, between 1.30pm and 3.00pm



Figure 63: Northern elevation of 12 Onslow Avenue, with corresponding unit and floor numbers

72. While the proposed addition will result in some additional overshadowing on the northern elevation during mid-winter, overshadowing to 12 Onslow Avenue will not result in unacceptable impacts as follows:
- (a) The proposed addition will not result in the overshadowing to living rooms or private open space areas, as these are either orientated to the east towards the harbour, or to the west towards Onslow Avenue.
 - (b) The proposed addition will result in additional overshadowing to windows of three units. The overshadowing of these windows is acceptable as these windows are not to living rooms and are therefore not protected from overshadowing under the DCP.
 - (c) The windows that experience additional overshadowing will still receive a minimum of 2 hours of direct sunlight through the day to a significant portion of the window between 9am and 3pm on the 21 June.

Other Impacts of the Development

73. The proposed development is capable of complying with the BCA.
74. 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

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

Internal Referrals

76. The conditions of other sections of Council are included in the proposed conditions.
77. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit and Surveyors who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

Notification, Advertising and Delegation (Submission(s) Received)

78. In accordance with the Community Participation Plan 2019 the proposed development is required to be notified. As such the application was notified for a period of 14 days between 8 July 2019 and 23 July 2019. As a result of this notification a total of 317 properties were notified and there were 33 submissions received.
79. Following the submission of amended plans and documentation, the application was re-notified for a period of 14 days between 25 May and 9 June 2020. As a result of this notification a total of 13 submissions were received.

- (a) The proposal would result in loss of important views and vistas from private properties.

The proposed works are unnecessary. Unit 11/10 Onslow Avenue already has area and harbour views and the addition will affect the views and amenity of residents in a number of nearby properties.

Response - The extent of the loss of views has been assessed in detail in the Issues section of this report. As outlined in the Tenacity principles, the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. While it is acknowledged that the proposal is not without view sharing impacts, the results of the Tenacity assessment conclude that view loss from adjoining properties as a result of the proposed addition is not unacceptable.

In relation to whether the proposal is unnecessary, Commissioner Roseth in *Super Studio vs Waverley Council* [2004] NSWLEC 91 states that *the acceptability of an impact depends not only on the extent of the impact but also on reasonableness of, and necessity for, the development that causes it*. Unit 11, 10 Onslow Avenue already benefits from views, however this does not mean that an additional terrace with views is inappropriate, rather, its impact should be assessed with more scrutiny. The proposed addition has been assessed in detail and is found to be acceptable.

- (b) The proposal would result in loss of important views and vistas from Elizabeth Bay House.

Response - The location of the proposed addition, as viewed from Elizabeth Bay House is shown in Figure 6. The proposal, when observed from Elizabeth Bay House will be seen against the backdrop of the existing lift overrun and the building at 12 Onslow Avenue. It will not obscure views or vistas from Elizabeth Bay House.

- (c) The View Sharing Assessment and Statement of Environmental Effects do not adequately address the potential loss of views from private properties and omits properties that will be affected. The pictures included in the submitted View Sharing Assessment are inaccurate.

Response - Agreed. The submitted documentation provided by the applicant is inadequate in order to conduct a full and thorough view impact assessment. As outlined in the Issues section of this report, a view sharing assessment was undertaken independently by Council staff.

- (d) Properties are purchased on the basis that views will be maintained. It was understood by existing property owners and potential purchasers that current height restrictions were secure and could not be changed.

Response - The proposal complies with the numerical building height control outlined within Sydney LEP 2012. This control was established when the LEP was gazetted in 2012 following an extensive period of public consultation. As planning controls are subject to review and change as development objectives change over time, it is not possible to expect absolute certainty that existing building heights will remain unchanged.

- (e) Loss of views would lead to a reduction in property values.

Response - The assessment of potential reduction in property value as a result of the proposal is not a matter for consideration for this development application, as per Section 4.15 of the Environmental Planning and Assessment Act 1979.

- (f) Objections to the increase in height of the proposal by 300mm as this will create further impacts to views and solar access.

Response - Throughout the course of the assessment the proposed addition was increased in height by 300mm in order to achieve the minimum floor to ceiling heights required under the Building Code of Australia. The amended proposal has been assessed with regard to view impacts and solar access and is acceptable.

It is noted that the proposal has recently been amended to reduce the RL of the existing building and the proposed addition. The proposed addition has a maximum RL of 36.31, which is 210mm lower than the previous set of re-notified plans. A condition is recommended requiring the height of the building not exceed RL 36.31 to the top of the addition.

- (g) The proposal sets an unacceptable precedent for other buildings to build additional floors.

Response - Any future development application that may be submitted for this building or another site in the surrounding area would be assessed against the relevant planning controls for the site and on the individual merits of the proposal.

- (h) The proposal is uncharacteristic of the historic heritage neighbourhood of Elizabeth Bay and will not make a positive contribution to the streetscape or when viewed from adjoining properties.

Response - The proposal was amended to address initial concerns raised by Council's Heritage Specialist and Urban Designer. As discussed in the Issues section, the amended proposal results in a building that is not inconsistent with the streetscape.

- (i) The proposal does not respect the curtilage of Elizabeth Bay House, and will diminish the public appreciation of the history of the subdivision and estate. The proposal does not respect the heritage listed Meudon building located at 13 Onslow Avenue.

Response - The proposal has been reviewed by the City's Heritage Specialist, who raised no objection to the proposal in relation to impacts on nearby heritage items including Elizabeth Bay House and Meudon.

- (j) The building at 10 Onslow Avenue is an eyesore and the proposal will make this unremarkable building even more of a blight on the landscape.

Response - The existing building is classed as neutral building within the conservation area. As discussed in the Issues section above, the proposed addition will not result in unacceptable impacts to the conservation area. While the proposed addition will be visible from a number of surrounding private properties, it is not expected to diminish the appearance of the existing building, particularly in the context of the existing pebble roof, lift overrun and stairwell.

- (k) The proposed amount of glazing will result in unacceptable glare to nearby properties.

Response - The proposal features glazing primarily on the northern elevation. The amount of glazing is not considered excessive and standard conditions are recommended to deal with reflectivity.

- (l) The proposal will block sunlight to adjoining properties. The proposal will block sunlight that currently streams through side windows and reaches living rooms. The shadow diagrams and supporting information is insufficient and inaccurate.

Response - The potential overshadowing impacts of the proposal are assessed in detail above in the Issue section of this report and are acceptable.

Regarding sunlight that reaches living rooms through side (northern) windows, the DCP protects only living room windows, which are located on the eastern and western elevations of the adjoining property (12 Onslow Avenue). View from the sun diagrams show that the proposal will not impact mid-winter morning sun from the east to the property to 12 Onslow Avenue.

Regarding the accuracy of the documentation, the shadow diagrams are based on the 3D model which has been verified by Councils Model Team and Surveyors.

- (m) The proposal will affect privacy to adjoining and nearby properties.

Response - The proposal presents blank walls to the southern and western elevations and is separated from the adjoining property to the south by approximately 11m. The proposed terrace area is setback approximately 6.5m from the adjoining property to the north which is acceptable, as the adjoining property is only three storeys in height and does not contain any windows at the same level as the proposed addition. The proposed addition is located approximately 35m from the front (eastern) elevation of the property located at 13 Onslow Avenue. Visual privacy to adjoining properties is acceptable.

- (n) The additional gross floor area is excessive and an overdevelopment.

Response - The floor space ratio of the proposal complies with the Sydney LEP 2012 control.

- (o) The proposal (with regard to view sharing and solar access) does not take into consideration future changes to the floor plan of adjoining properties.

Response - The assessment of future changes to the internal layouts of adjoining properties is not a matter for consideration under this development application.

- (p) Correct owner's consent for the submission of the development application has not been provided.

Response - The applicant provided additional information that satisfies Council's owner's consent requirements, including minutes of a meeting of the Owner's Corporation at which the Owner's Corporation resolved to grant owner's consent to the making of the development application.

- (q) The Owner's Corporation of 10 Onslow Avenue have not provided approval for the owner of Unit 11 to build on top of the shared roof space or undertake refurbishment of the Unit. A vote on a special resolution is required.

Response - This is a matter for the owner of Unit 11 and the Owners Corporation of the building to resolve. As outlined above, owner's consent is granted for Council to consider the development proposal.

- (r) The proposal reduces the rooftop common open space to less than 25% of the site and the owners corporation will not be able to develop that roof for other purposes for the benefit of all owners such as communal open space, green roof or solar panels.

Response - The rooftop is not currently utilised by the residents of the building in a formal manner and is not currently required to meet common open space requirements. The exclusive use of the rooftop by Unit 11, as proposed in the application is a matter to be resolved and negotiated by the owner of Unit 11 and the Owners Corporation.

- (s) Concerns raised over the lack of capacity of the existing building to hold the proposed addition and green roof.

Response - The green roof has been deleted from the proposal. The applicant has submitted information from a structural engineer that demonstrates the existing building is capable of supporting loads from the additional storey.

- (t) Concern that external air conditioning units will be installed in inappropriate locations.

Response - A condition is recommended restricting the installation of air conditioning units without further development assessment.

- (u) Safety concerns as a result of the proposal, including direct access to the roof from the fire stairs, absence of guardrails on the roof and safety issues for residents from potential falling debris during construction.

Response - Aside from the proposed terrace area which is surrounding by a balustrade, the roof is not accessible. Conditions are recommended requiring the erection of any hoardings and temporary structures that may be required during construction.

- (v) Conditions should be imposed requiring dilapidation report be prepared for 10 Onslow Avenue and that the applicant be responsible for any rectification works caused during construction.

Response - A condition is recommended requiring the preparation of dilapidation reports for adjoining properties.

- (w) The waste management plan is inadequate and will result in demolition and construction waste being stored within common property and disposed of in residential bins.

Response - A condition is recommended requiring the proposal comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

- (x) Concern that approval of a major refurbishment of the building as proposed will mean that residents are no longer entitled to apply for parking permits.

Response - The proposal does not constitute a major refurbishment of the building. Notwithstanding, residential parking permits are issued in accordance with the City's Neighbourhood Parking Policy and are not restricted by planning controls.

- (y) The estimated cost of works is inadequate for a quality build using quality tradespeople. It is assumed it does not include the cost to purchase the exclusive use from the body corporate and does not include significant structural work required for the build.

Response - The cost of purchasing exclusive use of the rooftop is not an expense required to be included in the estimated cost of works. The estimated cost of works has been prepared by a registered architect and is acceptable.

- (z) Concerns over noise from use of the outdoor terrace.

Response - Noise from a single residential unit is not expected to create unreasonable impact on surrounding properties.

- (aa) Concern that access to street parking and general infrastructure will be further limited due to additional residents.

Response - The proposal seeks the addition of a new living room and outdoor terrace to the existing Unit 11. The proposal will not result in the addition of new residents that will generate unacceptable pressure on existing parking and infrastructure.

- (bb) Concern over construction impacts, including noise, dust and traffic.

Response - Standard conditions are recommended to manage noise, dust and traffic during construction.

- (cc) The development application should be correctly registered as 10 Onslow Avenue, not 21C Billyard Avenue.

Response - The address of the subject site is 21C Billyard Avenue, not 10 Onslow Avenue. A site notice was placed on the Onslow Avenue frontage of the building during the exhibition of the application and the notification letter referred to the building at 10 Onslow Avenue.

- (dd) Criticism that some nearby residents were not formally notified.

Response - The proposal was notified to all nearby properties within a 25m radius of the site in accordance with the City's Community Participation Plan. A site notice was also placed on the Onslow Avenue and Billyard Avenue frontages of the site during the exhibition period.

- (ee) The notification period does not provide sufficient time to respond.

Response - The application was notified for 14 days in accordance with the Community Participation Plan. All submissions received during the assessment of the application have been considered.

- (ff) Council's description of the proposal as 'minor alterations and additions' is misleading.

Response - The description on the notification letter and Council's website does not refer to the proposal as being minor.

- (gg) Support for the proposal as it does not exceed the lift shaft or have additional overshadowing impacts and will activate the roof with a green space.

Response - Noted, however the green roof has since been removed from the proposal.

Public Interest

80. It is considered that the proposal will have no detrimental effect on the public interest, subject to recommended standard conditions.

S7.11 Contribution

81. The development is not subject to a S7.11 development contribution as it is for development where a contribution has previously been paid, which is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution. A contribution is therefore not payable.

Relevant Legislation

82. Environmental Planning and Assessment Act 1979.

Conclusion

83. Approval is sought for alterations and additions to an existing residential flat building comprising an additional storey containing a new living space and outdoor terrace to Unit 11.
84. The application has been amended to address a number of issues identified by Council during assessment. These issues relate to owners consent, solar access, detailed design, materiality and submission of a 3D digital model.
85. A total of 45 objections were submitted as a result of notification and re-notification of the proposal. Issues raised include view loss, detrimental impacts on the streetscape and character of the heritage conservation area, height, solar access, construction impacts, owner's consent, structural capacity of the existing building and reduced access to the roof top. These concerns are addressed within the report.
86. While the proposal will result in some view sharing impacts to adjoining properties, applying the Tenacity view sharing assessment concludes that view loss from adjoining properties as a result of the proposed addition is acceptable.
87. The proposal exhibits a suitable built form, design and materiality in the context of the heritage conservation area and is appropriate within the streetscape.

88. The proposal will not result in unacceptable amenity impacts on surrounding properties, including solar access and privacy.
89. The amended proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls and is recommended for approval, subject to conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Natasha Ridler, Area Coordinator